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Negotiating with Criminal Gangs

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Criminal gangs pose a substantial threat to security in the Western hemisphere, but they often fall outside the scope of conventional approaches to mediation and negotiation. Nevertheless, there are ways to negotiate with gangs.

Authors' Note: *The views expressed in the article are the views of the author and do not necessarily represent the views of the U.S. Department of Justice or the United States. This contribution is based on the research conducted for a* journal article *entitled,"Sympathy for the Devil: When and How to Negotiate with Criminal Gangs—Case of El Salvador" published in Studies in Conflict and Terrorism.*

Security is an essential public good. Although traditional approaches to security challenges have increasingly shifted focus from conventional inter-state wars to more complex forms of intra-state conflicts, they often fail to capture and reflect on the most recent global socio-economic trends that explain the present-day surge of violence. Due to accelerated littoralization—defined as the "concentration of economic activity in coastal areas because of urban growth, industrial activities, tourism and irrigation"—and rampant urbanization, more than 50% of global population now lives in urban areas mostly concentrated within 150km from the coastline. According to UN estimates, by 2030 "two thirds of global population will live cities, urban population in developing countries will double, and the area covered by cities could triple".

As the world becomes more interconnected and urbanized, it is becoming increasingly the case that the majority of violent deaths are no longer related to armed conflicts, but rather to criminal activities, organized crime, and

political and state-led violence. This trend is particularly evident in the Western hemisphere where gangs remain the primary threat to citizen security. Between 1980 and 2000 urban violence in developing countries increased by nearly a third, with homicide ratesfor urban youth in Latin America higher than in any other region of the world. In the Northern Triangle countries of El Salvador, Honduras, and Guatemala, where the gang problem is particularly acute, the U.S. State Department estimatesthat in 2012 there were as many as 85,000 individuals belonging to one of the two largest gangs, MS-13 and Barrio 18. Despite decades of confrontation using traditional law and order measures, gang activity has, at best, ebbed and flowed with the intensity of enforcement.

The inability of conventional security measures to confront the evident surge of urban violence prompts a crucial question: *is there an alternative way to address such adverse societal dynamics*? Given certain conditions, and with the proper process design, a negotiated way out may prove a viable and effective alternative approach to reducing violence, criminality, and transforming gang-related conflict. Because of the nature of gangs and their relation to society generally, negotiation requires a *three-step process*, which includes:

1. State-sponsored mediation to establish a cease-fire between the gangs.
2. A negotiation process between the state and the conflicting gangs.
3. A process of mainstreaming of reformed criminal structures and incorporating them into society as legitimate and legal actors.

What Makes A Gang?

Image credit: Javier Ramirez/Wikimedia Commons.

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Compared to other non-state armed groups, criminal gangs' violence is not a tool used to achieve a political or ideological goal, nor is it exercised to boost group support. Typically, these organizations have a core membership and a network of active supporters, but there are hardly any inactive supporters or those that would support gangs' goals but not methods. Therefore, while gang networks can become relatively large, they are an incredibly polarizing force and cannot be considered a legitimately representative actor. Contrary to other insurgent movements, which use a grievance-driven narrative to mobilize broader popular support, gangs lack an ideologically-motivated pretext which can be used to articulate specific political or socio-economic grievances.

Therefore, gangs represent a violent, non-ideological, profit and relationship-driven, socio-economic phenomenon that thrives in a governance vacuum. The more gang activities become entrenched in societal routines, the less likely it will be for any authority to eradicate them by force without transforming that society into a police state. On the surface, gang violence presents a seemingly intractable problem for societies because there is no obvious means for the state to escape out of the cycle of violence, there is no constituency to de-radicalize, and there are no opposing political issues to base negotiates on.

When and how to negotiate?

Negotiations can only be effective if the process focuses on *interests* rather than *issues*. In the context of negotiating with gangs this is of crucial importance, as most initiatives collapse because gangs are typically unable or unwilling to clearly articulate the interests that drive their socially-deviant behavior. Therefore, before taking any further negotiating steps, it is essential to determine the interests that gangs hold and how these can be translated into a negotiating position. This process of *assisted articulation*, through which

an outside party works with gangs develop an actionable negotiating platform,
should rely on factors that drive gang participation, such as:

1) socio-political alienation/exclusion;

2) the failure of economic opportunities to meet expectations;

3) prestige (the allure of authority and power in a community);

4) identity formation;

5) a history of exposure to violence.

A precondition to success in subsequent negotiations is the ability to construct
an agenda for the gangs that is politically feasible and acceptable for
government authorities, which can open a zone of possible agreement. For
instance, it is possible for the government to engage with demands to develop
disregarded neighborhoods or provide employment opportunities for
disgruntled youth in marginalized communities. These positions can become
the focal point of negotiations and balance out the other, less palatable
demands. At the same time, engaging gangs in dialogue requires a better
understanding of opportunity costs that gang members incur when giving up
criminal activities such as smuggling, extortion, or robbery. The size of illicit
markets that they tap into informs such cost-benefit calculations. Therefore,
the process of assisted articulation is only possible if it focuses on aspects that
motivate individuals to join gangs and acknowledges the elements that
contribute to gang viability.

Step one: State-sponsored mediation

The first phase of the process requires only a tangential involvement by the state, either through its envoys or reliable proxies that can sponsor a dialogue between two or more rival gang factions, protected by a veil of secrecy to shield the nascent process from a hostile public, with the goal of creating a cease-fire and ending the violence. It is critical that the discussions of a cease-fire be perceived by all parties as a prelude to the next phase rather than an end in itself. This may require a manipulation of the existing incentive structures: on the one hand increasing the pressure through a strict enforcement of the rule of law, on the other signaling of enticing opportunities that can only be achieved if gangs are credibly committed to the subsequent negotiation process. To maintain involvement but keep the talks secret, the state can sponsor a mediator to frame the cease-fire dialogue as a "way out" and a means to get to the second phase of direct negotiations, where these enticing opportunities may be negotiated in full. Given the high political costs of direct engagement with criminal gangs, the government may use a surrogate to deflect criticism and maintain a level of plausible deniability.

Step two: Negotiation

Once a truce or cease-fire is credibly established between gangs, and their interests adequately articulated, it is then possible, and necessary, for the government to engage directly. The key for the state during the bilateral negotiation phase is to make the way out of the conflict contingent upon adhering to a structured plan to abandon criminality. If gangs are allowed to maintain their criminal operations after engaging in talks with the government, the public would undoubtedly perceive that the situation amounts to tacit consent by the state. During the first phase of state-sponsored mediation the dialogue must be secret, but during the second phase the relatively hostile

public can be used to bolster the government's position vis-à-vis the gangs by lending credibility to their argument that only certain concessions can be granted. Public opinion signals the government's firm reservation point to the gangs, clearly communicating that some justice must be served and criminality will not be tolerated.

Step three: Mainstreaming

The final stage is the process of mainstreaming and the monitoring of implementation. It is important that this final phase be the focus of bilateral negotiations between the state and gangs because the details of the mainstreaming process are an integral part of the incentive package needed to entice gangs to disengage from criminal life. There are obvious risks to this process of mainstreaming, namely that the allure of criminal markets would encourage recidivism and that the relative weakness of the state in traditional gang dominated communities would inhibit robust verification of compliance. The presence of guarantors of the peace process, which can provide a physical monitoring presence and incentive for compliance would help mitigate this risk.

As practice shows, the process of mainstreaming is highly context-dependent. However, it includes two fundamental elements:

1) the new role gang structures play in society must fill the gaps which induced their initial turn to criminality;

2) the allure of that new societal role and additional opportunities must be substantial enough to out-weigh the opportunity cost associated with criminal enterprises.

The state can address the psycho-social aspect of gangs in a post-truce context by allowing gangs to maintain their structures. In some post-conflict environments it might be wise to disrupt the networks of former insurgent movements by separating demobilized units, but because gangs are fueled in large part by the search for identity, belonging, and social capital, gang structures should remain intact. These networks can and should be mobilized in the mainstreaming process for productive purposes without disrupting the deep connection that gangs provide. To ensure that these networks do not relapse into criminal activity the state must also make clear that it maintains a zero-tolerance policy for criminal activity and non-compliance with the negotiated agreement. The mainstreaming phase of this strategy will only stand a chance of creating a durable peace if it focuses on ensuring that the opportunities presented are sufficiently enticing and that the new role in society directly addresses the root causes of gang participation.

Conclusion

The pressures of urbanization, demographic change, and littoralization, make it especially difficult for states with underdeveloped institutions to address the threat posed by criminal gangs. Governments of countries around the world plagued by high levels of criminally-driven violence have traditionally relied on security sector and law enforcement-centric responses, to little appreciable effect on levels of violence and criminality. In societies where the gang-driven violence is particularly pronounced criminal networks are often so entrenched that negotiation may, in fact, offer the only viable solution. The Northern Triangle countries of Guatemala, Honduras, and El Salvador, where homicide rates are some of the highest in the world, could potentially benefit from a practical application of the three-step process. Of these three countries,

where *mano dura*, or an "iron-fisted" law enforcement approach to the gang problem has predominated, El Salvador offers a compelling example of negotiation as an alternative. In a subsequent article we will explore the 2012 gang truce in El Salvador in further detail, and examine the process design and contextual elements of that effort against the three phased model outlined here. While negotiation with gangs remains a fraught and tenuous process, mediation, negotiation, and mainstreaming, executed correctly, can provide an alternative path to a durable peace.

Image credit: Javier Ramirez/Wikimedia Commons.

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