

Negotiating with Criminal Groups: IFIT Guidance Note for Good-Faith Promoters

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Negotiations with mafias, cartels, gangs, pirates and other violent crime groups (hereafter, ‘criminal groups’) occur more often than imagined. See generally IFIT’s ground-breaking [Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practice](#) (2021), which offers key lessons drawn from the most diverse set of negotiations with criminal groups ever examined in one place.

In comparison to negotiations with militant groups, for which the endgame of the negotiation is intuitively understandable, more foundational doubts arise for negotiations with criminal groups. That is because a militant group can ‘stay political’ at the end of the talks (e.g., by becoming exclusively a political party) whereas a criminal group cannot ‘stay criminal’.

With this challenge in mind, the aim of this practice note is to offer technical guidance to any *good-faith promoter* of formal negotiation with one or more criminal groups when the proposed endgame of the negotiation is to reduce or end the criminal violence in question.

The first part of the note examines threshold questions the good-faith promoter would be wise to consider before outwardly exploring or proposing any negotiation involving a criminal group; the second part discusses internal and external actions the good-faith promoter ought to contemplate as part of any initial phase of formal engagement or negotiation with members of a criminal group.

Threshold questions

Identifying or cultivating realistic opportunities for engagement with a criminal group is invariably associated with uncertainty, and fraught with dilemmas and dangers including reputational risks. Threshold questions the good-faith promoter should ask and anticipate include those listed below. The good-faith promoter can be a public or private actor; an individual or entity; an agent or principal.

1. Terms like ‘mafias’, ‘cartels’, ‘gangs’ and ‘pirates’ are archetypes that offer a shorthand to describe different kinds of criminal groups. Though useful, these categories cannot replace the need to carry out *group-specific* diagnostic work and due diligence. The good-faith promoter must thus go beyond labels and imagined characteristics to soberly examine the target group’s factual particularities – including its size, structure, level of self-identity and internal cohesion, extent of territorial and population control, and modes and targets of crime and violence.
2. A similarly objective analysis is needed about the context in which the criminal group is operating, including if the group is flourishing due to weak, absent or predatory institutions; what verifiable state capacity exists to achieve deterrence, offer incentives or make credible threats; and what strength, presence and history competing criminal groups have in the local criminal ‘marketplace’. Any transnational links of the group should also be understood and considered.

3. The good-faith promoter must also seek to understand the motivations and expectations of the target criminal group in any prospective negotiation (since negotiation implies an interest in something other than the status quo, which some criminal groups may favour). Expectations might include anything from local armistices to group legalisation, jobs, educational opportunities, judicial leniency, the right of association, improved public services for allied communities, group cultural recognition, safe passage through rival territories, non-extradition commitments, suspension of arrest warrants, improved prison conditions, and more.
4. Another consideration for the good-faith promoter concerns what kind of results are achievable by the institutional actor(s) negotiating with the criminal group. Since a good-faith promoter's goal is to help reduce or end the group's criminal violence, the desired results might include anything from a temporary ceasefire to demobilisation, disarmament, increased law enforcement cooperation, community safety measures, disclosure of hidden cemeteries, an end to crimes such as extortion or forced recruitment, and more.

Working through these threshold questions should culminate in a clear 'direction of travel' for the prospective negotiation, based, among other things, on the realistic degree of negotiating power vis-à-vis the target criminal group. Broadly speaking, there will be four pathways available:

1. **Negotiation to achieve a limited agreement or outcome** (e.g., a temporary or partial ceasefire or humanitarian access) that does *not* involve the criminal group relinquishing its arms. The limited agreement could be a one-off or, alternatively, if the group has enough negotiation-conducive characteristics (e.g., high levels of cohesion, self-identity and command and control), the negotiation could be conceived as a first step toward a future transformation-oriented agreement (see below) or strategic series of limited agreements.
2. **Negotiation to achieve a transformational agreement** through which the criminal group, as an entity, 1) would cease to remain armed or criminal, and 2) would take up a new institutional form that is non-violent and law-conforming.
3. **Negotiation to achieve an agreement for the total dissolution** of the criminal group, by means of which 1) the entity is wound down in an orderly manner rather than transforming into something else, and 2) the individual members of the group demobilise and disarm in exchange for reduced punishment and/or reintegration guarantees. Ipso facto, the dissolution pathway is available only when the criminal group is weak.
4. **No negotiation** because the minimal conditions are deemed to be absent.

Engagement choices

If the chosen direction of travel is toward engagement or negotiation with the criminal group under pathways 1, 2 or 3 (or some combination thereof), the good-faith promoter should consider the choices listed below and develop them into an 'engagement concept'. Because negotiation is an inherently iterative process, the threshold questions and considerations of the prior section should be re-visited whenever new facts, developments and discoveries arise.

1. **Initiating engagement** includes determining whether to instigate the first approach or join with explorations and processes already started by others; identifying the most suitable entity to lead the process or serve as an intermediary or facilitator; and considering which political or security actors, beyond the principals, may need to be consulted or informed about the effort.
2. **Determining the right mode of engagement** depends, among other things, on the openness of the criminal group and the choices reached during any prior groundwork. Options include engagement that is secret or public, formal or informal, and direct or indirect.

3. **Agreeing the larger design of the process** involves facilitators or negotiators reaching understandings with the criminal group, including about the composition of delegations and the location and frequency of negotiation sessions. Design should take account of the group's internal culture and modes of decision-making. The design must work for all sides.
4. **Development of the agenda** should be based on the identified goals of the engagement and reflect, among other things, the differentiated interests of the criminal group and of the broader community. Issues for deliberation should be incrementally elicited as the engagement evolves, so that the process remains iterative, allowing for new elements to be added as confidence in it grows.
5. **Managing security risks** involves taking account of prevailing legal frameworks, the integrity of communications and the general safety of all participants, including the members of the criminal group. Security specialists are needed and worst-case planning, with contingency plans, is advisable.
6. **Cultivating support and buy-in** for the process requires managing wider perceptions among citizens and key stakeholders if the negotiation is public; keeping key powerbrokers or stakeholders apprised as necessary; and responding promptly to reputational risks and attacks. Communications specialists are needed.

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