

The Criminalization of States

The Relationship between States and Organized Crime

Edited by Jonathan D. Rosen,
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Chapter Fourteen

How the State Determines Illegal Drugs and Organized Crime

The Case of Ecuador

Nashira Chávez and Pryanka Peñafiel

While it is evident that organized crime erodes state power and causes socioeconomic imbalances in a country, it may seem counterintuitive to assume that the states shape organized crime.¹ However, based on our research and analysis on organized crime and drug trafficking in Ecuador during the last decade, this chapter argues the latter. This work sheds light on the state-organized crime relationship and argues that criminality in Ecuador is determined by the state and its socioeconomic structures. In this study, we discuss the way in which the illicit activities in the Ecuadorian territory differ from the crime and violence present on its northern border. This approach helps us identify the most relevant actors in the drug trafficking chain in Ecuador consisting of micro-traffickers and intermediaries in charge of the logistics and the transnational distribution of drugs. The border region has experienced a proliferation of violence associated with the dissidents of the Colombian peace agreement.

This chapter is divided into five parts. We start by laying out our argument within the state-organized crime relationship in the Latin American literature. Next, we explore the role of Ecuador in the transnational drug trafficking landscape. Later, we discuss the legislative reforms adopted in Ecuador regarding drug policy and the way these changes have transformed the conceptualization of illegality and criminality in the country. We conclude by presenting violence on the northern border as the most critical consequence of the presence of organized crime in Ecuador. Finally, we offer some concluding thoughts in the last section. From these reflections we reached the conclusion that, in their central territory, Ecuador maintains relative control over drug trafficking, whereas in the northern border with Colombia, we encounter a process of acute deinstitutionalization.

LITERATURE REVIEW

The state-organized crime relationship is a topic that has generated scholarly debates in the Latin American literature. Yet the question remains: Does organized crime determine state practices, or is it the state that shapes organized crime? Prominent practices such as state-sponsored protection for organized crime groups, the erosion of the rule of law, and the links between drug traffickers and the political elite are just some of the widely documented issues that bring light to the direct and indirect effects of organized crime in political practices. Our analysis and approach to study the relationship between organized crime and the illegal economy in Ecuador adds to the academic debate, particularly emphasizing the perspective that the state regulates organized crime practices. While the international illegal market and organized crime are parallel to the formal political economy, organized crime is a dynamic process historically and institutionally produced.

Works that study the relationship between state-organized crime and political institutions offer multiple contributions. On the one hand, there are those who argue that organized crime is an unbalancing actor or a contender of the state. In other words, criminal activities and the illegal markets configure or shape political practices and the establishment of order. Research on the Italian case has demonstrated that criminal actors have used violence to influence election results in favor of a certain candidate by intimidating voters.² Phil Williams states that organized crime is “the HIV virus of the modern state circumventing and breaking down the natural defenses of the body politic.”³ Recent works have gone further by recognizing organized crime as a political actor. Another example is the drug trafficking gangs in Rio de Janeiro that control not only the illegal market, but also the structures of governance and authority in the favelas.⁴ In this context, the citizens and communities recognize the sometimes violent dynamics of order established between the state and organized crime. Thus, organized crime appears as a competitive actor engaging in state-building.⁵

On the other hand, studies have emphasized the role of the state. These works affirm that the states determine the type of criminal activities that take place within their territory. For example, some authors have argued that the protection nets provided to criminal organizations sponsored by the state (i.e., policymakers, policemen, military, and other state representatives) reduce the levels of violence while improving the application of the law and the persecution of crimes. Therefore, the rupture of the protection increases threats and vulnerability of illegal actors protected from rival criminal organizations.⁶ At the local level, other experts have argued that the presence of the state in isolated territories and rural development are factors that significantly

reduce drug production.⁷ Conversely, authors who study the global illegal market have pointed out that transnational crime has historically existed and has evolved along the construction of the nation-state. For the Latin American case, Bruce Bagley has argued that the presence of paramilitary groups in Colombia and the proliferation of violence in Mexico are closely related to the democratization process of these countries, and the breaking of the monopoly of political parties.⁸

We agree with Bagley when he points out that the state establishes limits to organized crime operations in a given territory. In contrast, criminal organizations do not have the capacity to shape the state “although they can certainly deter or inhibit political reform efforts at all levels of the political system, from local to national.”⁹ The informal economy in Ecuador, and the organized crime groups that encourage it, has been shaped by the state and its political practices. The spaces for organized crime and, in particular, drug trafficking practices, are determined by several factors: the territory and its socioeconomic characteristics, the relationship between state actors *vis-a-vis* illegal actors, and regulatory and prohibition policies.

Ecuador in the Drug Trafficking Arena

As of 2007, drug policy in Ecuador was configured under a critical stance toward the anti-drug policy established mainly by the United States. Ecuador opted to move away from the American vision and attempt to implement its own agenda to fight the worldwide drug problem. In this context, the Ecuadorian legal regulations focus on both the supply and demand of drugs, establishing a distinction between consumers and sellers of illegal substances. The 2008 Ecuadorian constitution indicates that drug use and addiction are a public health problem, while drug trafficking is a crime.

To deal with the punitive and criminal side of the drug policy, the Integral Organic Penal Code (COIP) was approved in 2014 and establishes that the manufacture, production, storage, offer, import, export, market, distribution, and/or possession of substances subject to inspection in quantities greater than those stipulated by law is a criminal offense. However, the policy stipulates sanctions proportional to the seriousness of the offense, making a distinction between minimum, medium, high, and large-scale trafficking. It also restates that the cultivation of drugs will be penalized if it is used for commercialization, but not for personal consumption. The possession of psychotropic substances for personal use are regulated under public health regulations—and not from a punitive perspective.

Research conducted on drug trafficking finds that Ecuador is not a producing country, but it does participate as a transit route of narcotics for the Latin

American, U.S., and European markets. It also is “a place for loading and transit of cocaine to be transported to the international market, and a place of supply of precursors and chemical inputs necessary to process cocaine and heroin in neighboring producing countries.”¹⁰ Some authors state that Ecuador fulfills four specific functions within the chain of production of illegal drugs:

- 1) it serves as a route for the coca leaf crops grown in Peru and Bolivia to be transported to Colombia, where it is processed; 2) it is the origin of several trafficking routes towards international markets of consumer countries; 3) it serves as a market for the smuggling of chemical precursors necessary for the processing of cocaine and heroin; and 4) it is a functional economy and a safe haven for money laundering.¹¹

Most studies agree that Ecuador fulfills these functions due to its strategic geographic location, although there are some authors who also add institutional conditions as other factors that make the country ideal for the trafficking of illegal substances. For example, experts posit that Ecuador has “uncoordinated control entities in terms of public policy and administration of justice systems marked by low institutionalization, corruption, and impunity.”¹²

The reports by the United Nations Office on Drugs and Crime (UNODC) indicate that the production of coca crops in the country continues to be of low impact. Some scholars find historical, cultural, political, and economic reasons and the absence of insurgencies as factors that have inhibited cocaine production in the country. Alternatively, according to the United Nations, the reasons lie in the institutional capacity of the state, displaying its presence throughout the territory. As stated: “the Ecuadorian authorities continue with the activities to control and prevent the proliferation of crops in the northern border.”¹³ What is clear is that Ecuador is not a producer of illicit crops, but a country of transit of drugs and supplies for its production.

The 2016 UNODC reported that there were no significant coca crops in Ecuador, although it also acknowledged that in the country there are favorable conditions for the cultivation of coca, poppy, and marijuana. The critical zone in which coca crops have been detected is on the border with Colombia. The northern border is a point of great risk to the national security of Ecuador, not only because of the coca crops, but because of the illicit activities taking place. Evidence of the presence of clandestine laboratories to refine cocaine or other activities such as illegal logging and/or illegal mining has been found in this zone. Ecuador is in the middle of two of the largest cocaine producing

countries in the world, so it can serve as a transit country. It should be noted that “[c]ocaine and heroin from Colombia and Peru are trafficked through porous land borders and through maritime routes for distribution to the United States and Europe.”¹⁴ For this, the Ecuadorian borders have become vulnerable zones with the presence of transnational organized crime.

Ecuador serves as a transit country for shipments of cocaine by air, land, and sea as well as heroin by air and mail. Drug traffickers use various methods to move illegal shipments, including container cargo vessels, small fishing boats, semi-submersible and fully submersible submarines, speedboats, airplanes, and postal mail.¹⁵ According to the UNODC *World Drug Report: 2013*, Ecuador is the fourth country that presents the most cases of maritime seizures of drugs (just after Morocco, the Netherlands, and Colombia).¹⁶ The Port of Guayaquil is an important South American transshipment center for cocaine hidden in cargo containers destined to Europe.

The latest UNODC report indicates that during the period of 2010–2015, there was an increase in cocaine seizures in South America. The analysis indicates that the latter is due to the spike in cocaine production in Colombia and the intensification of trafficking activities outside the country. Colombia registers the highest quantities of cocaine seized in all the southern continent, followed by Ecuador and Venezuela.¹⁷ In addition, there are crimes that derive from illicit drug trafficking and are also controlled by organized crime. These activities include illegal mining, illegal logging and deforestation, human trafficking, illicit trade or wildlife species, money laundering, and smuggling—among others.

Ecuador has adopted an approach focused on public health to address the demand for drugs. In article 364 of the Constitution, it is established that addictions are a public health problem, and therefore the criminalization of drug consumption is not permitted. In 2013, the National Council for the Control of Narcotic and Psychotropic Substances (CONSEP), as the governing body for the creation of drug policies in Ecuador, adopted Resolution 001, which establishes the table of maximum admissible amounts for legal possession of drugs for personal consumption (Table 14.1). The non-criminalization of drug consumption was accompanied by regulations for the prevention of drug use and comprehensible rehabilitation treatments for consumers, the latter with the aim of shifting the punitive paradigm toward one focused on a public health and human rights approach, leaving the criminalization aspect to the supply side (i.e., drug dealers and traffickers).

Table 14.1. Amounts of Possession for Personal Use

Substance	Quantity in grams
Marijuana	10 grams
Cocaine paste	2 grams
Cocaine hydrochloride	1 grams
Heroin	0.01 grams
MDA	0.15 grams
MDMA	0.015 grams
Amphetamines	0.040 grams

Source: Elaborated by authors with data from the Resolution 001-CONSEP-CO-2013

In 2015, the Organic Law of Comprehensive Prevention of the Socio-Economic Phenomenon of Drugs and Regulation and the Use of Controlled Substances was promulgated. Under this same law the Inter-Institutional Drug Committee and the Technical Secretariat for Comprehensive Drug Prevention was created. This new drug reform modifies the thresholds that reduce the quantities of substances that typify the crimes and increases the penalties related to narcotic and psychotropic substances.¹⁸ In the sections below, we will analyze in depth the reforms to the consumption of drugs by the State, the institutional reforms, important actors, and arguments that sustain the change in paradigm from criminalization to public health.

LAW REFORMS TO DRUG CONSUMPTION: NEW PARADIGMS OF CRIMINALITY

The patterns of criminalization of drug trafficking in Ecuador have undergone substantial changes over the last decade. The new policy on consumption established in 2008 redefined the criminal practices in the territory by separating the criminal activity of consumers, who were previously penalized under a punitive approach as micro-traffickers and drug traffickers. In the context of the drug war policy, consumption was treated under a traditional punitive approach. The new Constitution of the Republic of Ecuador of 2008 established new conceptions of criminality in article 364 that prohibits the criminalization of consumers.

The reconfiguration of the illegal economy associated with the sale and consumption of drugs, originated a change of policy from a criminal perspective to a social standpoint for the consumers. The new legal framework—the Or-

ganic Law of Comprehensive Prevention of the Socio-Economic Phenomenon of Drugs and Regulation and the Use of Controlled Substances—established alternative policies that decriminalized the consumption of personal doses of drugs with the creation of consumption tables. The alternative measure included a less repressive treatment to other actors in the drug trafficking chain, such as micro-traffickers. For instance, one of the first actions carried out by former President Rafael Correa was the granting of a pardon to drug “mules,” that is, the release of men and women accused of drug trafficking. The new frontiers of criminality posed three legal premises: 1) the drug phenomenon should be viewed from a public health approach; 2) the recognition of the different levels and diversity of consumption under occasional, habitual, and problematic uses; and 3) consumers would not be criminalized under any circumstance.¹⁹ At the same time, the Comprehensive Criminal Organic Code was kept in place, sustaining the punitive policies for actors associated with the production, violence, and money laundering related to drug trafficking.

The approach adopted by Ecuador supposes a greater responsibility and intervention from the State since it understands the drug problem as a socioeconomic phenomenon. Hence, the state has fostered an inter-institutional policy between the Technical Secretariat for Comprehensive Drug Prevention, and the Ministries of Public Health, Education, Justice, the Interior, Economic and Social Inclusion, among others. The alternative measures point toward two directions. On the one hand, consumption tables allow for the identification of consumers and to provide the necessary and effective rehabilitation. The purpose is that addicts shift from being drug buyers in the illegal market to patients in the public health system. On the other hand, emphasis has been placed on prevention and information campaigns aimed at expressing tolerance with those who are perceived as patients and not as criminals.

The second drug reform of 2015, or what several authors call the “counter-reform,” reversed the policy and securitized the lowest parts of the drug trafficking chain.²⁰ The counterreform reduced consumption thresholds that classified traffic scales and increased sanctions for drug-related offenses (Table 14.2). Some experts affirm that this reform presented a setback and a contradiction to the alternative drug policy that was initiated in 2008, as the measure directly affects the consumer since they are considered the equivalent of a drug trafficker. However, for the Ecuadorian government, this measure was inclined to sanction micro-traffickers and not to criminalize consumers. In the words of former President Rafael Correa: “[If] we want to keep drugs away from the youth? [Then] we must imprison micro-traffickers. I have demanded stronger sanctions for micro-traffickers.”²¹

Table 14.2. Quantities of Possession of Narcotic Substances July 2014

Scale (grams)	Narcotic Substances							
	Heroin		Cocaine Base Paste		Cocaine Hydrochloride		Marijuana	
	Min	Max	Min	Max	Min	Max	Min	Max
Minimum	0	1	0	50	0	50	0	300
Medium	1	5	50	500	50	2000	300	2000
High	5	20	500	2000	2000	5000	2000	10000
High-scale	20		2000		5000		10000	

Quantities of Possession of Narcotic Substances September 2015

Scale (grams)	Narcotic Substances							
	Heroin		Cocaine Base Paste		Cocaine Hydrochloride		Marijuana	
	Min	Max	Min	Max	Min	Max	Min	Max
Minimum	0	0.1	0	2	0	1	0	20
Medium	0.1	0.2	2	50	1	50	20	300
High	0.2	20	20	2000	50	5000	300	10000
High-scale	20		2000		5000		10000	

Source: Elaborated by the authors based on data available from CONSEP.

The reforms to drug consumption have attempted to redefine the practices of criminal activity that operate in Ecuador. For this, a public health approach has been implemented to lessen the level of consumption and reduce the size of the illicit drug business. However, it is difficult to assess the outcome of alternative policies in the absence of data. Nevertheless, the reforms of the Ecuadorian law represent an example of how a state can determine the form or type of criminal activity within its borders by differentiating between a social approach to the demand for drugs and a repressive approach to combat the supply. These reforms differ from the traditional paradigm, distinguishing social policy from criminal policy. Through public health treatment to consumers and a criminal treatment to micro-traffickers and drug traffickers, the drug policy reform goes beyond the decriminalization of the personal use of narcotics, opening the debate on the use of cannabis for medical purposes. In 2016, a bill seeking to regulate measures for the cultivation, harvest, industrialization, storage, and commercialization for medicinal and therapeutic use of cannabis was presented to the National Assembly in Ecuador. The proposal presented cannabis as a viable medical alternative for the treatment of termi-

nal diseases through medical prescription in authorized pharmacies including a bi-monthly control of medicinal or secondary effects.²²

The prison system reform has been probably the most tangible result of the new public health and human rights approach to drug trafficking. The traditional punitive method included the mass imprisonment of even the lowest actors in the drug trafficking chain such as consumers, mules, or micro-traffickers, causing the overpopulation of Ecuadorian prisons. The imprisonment of consumers and mules implies high costs for the state, and it does not necessarily work to rehabilitate prisoners.²³ On the contrary, it makes them vulnerable and prone to continue within the drug problem cycle; most of these citizens return to society and relapse, some even committing new crimes.²⁴

From this logic, the mules are considered vulnerable people who participate in organized crime because they are in “precarious and economic needs” (Decreto Ejecutivo 114, 2017). In President Correa’s words: “there is a need for actions that allow for the reduction of sentences of people who do not represent a danger to society . . . improving the living conditions of inmates and reducing costs for the State.”²⁵ For this reason, former President Correa pardoned drug mules on two occasions. The 2008 pardon allowed for the release of 2,223 convicts, which contributed to a 38 percent reduction in the incarceration rate in the country.²⁶ In 2017, days before leaving office, Correa pardoned inmates sentenced for five years for a drug-related crime and the ones who had served at least 30 percent of their prison sentences.²⁷ At the same time, sentences were determined in proportion to the crimes committed by small traffickers or substantial drug dealers. According to 2005 data from the Ministry of Justice, Human Rights and Religious Affairs, and the National Directorate of Social Rehabilitation, 4,550 people were incarcerated for committing drug-related offenses out of a total of 10,200 inmates. In July 2017, 10,103 persons were incarcerated for drug-related offenses out of a total of 35,200 prisoners. The latter data shows a reduction of people incarcerated for drug-related crimes because of the new approach adopted by the Ecuadorian government.

ECUADOR’S PARTICIPATION IN THE DRUG TRAFFICKING CHAIN: ILLEGAL TRADE AND CRIMINAL ACTIVITY

Since the attempt to control the demand of drugs with the reforms, crime has concentrated in three major actors linked to the long chain of organized crime. The first layer corresponds to the *intermediaries*, which are the mules, artisanal fishermen, smugglers, micro-traffickers, and small-scale drug growers. This group of actors, usually composed of nationals, indirectly participate in the criminal structure of drug trafficking. For example, Ecuadorian

fishermen—mainly from the provinces of Esmeraldas and Manabí—assist in the transportation of 50 to 500 kilos of drugs through the Colombian-Pacific-Galapagos Sea, Central America route. The former Minister of the Interior, Jose Serrano also noted: “between 2014 and 2015, nearly 800 Ecuadorian artisanal fishermen requested a safe maritime route, claiming to have been shipwrecked, after being obligated to deliver drugs in several Central American countries to be allowed to return to Ecuador.”²⁸ According to data from the Ecuadorian government, the fishermen would be earning between \$30,000 and \$35,000 per trip. The presence of drug trafficking in Ecuador is noticeable in the recruitment of the Ecuadorian peasant population “as a labor force for the cultivation of coca leaf crops in Colombia.”²⁹ The micro-traffickers represent the second sector of organized crime that has more influence and greater presence in the country. The state reformulated the law to differentiate between small- and large-scale traffickers, to categorize crimes, and to designate the corresponding sentences. The Comprehensive Criminal Code establishes four levels of trafficking, possession, production, and cultivation of drugs: minimum, medium, high, and high-scale. Data from the Technical Secretariat of Drugs reveal that in 2016 there were 11,220 cases of drug trafficking, out of which 92.26 percent corresponded to micro-trafficking cases, resulting in the arrest of 12,329 people.

The intermediary actors in the logistics, distribution, and production areas operate under the leadership of transnational actors. This corresponds to the second group consisting of the large drug cartels. Research conducted by the Mexican Attorney’s Office in 2017 revealed that four Mexican cartels operate in Ecuador: the Sinaloa cartel, Los Zetas, la Familia Michoacan, and the Gulf cartel. The Ecuadorian government has confirmed that “Mexican drug traffickers have close ties with Ecuadorian mafias smuggling drugs from south to north America, intending to use Ecuador as a transit country.”³⁰ The international crime structures have an interest in Ecuador for its location. The country has coasts that serve as a transit route for drugs by sea destined to Central and North America, functional with the aid and complicity of Ecuadorian fishermen. The Mexican cartels have links with intermediate networks that oversee the transportation and production of drugs. For example, data from the Ministry of the Interior from 2015 recorded the dismantling of 74 international drug trafficking organizations, which worked under the transnational criminal structures.³¹

In the last decade Ecuador has also had to face the threat of armed actors at the border because of the Colombian conflict. In addition to the humanitarian effects that the war has caused, the conflict has fostered the illegal economy along the northern border around the arms trade, possession and transport of psychotropic substances, illegal trafficking in hydrocarbons, and extortion.

According to 2015 data from the Directorate of Criminal Policy of the Office of the Prosecutor of Ecuador, the armed groups with influence in the border provinces like Esmeraldas, Sucumbíos, and Carchi are: the Black Eagles, the Revolutionary Armed Forces of Colombia (the FARC), the Urabeños, the Rastrojos, and the National Liberation Army (Ejército de Liberación Nacional—ELN). Additionally, the northern border has served as a supply of services and products from insurgent groups. According to the Ecuadorian Armed forces intelligence report, there about four supply centers established in the country. The fighters enter Ecuadorian territory without their uniform to supply themselves with food (e.g., rice, fruits, sugar, vegetables, water), gasoline, motorcycles, fuel, and cement. In the northwest of Tulcán, they also look for medicines.³²

The areas in which organized crime operate and their illegal practices throughout the Ecuadorian territory have been reconfigured based on the socioeconomic and institutional characteristics of the state.³³ The new criminal frontiers have concentrated the efforts of the state in the control of micro-trafficking and the chain associated with transnational drug trafficking. Drug trafficking shows the concentration of criminal activities in rural localities in economically marginalized populations. The collection, distribution, and export of drugs tends to multiply and establish itself as a source of income in social groups such as farmers, fishermen, and small resellers, and often contributes to the logistics of the drug trafficking chain in different areas.

The circumstances under which these groups participate in the illegal industry are not always clear. Since they are indirect participants in the drug trafficking arena, it is unlikely that the market will allow them to enrich themselves and, rather, their activities have become a source of income to cover basic budget deficits; perhaps their participation is imposed by the power of large criminal organizations and is involuntary. There is limited information on the relationship between drug trafficking and the formal economy, for example, the dimensions and scope of money laundering through real estate and financial institutions. Drug trafficking in the central part of the territory of Ecuador is under a predatory stage, described by Lupsha as the level at which the state has control over its security and criminal gangs due to their small size. However, it is evident that the regulation and control measures have not been able to establish suitable response protocols.

The northern border region has undergone major transformations in the relationship between the state and organized crime. The production and distribution of drugs has intensified in the area where excessive violence, corruption, and expansion of transnational organized crime has manifested a movement toward a parasitic stage. For Lupsha, the parasitic stage occurs when organized crime corrupts the state, and although it allows it to carry

out its regular activities, they remain two different actors. The recent wave of kidnapping, indiscriminate violence, and the association of institutions with organized crime operations suggests a process of deinstitutionalization of the state at the border.

DRUG TRAFFICKING AND VIOLENCE ON THE NORTHERN BORDER

Since the end of the territorial conflicts with Peru in the mid-1990s, Ecuador focused its security efforts on the control of the northern border, which became its major national security threat in the context of the Colombian armed conflict. Several authors have agreed that the Colombian government's strategy for the armed conflict was to displace it toward the periphery and the borders to take control over large cities and capitals. Thus, Ecuador became the zone of containment of irregular armed groups. In addition to being affected by violence, the border has been a neglected territory by the Colombian and Ecuadorian governments. This lack of institutional presence has caused inequality in the border areas. In sum, the northern border territories now face one of their major crises.

The situation of Colombia's armed groups has changed in the last two years and has implications for Ecuador. After the 2016 peace accords in Havana, the FARC disarmed and demobilized. Since 2017, the ELN is in the process of a peace negotiation, which until April 2018 has been developed in Ecuadorian territory. The signing of the peace negotiation with the FARC and the dialogues with the ELN present an encouraging scenario for Colombia and for Ecuador. However, this transition period between the end of the conflict and the post-conflict peacebuilding period has presented some important challenges.

The first challenge has to do with the nature of the armed actors and the proliferation of violence on the Ecuadorian border. The guerrillas began under the ideological precepts of Marxism, opting for armed struggle as their means to achieve political ends. The dissident groups that did not take part in the peace processes with the FARC operate under a different logic. They do not function under an ideological construct, but rather under a criminal structure that works together with criminal gangs involved in drug trafficking. Therefore, the northern border is now a territory devoted to transnational drug trafficking and violence associated with organized armed groups. In addition, the border has become the decision-making quarters of dissidents of the FARC.

Achieving peace agreements with the Colombian guerrillas does not translate to a sudden end of the conflict. Many people have proposed to refer to

this period as post-agreement and not post-conflict. The signing of a peace agreement usually ends direct violence, but other forms of violence (e.g., cultural and structural) persist.³⁴ For this, there is a need to analyze violence during the transition phase, from war to peace, that Colombia is experiencing. The situation in Colombia has direct consequences for Ecuador's security. Although the signing of the peace treaties with the FARC guerrillas has had a significant impact on the security of both countries, there are still other armed groups that seek control over the territory to carry out their criminal activities. The natural response of governments toward these groups cannot be negotiated. Instead, a greater radicalization of operations is needed to confront the drug trafficking structures.

The disproportionate violence that currently exists on the northern border permeates territories historically forgotten in the periphery of Ecuador. The discrepancies between the development of central cities and the border areas are evident. Proof of the latter is indicated in the indices of poverty and extreme poverty that account for the inequalities in the territory. The border region lacks basic goods and a formal economy. As a result, the illegal market and transnational drug trafficking have proliferated. The lack of development on the border area has gone hand in hand with the involvement of citizens with illegal armed groups by supporting them with the distribution, drug trafficking logistics, and smuggling of weapons and chemical substances, among other criminal activities. For this reason, the institutional presence of the state is necessary so that these populations have access to basic services and development opportunities under a formal and alternative economy to drug trafficking and the illicit market.

The borders and natural resources of Ecuador play a role in the control and operations of organized crime, as well as defining what is legal or illegal within the territory. The Ecuadorian government has gradually lost control of the border territory; proof of this is the kidnapping of Ecuadorian citizens by a so-called Guacho, dissident of the FARC. During the Colombian armed conflict, there was a tacit coexistence between the illegal armed groups, their connection to drug trafficking, and the government. In this regard, Juan Gabriel Tokatlian states that in some Andean countries there is an "oscillation between *modus vivendi* and *modus pugnandi* between the State and drug traffickers,"³⁵ which in the long run contributes to institutional weakness.

The post-agreement period in Colombia signified a change of scenery, strategies, and actors that stimulated Ecuador's response capacity. The disarmament and demobilization of around 11,000 former FARC combatants resulted in their exodus from the historically controlled territories. Despite having deployed 80,000 soldiers and police officers through "*Plan Victoria*" to occupy the territory that the FARC had abandoned, the Colombian

government has not been able to effectively take the control of these areas. For that reason, the territory is currently in a phase of dispute at the hands of non-state armed groups such as the ELN, FARC dissidents, paramilitaries, criminal gangs, and Mexican drug cartels. The criminal gangs that operate on the Colombian-Ecuadorian border are configured as an important group that cause imbalances to the security of Ecuador as they operate under the command of a transnational criminal structure that is difficult to control for a state that did not have a plan or a strategy for the post-peace agreement period.

On the other hand, the FARC dissidents, between 1,000 and 2,000 fighters who refused to participate in the peace agreements, formed nine separate groups that have become the greatest threat to Ecuador's national security today since they are disputing control over the territory in which drug trafficking operations are conducted. These territories correspond mainly to the department of Naríño and the Tumaco area. These groups have intensified their activities and their links with organized crime practices are becoming stronger in such a manner that their characteristics fall closer to criminal gangs or organized armed groups, leaving aside the organization's image of an insurgent political group. In this context, the 2017 International Crisis Group reported that "prosperous illicit businesses—prominent coca plantations, illegal gold mines, extortion and contraband networks—are responsible for the survival and expansion of many of these groups."³⁶

The Oliver Sinisterra Front and its leader, also known as "Guacho," is the group that has directly threatened Ecuador's border security. These dissidents have greater access to the resources generated by drug trafficking and fight for the control of the territory for the transit of drugs, in complicity with Mexican cartels. It is presumed that the Oliver Sinisterra Front could have between 250 to 400 members.³⁷ Their strategy has been to combat the security controls implemented by the Ecuadorian government at the border territory because it puts their drug business at risk since this is a key trafficking route. "Guacho" has directed attacks with car bombs and other explosions against some police stations in Esmeraldas and has been responsible for the kidnapping and murder of Ecuadorian journalists, soldiers, and civilians.

CONCLUSION

Based on the literature review that explores the relationship between the state and organized crime, we agree with the argument that the state shapes and sets boundaries to organized crime. We tested our theoretical proposition in our case study of Ecuador and its relationship with organized crime, specifically drug trafficking, the most developed dimension of organized crime in

the country. Ecuador has restricted organized crime practices by formulating a drug policy based on supply and demand. We observed that drug dealers receive criminal treatment, while consumers are treated from a public health and rehabilitation perspective.

Regarding the supply of drugs, some research shows that Ecuador plays a significant role in the drug production chain as a transit country. Drugs reach important international destinations like the United States and Europe through several routes across the country. However, recent reports have argued that Ecuador is ceasing to be a transit country for drugs and has been established as a producing one, but on a smaller scale compared to countries like Colombia. In addition, Ecuador is considered a smuggling market of chemical precursors for the manufacture of narcotics and is an ideal location for money laundering and other related crimes.

From the demand side, Ecuador delineated drug use as a public health matter that should not be criminalized. The less punitive approach, or what some authors call alternative policies, made it possible to establish accepted quantities for personal use, with the objective of identifying levels of consumption and differentiating users from micro-traffickers and large-scale traffickers. The strategy has also focused on providing a state-based rehabilitation program. Additionally, data analysis shows that this approach allowed for the decongestion of the prison system in the country, because a large number of the inmate population was incarcerated for offenses that did not represent a risk to public safety, since a murderer cannot be compared with a micro-trafficker or a drug user.

Our analysis indicates that Ecuador is currently in a predatory stage (i.e., the state enjoys control over its territory and sets limits to the practices of organized crime). However, we also present the analysis of three important actors that could jeopardize the state's response capacity of its institutions: 1) domestic actors operating under large organized crime organizations and drug trafficking structures for example, fishermen, smugglers, in general, people in charge of drug cultivation; 2) transnational criminal actors such as Mexican drug cartels; and 3) the self-armed groups that fight in the Colombian conflict and that are gaining presence in the Ecuadorian territory. This last group is especially important since the signing of the peace agreement between the Colombian government and the FARC implied a new scenario to the security of Colombia and Ecuador. The northern border has become a serious security issue as the FARC dissidents, along with criminal gangs and Mexican cartels, dispute the control of the territory and have attacked Ecuadorian infrastructure and the kidnapping civilians and members of the military.

The increasingly strong presence of the three aforementioned actors, the attacks on the northern border in early 2018, and the imminent advance of

transnational criminal structures indicate that Ecuador is moving from a predatory to a parasitic stage where the state begins to be absorbed by organized crime. This phase happens when criminal organizations can carry out their illegal business without facing a strong response from the government to stop their activities. Therefore, the state would be facing an oscillatory stage, fluctuating between coexistence with organized crime and repression by the state. This stage generates institutional weakness; for this reason, some authors propose to reform the institutional mechanisms, since the established ways have become obsolete and do not respond efficiently to control organized crime.³⁸ These reforms must go deeper to combat the advance of criminal organizations. There is a risk that the reform attempts may be hindered, and that organized crime may limit the government and institutional corruption. Despite these risks, an institutional reform is fundamental since organized crime could take control over the entire territory.

A prompt and effective response from the Ecuadorian government is necessary to face the new security reality that this country faces. Ignoring these changes can cause negative effects such as institutional weakness or democratic deinstitutionalization and, consequently, the loss of control of criminal practices and the advance of insecurity and crime. The governments of Colombia and Ecuador must have institutional presence on the border areas, this way the territory is not an area of dispute among criminal actors. There is the need to protect the population living in these areas and to have alternatives for a better life preventing their recruitment by transnational criminal structures.

NOTES

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