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Tom Lantos Human Rights Commission

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Chairmen McGovern and Smith, thank you for calling this hearing. It's an honor to be with you today.

I'm going to talk about Colombia, which today has a confusing array of armed and criminal groups. A decade ago, I could have named all armed or criminal groups in Colombia that had more than 100 members; today, I cannot do that with confidence. A February 2023 report from the Colombian think-tank INDEPAZ counted about 22 of them, in the categories of "narco-paramilitaries," "post-FARC groups," and "guerrillas."[1]

They run the drug trade. They degrade the environment. They facilitate migration, including through the treacherous Darién Gap, where the Gulf Clan "narco-paramilitary" organization has a monopoly on smuggling on the Colombian side.[2] They kill thousands each year, including the world's highest numbers of murdered human rights and environmental defenders.[3] They displace or confine hundreds of thousands more.

INDEPAZ categorization of Colombian armed and criminal groups

Narco-Paramilitaries	**Post-FARC Groups (FARC Dissidents)**	**Guerrillas**
Drug trafficking groups, most of which have leaders who participated in the United Self-Defense Forces of Colombia (AUC), a confederation of pro-government militias that demobilized in 2006. The Gulf Clan is by far the largest.	Loose confederations of groups led by former members of the Revolutionary Armed Forces of Colombia (FARC) guerrilla group, who rejected the 2016 peace accord. Less than 10 percent of FARC members who demobilized in 2017 have re-armed.	The National Liberation Army (ELN), founded in 1964, is the only remaining leftist guerrilla group.
Active in about 345 of Colombia's 1,104 municipalities (counties)	Active in about 161 municipalities	Active in about 162 municipalities

• Gaitanista Self-Defense Forces or Gulf Clan
• EPL or Pelusos
• La Oficina
• Los Pachencas
• Los Puntilleros
• Los Rastrojos
• Los Caparros
• Los Costeños
• Los Pachelly
• La Constru
• Los Contadores
• Los Shotas
• Los Espartanos
	• Southeastern Bloc (Central General Staff)
	• Comando Coordinador de Occidente (Central General Staff)
	• Segunda Marquetalia
	• "Independent" groups
	  ○ 33rd Front
	  ○ 36th Front
	  ○ Oliver Sinisterra Front
	  ○ Guerrillas Unidas del Pacífico
	  ○ 4th Front
		• ELN

Source: "Informe sobre presencia de grupos armados en Colombia 2021 – 2022" (Bogotá: INDEPAZ, November 25, 2022), https://indepaz.org.co/informe-sobre-presencia-de-grupos-armados-en-colombia-2021-2022-1/		

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Why organized crime is so much harder to fight than guerrillas

In 2016 Colombia's largest leftist guerrilla group, the FARC, signed a peace accord and demobilized, following a decade-long, U.S.-backed series of military offensives and four years of negotiations. Guerrillas have disappeared from many areas, from the roads around Bogotá to the slums around Medellín. But it is difficult to identify a territory in Colombia that was under *organized crime's* influence 30 years ago—going back to the heyday of the now-defunct Medellín and Cali cartels—that is not under organized crime's influence today.

Hundreds of top cartel and criminal-organization leaders have been killed, imprisoned, and extradited to the United States. The groups' names change, they divide internally, or are supplanted by other groups. But organized crime is still remarkably active throughout Colombia, and a constant factor in millions of Colombians' daily lives. Often, today's active groups can trace their DNA back to the cartels of the 1980s and 1990s, the paramilitaries of the 1990s and 2000s, and remnants of demobilized leftist guerrillas.

Weakening the FARC to the point that it was willing to negotiate cost Colombia tens of thousands of lives, and billions of dollars (many from Washington) that could have saved or improved millions of lives. After all that, Colombia's other adversary, organized crime, remains as strong and as wealthy as ever.

Why has organized crime been so much more resilient, and so much harder to confront, than leftist guerrillas? There are a few key reasons.

- The FARC had a firm command hierarchy, while organized crime is looser and networked. Removing leaders did more harm to the FARC's command and control.
- Because of its loose structure, organized crime often fragments when confronted (and sometimes fragments anyway because of internal divisions). The result is dozens of groups instead of just a few.
- Members and leaders of organized crime groups are more often mixed in with the population, more likely to be in towns and less likely to be in distant areas like jungle encampments, which are more susceptible to aerial attacks and other offensive operations.
- Most importantly, the FARC actually wanted to fight the government. Organized crime groups will confront government forces or institutions when they see their interests gravely threatened or wish to send a message. But they prefer not to do that. Fighting the

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government is bad for a group's business, as it focuses the state's military and intelligence resources against it.

Instead, organized crime thrives on its relationship with government. Corruption is the oxygen that it breathes. Criminals need police who will look the other way when a cocaine shipment is going downriver. They need mayors who go along when they traffic people or dig illegal gold mines out in the open. They need prosecutors who let cases die.

The problem of government collusion with organized crime is especially concerning when it concerns the security forces. (Colombia's military and police have been the Americas' number-one recipients of U.S. security assistance since the early 1990s.) A scan of Colombian media reveals numerous examples of military and police personnel, at all levels and all around the country, accused of colluding with armed and criminal groups.

- December 2023: five marines were arrested for allegedly colluding with criminals to help move migrants through the Darién Gap.[4]
- November 2023: five marines were arrested for allegedly colluding with narcotraffickers. The U.S. Drug Enforcement Administration (DEA) assisted the investigation.[5]
- September 2023: Colombia's National Police launched an investigation into three majors accused by the DEA of collusion with cocaine traffickers.[6]
- September 2023: Prosecutors investigated Gen. John Jairo Rojas, commander of the 2nd Joint Command in Colombia's southwest, for allegedly cooperating with the Segunda Marquetalia network of former FARC guerrilla fighters.[7]
- October 2022: a sergeant in eastern Colombia was charged with being an informant for the Gulf Clan.[8]
- September 2022: Prosecutors alleged that Medellín-area organized crime figure Juan Camilo Goez Ruiz, alias Dimas, is a key link between the Gulf Clan and elements of the Army, Navy, and National Police in Antioquia.[9]
- August 2022: After taking office, President Gustavo Petro forced the retirement of more than 70 military and police generals and colonels.[10] A few areas of the country saw disruptions to coca and cocaine markets as traffickers adjusted to the loss of "allied" officers.[11]
- April 2022: An Army major testified that many of the Gulf Clan's fighters and leaders in the northwestern department of Chocó, a major drug trafficking route, are former military personnel.[12]

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- February 2022: A 663-page investigation by Colombia's Attorney General's Office alleged that General Leonardo Alfonso Barrero, who commanded Colombia's armed forces from August 2013 to February 2014, conspired to help top Gulf Clan figure Juan Larinson Castro, alias "Matamba," to move cocaine. Two former colonels also face allegations.[13]
- February 2022: Recordings revealed that the commander of the Colombian Army's Sixth Division, General Hernando Herrera Díaz, conspired with narcotraffickers to confront ex-FARC dissident groups in southwestern Colombia.[14]

Government presence with low impunity

Government actors' collusion with organized crime is a hard problem—but it is solvable. It is possible to protect people and institutions, and to cut organized crime out of the picture, permanently. The way forward, though, is not to send in the military or to declare states of emergency that get renewed indefinitely.

In a phrase, the winning long-term strategy is "government presence with low impunity." That means two things.

In the first place, it means bringing the government into areas where there is none. Colombia has many of those areas: rural towns and urban neighborhoods where people almost never see their government. In 2012, the Colombian think-tank DeJusticia found that about a third of the country's municipalities (counties) did not even have a prosecutor based there.[15] Some communities are so "off the grid" that the national currency is scarce, and people pay for goods in stores by weighing nuggets of coca paste on scales.[16]

People in these territories rarely see government, but they do see armed and criminal actors, who settle disputes and enforce rules of behavior in the state's absence. "Criminal governance" has become a term of art that scholars use to describe areas where organized crime and gangs supplant government; these scholars often cite examples from Colombia and elsewhere in Latin America.

Colombia's political class knows this is a problem. Since the 1980s, they have embarked on ambitious programs aimed at "introducing the state" into ungoverned areas. Some of these, like the National Territorial Consolidation Plan (mid-2000s-early 2010s), had heavy U.S. support.[17] The most recent is the first chapter (Comprehensive Rural Reform) of the 2016 peace accord that ended fighting with the FARC. These programs tend to founder because of their high cost, a lack

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of civilian government personnel to follow up security efforts, and presidents' lack of interest in continuing efforts initiated during their predecessors' administrations.

An additional challenge is that simply introducing government presence is not enough. As noted above, government personnel are susceptible to corruption, especially when there is little probability of being investigated or punished. If corruption is the oxygen that organized crime breathes, then adding more government, on its own, could end up worsening the problem.

In the second place, then, state presence must come with a justice system that can guarantee consequences for collusion. Prosecutors, judges, and investigators are crucial to this effort. They —and especially the witnesses who provide them evidence—need security and protection. They need vastly increased personnel to reduce bursting caseloads. They need technology, from forensics to DNA to databases.

Oversight doesn't just come from the justice system, which itself can be corrupted, as we've seen recently in Guatemala's prosecutor's office. State presence should come with more aggressive oversight from agencies' inspectors-general; Colombia's other control bodies (inspector-general, comptroller, human rights ombudsman); its relevant congressional committees; mayors and governors; a free, independent media; and a robust community of credible, engaged social leaders.

Colombia has many brave officials and social leaders trying to build this low-impunity state presence. They do very dangerous work, because organized crime is brutal with all who get in its way. The United States government must firmly and consistently be on these reformers' side, upholding their work, seeking to strengthen guarantees for their security, and seriously weighing their recommendations. That support must not get "squishy," in Colombia or elsewhere, when corrupt, anti-reform leaders and sectors try to alleviate pressure by assuming "pro-U.S." stances on issues like trade, drug policy, migration, or Chinese influence.

The long term and the short term

"Low-impunity state presence," though, is a long-term solution. It takes many years to build state presence and a justice system. During the first of those years, populations may not feel the impact of institutional change. Meanwhile, governments face often urgent demands to make people feel safer in the short term.

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In Latin America, we've seen two kinds of short-term responses to organized crime: "*mano dura*" or "iron fist" approaches, or negotiations. In El Salvador, President Nayib Bukele is using the *mano dura* with gangs now, though at first, he quietly negotiated with their leaders.[18]

In Colombia, Gustavo Petro is negotiating. He calls the strategy "Total Peace." It is an offer of dialogues with political content for armed groups that can claim a political purpose (the ELN, and ex-FARC elements that refused to sign the 2016 accord), and a sort of plea-bargaining for criminal groups' surrender. Both types of talks would lead to lighter punishments, and presumably full confessions and reparations to victims.

Just like "*mano dura*," negotiating with organized crime raises human rights flags. Negotiations could end up giving light sentences to people who committed gross human rights violations. Some of these people lack credibility, having already demobilized after earlier negotiations, then reneged.

To justify taking a step like that before Colombian public opinion, President Petro would need to demonstrate a dramatic improvement in security. So far, that has not happened. Comparing the first 10 months of 2023 with the same period in 2022, the picture is mixed, according to the Defense Ministry:[19]

- Homicides are down 1 percent.
- Kidnappings are up 72 percent.
- Reported extortion cases are up 13 percent.
- Attacks on infrastructure are down 17 percent.
- Killings of security force personnel are down 38 percent.

As of December 18, the Colombian investigative site *La Silla Vacía* counts 177 murders of human rights defenders and social leaders so far in 2023, an alarming figure though a 10 percent reduction from the same point in 2022 (198 murders).[20]

If Total Peace can improve armed groups' behavior in 2024, it would make Colombians feel safer in the short term, without the militarization and human rights abuse that come with the other short-term approach, *mano dura*. It could buy time for a long-term "government presence without impunity" strategy to take root, by relieving the pressure of public opinion. If people feel safer, they will be patient as slower-moving reforms proceed.

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The Petro government's managerial challenges

It is fair to ask, though, whether those slower-moving reforms are proceeding. Does President Petro's government have a long-term strategy?

Sixteen months into its administration, the answer is far from clear. The Petro government cannot be accused of lacking good intentions, or political will to pursue difficult reforms. In 2023, Petro's Defense and Justice ministries published new, rights-based security and drug policies.[21]

These are compelling and at times inspiring documents, but they are not actions. On these and many other fronts, the Petro government has been characterized by a wide gulf between lofty ambitions and on-the-ground actions.

The problem seems to be, above all, managerial capacity. The first left-of-center government of Colombia's modern era has brought in many officials from civil society with little government experience. Many of the agencies they head are starved for resources. Coordination between them is poor, with much overlap and unclear communication with mayors and governors. Lines of command are unclear. And the approach of Gustavo Petro himself has been far from managerial: too often, officials learn about policy and personnel changes from the President's Twitter account. Polls, and numerous analyses in Colombia's press, reveal deep frustration with the administration's improvisation and lack of clear action.[22]

It is not too late for the Petro government to right its ship. If it can get its managerial house in order, which may require a thorough overhaul, the administration could complement its short-term plan, Total Peace, with the longer-term "low-impunity governance" plan promised by its new security and drug policy strategies—and promised, in fact, by Colombia's 2016 peace accord.

If that happens, Colombia could lay the foundations for historic progress, because organized crime would find itself with fewer vacuums to fill and fewer allies embedded in government.

The Petro government isn't organized enough to do that yet, though, and the trajectory is uncertain. Organized crime in Colombia remains comfortable: it is not yet on the defensive. Civil society still is.

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