

CONTRIBUTION TO THE ANALYSIS OF THE CONCEPT OF «GRAY ZONES» IN LATIN AMERICA: THE CASE OF MEXICO AND COLOMBIA

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A. STATE OF THE ART AND OBJECT OF THE RESEARCH

The various concepts of «gray zones» agree on a common ground: These are *areas not covered by radar scanning, in the vocabulary of aeronautical control*². Jean-Christophe Rufin in his book *L'Empire et les nouveaux barbares* in 1999 analyzed the distinction between *white spots* -areas on the map that are totally beyond State control- and *gray spots* -areas in which there is a strong ambiguity whether the State can exercise its full control-³.

Xavier Raufer defined «gray zones» as regions who became inaccessible and hostile to every penetration, and in their interior no government is able to control the situation or enforce the minimum rules of law. Whole areas are in danger of closing down permanently and are falling into an anarchy⁴.

The PhD thesis object relies on the new conception of the term of «gray zones», which will be attributed to the case of the territory dominance by the Mexican criminal organizations and the FARC in Colombia. Indeed, the central hypothesis of the PhD thesis is based on analyzing the factors who characterize a «gray zone». The very existence of «gray zones» (dependent variable⁵), depends on these factors who are intrinsic problems of state-building, i.e. State weakness, failure of the rule of law dominance, extreme violence, war economy, different kinds of trafficking and the «militarization» of the State⁶ (explanatory variables).

This PhD thesis is divided in two central parts: the conceptual differences of «gray zones» in the case of Mexican criminal organizations and the FARC in Colombia (I), and the «gray zones» in Mexico and Colombia, a problem for the rule of law? (II).

I. The conceptual differences of «gray zones» in the case of Mexican criminal organizations and the FARC in Colombia

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² Xavier Raufer., La menace des « zones grises ». Sur la nouvelle carte du monde, *Le Débat*, 1992/1 (n° 68), p. 117.

³ Jean-Christophe Rufin., *L'Empire et les nouveaux barbares*, Jean-Claude Lattès, Paris, 1991, p. 28.

⁴ Xavier Raufer., « Zones grises : sur l'origine d'un concept », *Les zones grises dans le monde d'aujourd'hui- le non-droit gangrène-t-il la planète ?*, Pierre Pascalon (dir.), l'Harmattan, Paris, 2006, p. 19.

⁵ The « dependent variable » is sometimes called the «outcome variable». «Explanatory variables» are often referred to as «independent variables». We divide the explanatory variables into the «key causal variable» (also called the «cause» or the «treatment group») and the «control variables». Finally, the key causal variable always takes on two or more values, which are often denoted by «treatment group» and «control group». Gary King, Robert O. Keohane and Sidney Verba., *Designing social inquiry, scientific inference in qualitative research*, Princeton University Press, New Jersey, 1994, p. 77.

⁶ Alain Rouquié., interview with Jean Joana, « Amérique latine : l'État militaire à l'épreuve des transitions », *Op. cit.*, pp. 151-152.

In order to analyze the «gray zones» in these two particular cases, it is of paramount importance to re-conceptualize them in the scope of political science.

Hence, in the first part, I am examining the state-building and the new configuration of «gray zones» (Ia) and the conceptual and factual analysis of the illegal armed groups operation in the «gray zones» (Ib).

The new configuration of the «gray zones» was analyzed by Gaïdz Minassian who makes a first degree distinction of this phenomenon in Mexico and Colombia. According to his analysis, the two sub-categories of «gray zones» are the *state-centered* and *socioeconomic*⁷.

On one hand, the first is based on war, political violence and protest. Either it is a question of disintegrating the State, whose authority the illegal armed groups no longer recognize, or it is a question of overthrowing the regime without completely undermining the State cohesion. This category is divided in four types, in which, Gaïdz Minassian includes «the guerrilla-type gray zone» in Colombia⁸.

On the other hand, the second sub-category focuses on organized crime and its socioeconomic considerations where the lure of gain prevails without questioning the integrity of the State. Examples of this sub-category are : the «mafia-gray zone» (Italy, Albania, Golden Triangle in Mexico), the «gray zones» in the hands of violent gangs in rich countries (USA, Mexico), and finally the «gray zones» in the middle of shanty towns or «concrete jungles» megalopolis of the third world (Rio de Janeiro, Karachi)⁹.

In political science, this first degree distinction allows us to establish a new conception of «gray zones». The areas controlled by the criminal organizations in Mexico fall within the category that I call a «non-physical presence type zone», while the territories controlled by the FARC in Colombia are characterized as «physical presence type zone».

In the «non-physical presence zones» type, illegal armed groups do not need to be physically present on the dominated area. There is no organic attachment to the area. It is considered as a control based on violence or the threat of violence, on corruption and intimidation, without really having the control over the land; i.e. a kind of pseudo-territorial control established by a parallel economic system.

With the term «physical presence zones» type, I am referring to a space controlled by illegal armed groups that deploy their combatants or their partisans on the territory concerned. There is an organic connection to the territory that sometimes is a power or a weakness for

⁷ Gaïdz Minassian., *Zones grises : Quand les États perdent le contrôle*, Autrement, Paris, 2011, p. 11.

⁸ *Ibidem*, p. 11.

⁹ *Ibidem*, p. 12.

them. This is the example of the FARC guerrillas who were trying to establish proto-state control of the occupied zone to finally arrive at a Marxist-type revolution in the whole country.

Moreover, as for the state-building, there are also differences in two countries:

On the one hand, the state-building in Mexico is a particular case, since the narco-business has grown in parallel with the Mexican State, because it seems that several State institutions did not want to question a lucrative business such as the drug trafficking. Corruption has infiltrated almost all levels of all State institutions. Police, military and political leaders have often collaborated with the cartels¹⁰.

According to the analysis of Gerardo Rodríguez Sánchez and Judith A. Nieto, in certain regions a chain of economic control is based on political networks of corruption and impunity that gives the criminals the lack of power generated by some local governments. Indeed, the great «drug barons» and their regional gangs have levels of dominance (political, economic, military and social networks) that weaken the authority of democratically elected political representatives in the polls¹¹. This «new» Mexican democracy, since the transition in the 2000s, lacks the power and institutional experience to deal effectively with well-established corruption phenomena throughout its political history.

On the other hand, the question of state-building in Colombia is different in certain ways. While Colombia had a strong democratic system since the Independence, apart from the period 1953-1958 and the military *junta* of Rojas Pinilla¹², the country has presented an unfinished construction of the nation-State¹³. Indeed, this issue has emerged because of the delay of the redistribution of land and the demands of the rural population for more participation in the political system.

Colombia, a mainly rural country, was much affected by this delay and that was one of the main causes for the creation of rebel movements. In addition, the bipolar political system with the Conservative Party and close to the Church, on one side, and the Liberal Party on the other, prevented any real social contract, especially giving credence to the idea that rebellion is naturally tolerated in this country¹⁴.

The operation of these illegal armed groups in the «gray zones» depends on their objectives. On the Mexican criminal organizations side, the objectives are purely economic.

¹⁰ Ricardo Ravelo., *Narcomex: Historia e Historias de una guerra*, Vintage español, México-Estados Unidos, p. 64.

¹¹ Gerardo Rodríguez Sánchez and Judith A. Nieto., El terrorismo como método del crimen organizado en México, dans *Crimen organizado e Iniciativa Mérida en las relaciones México-Estados Unidos*, Raúl Benítez Manaut (éditeur), Colectivo de Análisis de la Seguridad con Democracia, México, 2010, p. 89.

¹² Ignacio Ramonet., in *Colombie : Derrière le rideau de fumée / Histoire du terrorisme d'État*, de Hernando Calvo Ospina, le Temps des Cerises, Pantin, 2008, p. 11.

¹³ Gaïdz Minassian., *Op. cit.*, p. 128.

¹⁴ *Ibidem*, p. 128.

On the FARC guerrillas side, the goals were of political nature. The Mexican cartels seek to cooperate with the local authorities to continue their illegal activities, if they did not question their business, while the FARC, in a Marxist logic, wanted to intimidate and substitute the local power in order to bring the whole country into a revolutionary process. The FARC did not need the State and its economy to be operational -their main objective was its substitution- as the Mexican criminal organizations need it.

In terms of territorial expansion, the Mexican cartels approach is also different from the FARC approach. It can be observed that the territorial control, in the Mexican case, began to be exercised at the regional level and years later has infiltrated the national and the international level. In the beginning, the cartels took the name of the federate State or region of their origin and base of operations. Territorial expansion comes later, through the various disputes between the criminal organizations, their short-term alliances and their fragmentation.

In contrast, the territorial expansion of the FARC is inspired by another strategy. The FARC divided into 7 Blocks per region. These regional blocks follow the orders of a staff and its command. Territorial expansion was evolving in parallel with the armed conflict and the attacks against the guerrilla by the police and the Colombian National Army.

In 2016 Colombia has entered the post-conflict phase. The agreement signed between the FARC and the government of Juan Manuel Santos (2010-2018) was rejected by a short majority of the Colombian people during the referendum in October 2016. Subsequently, a new agreement was submitted to the vote of the Congress which was unanimously approved in December 2016 and generated the demobilization of the guerrilla fighters. Yet the conflict is not totally to its end because some FARC dissidents have organized in groups, the ELN guerrilla still continue to be on a disagreement with the current Duque administration and a neo-paramilitary tendency has also appeared in some coca growing regions.

II. The «gray zones» in Mexico and Colombia, a problem for the rule of law?

In the second part of the PhD thesis I focus on the convergences of the phenomenon in both countries of this study. On the one hand, I analyze the genesis of the appearance of «gray zones», the reasons for the increase of violence in the two countries and the militarization of the State (IIa). On the other hand, I examine the factors of the rise of violence within the lawless areas and the manipulation of the population in the case of Mexico and Colombia (IIb).

Therefore, my research is based on the notion of «gray zones» which would challenge the rule of law¹⁵ and its monopoly of legitimate physical coercion in the Weberian sense¹⁶. This monopoly can no longer be exercised by law enforcement, and the law, in general, is exercised by illegal armed non-state groups.

With regard to the common aspects of the appearance of «gray zones» in both countries, I examine three criteria: the geography of these areas (hard to be reached areas, mountainous, jungles), the production of illicit crops -drug trafficking, essential resource for the «proper functioning» of the criminal organizations and the guerrillas- and the failure of the main functions of a sovereign State (police, education, justice), as a consequence of the need to exploit illicit crops.

The geographical factor which for a long time constituted the beginnings of geopolitics is a crucial element in both cases. There are three common elements that are significant for this analysis:

Firstly, these zones offer a variety of possibilities of escaping in case «the enemy State», i.e. the official State, appears and defies the criminal activities.

Secondly, the climate in the areas selected by the illegal armed groups favors cultivation and drug production. Drug trafficking is the crucial element of the operation of illegal armed groups who wish to gain the control of these areas. This is their main economic resource. For instance, the FARC in Colombia needed to use drug trafficking to finance their armed political struggle against the Colombian authorities, especially after the fall of the Berlin Wall and the termination of aid from the socialist countries. Regarding the Mexican cartels that operate in such areas, the drug trade represents their «*negocio*», their primary business, carried out not for ideological reasons, but for purely criminal ones. Thus, the control of these zones was not chosen randomly.

Thirdly, besides the fertile ground for drugs, these areas also offer land inaccessible to people who do not know him well. Mountains and wild vegetation in Mexico, jungles and mountains in Colombia have created natural forts, sometimes impenetrable by State authorities. The FARC and the Mexican cartels take advantage of the nature of these territories in order to transform them into their sanctuaries. How could we talk about State sovereignty when entire areas are becoming inaccessible to its authorities?

¹⁵ According to Jacques Chevallier for a State to be characterized as «Rule of Law» there are two preconditions that must necessarily appear. First, a hierarchical legal order, and second, the idea of the submission of the State to the law., Jacques Chevallier., *l'État de droit*, L'extenso, Paris, 2010, p. 15.

¹⁶ Max Weber, translated by Jacques Chavy and Éric de Dampierre., *Économie et société, Tome 1 : les catégories de la sociologie*, Collection Pocket, Éditions Agora, Paris, 2003, p. 96.

Lawless areas are closed related, in my point of view, to the definition of «domination» and «power» of the State. The notion of the State domination is evoked in the analysis of the French jurist Raymond Carré de Malberg, widely used by political scientists. According to him, *men had to instinctively bend to the dominion of the State, because it was the only power capable of insuring order and justice in the relations of the individuals with each other*¹⁷.

The concept of State domination is associated with Olivier Beaud's notion of modern State sovereignty. Modern sovereignty represents the supreme power of the State over those who enter in its sphere of domination¹⁸. Thus, when State domination is not guaranteed by these institutions, its sovereignty can also be questioned.

As far as the increase in violence in both countries is concerned, the main reasons are similar. The political leaders of both countries decided to fight the phenomenon of organized crime¹⁹ in Mexico and FARC guerrillas in Colombia by conducting highly militarized public policies²⁰.

Furthermore, the rule of law in both cases does not seem strong enough to guarantee the security of the population and therefore the entire territory. In this perspective, the institutions in both countries have weaknesses and cannot ensure the task of a protective State like the *Leviathan* of Thomas Hobbes, which represents the common authority, unique and absolute, the «mortal god»²¹. *Leviathan* would be the only body to guarantee the preservation of the life and property of the men who compose it.

Indeed, the increase in violence is the essential pillar in both cases emerging from the drug economy. Everything is organized around the drug trafficking. Such illicit activity constitutes the *modus vivendi* and the *modus operandi* of the criminal organizations in Mexico and the FARC in Colombia. The fact that this activity is illegal, it obviously produces the escalation of violence, and it is a challenge for the rule of law.

As for the factors of the rise of violence in the lawless areas, I evoke the various illegal activities carried out by these armed groups. In addition to the *narco-business*, Mexican criminal organizations have developed other types of trafficking in recent years, such as arms

¹⁷ Raymond Carré de Malberg., *Contribution à la théorie générale de l'État*, Tome 1, CNRS Éditions, Paris, 1985, p. 54.

¹⁸ Olivier Beaud., *La puissance de l'État*, Presses universitaires de France, Paris, 1994, p. 42.

¹⁹ According to the European Council Framework Decision 2008/841/JHA of October 2008 on the fight against organized crime, and the Article 1§1, «criminal organization» means a structured association, established over a period of time, of more than two persons acting in concert with a view to committing offence which are punishable by deprivation of liberty or a detention order of a maximum of at least four years of a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit. In the Article 1§2, «structured association» means an association that is not randomly formed for the immediate commission of an offence, nor does it need to have formally defined roles for its members, continuity of its membership, or a developed structure.

²⁰ The notion of public policy is essentially of Anglo-Saxon origin, since it has been in the United States that it has experienced a significant development since the 1950s. Since then, public policy research has kept its stigma, as they remain strongly marked by a tradition based on the notion of government., Pierre Muller., *Les politiques publiques*, Que je sais ?, Paris, 2008, p. 4.

²¹ Thomas Hobbes., *Leviathan (1651)*, Part 2. Commonwealth, reedition by Jonathan Bennet, Stony Brook University, New York, 2017, p. 79.

trafficking, human trafficking -particularly of immigrants- money laundering, and more recently extortion (« *derecho de piso* ») and fuel thievery. In contrast, the FARC used the drug economy to finance their political struggle. Subsequently, they took advantage of the control of the territory under the objective of amplifying their practices: kidnapping and extortion were their main activities and drug trafficking regulation by taxation on the drug lords' activities.

State authorities in both countries have had difficulties in intervening in the «gray zones». As Christophe Bertrand said *the changeover to a lawless zone gives its place, more or less systematically, to the disintegration of the legal authorities, to the administrative, economic and legal isolation of the area, to the increase in violence and illegal activities, the appearance of the law of silence and the vassalage of the population, to mafia groups, criminals or rebels*²².

As he evokes above, the population becomes subject to illegal armed groups because of the appearance of «the law of silence». Poverty and isolation from large cities are also significant factors who are playing a major role in their submission. The manipulation of cheap labor is a key element in the parallel economy. The armed groups recruit peasants who have some experience in planting and harvesting drugs by offering them a better paid job than their farming activities. As Pascal Le Pautremat says, *in the gray zones there is a situation of poverty or near-destitution; a human distress that encourages a minority of those who undergo it to turn to parallel circuits of economy. In the short term, this minority is thus falling into a behavioral deviance, prey to «mafiarisation»*²³.

B. METHODOLOGY AND THEORETICAL APPROACHES

My PhD thesis addresses the issue of «gray zones» through a new typology: I introduce a «type of non-physical presence» and a «type of physical presence» in Mexico and Colombia, to theorize the new configuration of «gray zones» on Latin America and on the international scene. My analysis is based on the comparative method of «small-n studies» which focuses on a limited number of cases, developed by Yves Surel, with «an attempt of generalization»²⁴.

My approach is part of the comparative studies in political science through a qualitative methodology. The comparative approach in the social sciences is widely disseminated and used in several disciplines. In political science, we find several themes studied via the comparison. These themes range from comparative politics -specialized in the comparison of political regimes with the emphasis on their institutions, political forces- up to the

²² Christophe Bertrand., « Zone grise : l'émergence d'une zone de non-droit : de la nécessité d'agir à la source », *Les zones grises dans le monde d'aujourd'hui- le non-droit gangrène-t-il la planète?*, Pierre Pascallon (dir.), l'Harmattan, Paris, 2006, p. 53.

²³ Pascal Le Pautremat., « Zone grise : un concept nouveau pour les maux du nouveau siècle ? », *Les zones grises dans le monde d'aujourd'hui- le non-droit gangrène-t-il la planète?*, Pierre Pascallon (dir.), l'Harmattan, Paris, 2006, p. 32.

²⁴ Yves Surel., *La science politique et ses méthodes*, Armand Colin, Paris, 2015, p. 183.

comparison of public and economic policies. In this context, they also include themes such as social movements, wars and revolutions, as well as the foundations of the democratic system²⁵.

Why the comparative approach?

According to Giovanni Sartori, the comparative method allows us to «control»- that is to verify or to falsify- if the generalizations are valid in the cases to which it applies. Certainly, we can do comparative work for several reasons, but the main reason is to «control». As Sartori's examples show, he does not speak of major themes, but of simple generalizations (causal hypothesis) that authors would normally formulate in pursuit of their subject. Thus, the reason for the comparison is convincing in its fundamental simplicity. We can add that comparing is learning from the experience of others and *vice versa* and that one who knows only one country knows nothing about it²⁶.

As a part of my research, I opted for the type of semi-structured interviews, because it would cover various questions related to my thesis. The questions used in a semi-standardized interview may reflect an awareness that individuals understand the world in different ways. Researches, therefore, approach the world from the perspective of the «subject». Then they can do this by adjusting the language level of certain scheduled questions or through unplanned probes (described in more detail in the interview snippet) arising from the interview process itself.

Indeed, the semi-structured o semi-standardized interviews allowed interviewers to express their opinions spontaneously on specific themes in order to collect reliable and less conditioned information than in «closed» interview. The interviews focused on the central phenomenon of our study, i.e. the «gray zones», and the characteristics of its emergence in Colombia and Mexico. We provided a questionnaire to our interviewers with the topics focusing on the situation in Colombia and Mexico respectively. In order to carry out these interviews, a long-term filed survey was carried out in Mexico between September 2016 and January 2017. Then, regarding to the interviews with the Colombian protagonists, the first part was conducted in France and the second part in Colombia in April 2018.

²⁵ Olivier Giraud., « Le comparatisme contemporain en science politique : entrée en dialogue des écoles et renouvellement des questions », *Stratégies de la comparaison internationale*, Lallement Michel et Spurk Jan (coordonateurs), CNRS Éditions, Paris, 2003, p. 1.

²⁶ Giovanni Sartori., «Comparing and Miscomparing», *Journal of theoretical politics*, 3(3), SAGE Publications, Los Angeles, 1991, pp. 244-245.

C. CONCLUSION

In Colombia, the abandonment of the «gray zones of physical presence» by the FARC has led to other phenomena which are not treated as a priority by the incoming President in August 2018, Iván Duque. The increased demand for drugs, which cannot yet be met following the demobilization of the FARC, as well as the Colombian state's indolence to intervene in the territories left by the guerrillas had led to a reconfiguration of the narco-business. The presence of Mexican criminal organizations, such as the Sinaloa cartel, the *Zetas* and *Cartel Jalisco Nueva Generación* (CJNG), has intensified due to the significant increase in illicit crops on Colombian territory²⁷.

It is also of paramount importance to address the issue of new threats in Colombia following the peace agreement. We have already explained that the «gray areas of physical presence» under the FARC have had a prominent place in the text of the peace agreement and continue to have one in the post-agreement phase. The «territorial peace» project initiated by the ex-President Juan Manuel Santos is not working as planned because new illegal actors are trying to question the peaceful foundations on which the Colombian people can rebuild the country.

The emergence of forms of neo-paramilitarism (*neoparamilitarismo*) constitutes a major new threat. The main theory concerning neo-paramilitary groups has its origins in the demobilizations of the United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia*, AUC) in 2005-2006. According to this theory, following the demobilization of paramilitary groups, certain zones, roads and urban centers were left empty and were coopted by these groups succeeding in maintaining the activities of extortion and territorial control previously exercised by the AUC.

The members of these new groups came in particular from dissidents of the old blocs who had first accepted the conditions of state negotiation and then reintegrated into the conflict, and also emerging actors, i.e. groups that had recently appeared or existed before the demobilization process²⁸. In this perspective of new threats, it is relevant to note that the BACRIMs and the neo-paramilitary groups should not be confused. The name «BACRIM» is officially used by the Colombian state to describe groups dedicated to illegal activities and they are within the prism of organized crime in the country. Their actions are dictated neither by counterinsurgency ideology nor by fighting the guerrillas.

²⁷ Informe del Instituto para las Transiciones Integrales y del Fondo de Capital Humano, *Seguridad y construcción de paz: desafíos y oportunidades*, Barcelona, 16 agosto de 2018, pp. 6-7.

²⁸ Joel Guerra Castañeda., «Neoparamilitarismo en Colombia: criminalidad, acumulación de capital y control social», *Mundo Siglo XXI*, revista del CIECAS, Núm.40, Vol. XII, Instituto Politécnico Nacional, México D.F., 2016, pp. 34-35.

These groups cannot be defined as new expressions of paramilitarism based solely on the fact that they seek to have links with the police or the political class, as this is also part of the activities of a criminal organization. Indeed, extortion and forced displacement are forms of wealth accumulation which, in general, are part of the strategy of organized crime. The key element to distinguish the term «BACRIM» from neo-paramilitary groups is the fight against the political opposition which the latter exercise and has a strong impact in various critical areas of Colombia²⁹.

As state intervention is not very important in these areas the authorities should emphasize to adopt a common internal security policy, as well as a «comprehensive rural security strategy». In the context of the latter, it should be noted that the power aspirations left by the FARC in remote rural areas require a policy which takes into account of these particularities, which promotes coexistence and establishes the «new rules of the game». It is important to review the situation of UNPEP (Police Unit for Peacebuilding) and DICAR (Directorate of Carabineers and a Rural Security), i.e. a police system adopted in areas dedicated to the disarmament of the FARC and preparing for the transition to legality. In these regions, the communities have started to recognize the state authorities as legitimates. They address to them to solve the problems of coexistence and security of the citizens but currently they are afraid, because after the transition, the presence of the State is not guaranteed³⁰.

In the case of Mexico, in addition to the emergence of new violent and powerful actors, such as the CJNG, in the criminal environment, during the presidency of Peña Nieto, a new threat appeared: the organized crime against civilian population. The Iguala case relating to the enforced disappearance and possible death of the 43 students of Ayotzinapa demonstrated that the «gray areas of non-physical presence» constitute a threat to both the state and the civilian population. Thus, revelations of the involvement of several state authorities (army, state police and federal police) in the events of the night of September 26th in 2014 have highlighted the function of «gray areas of non-physical presence». When the clandestine existence of criminal organizations operating in an area enjoys some sort of immunity from state authorities, we observe that the rule of law takes the form of a state in which crime prevails.

This dimension of «gray areas of non-physical presence» shows that this type of phenomenon has the power to weaken the state structure at its different levels. In the Iguala case, the initial official position of Peña Nieto administration wanted to accredit the involvement of the criminal organization of the *Guerreros Unidos* in the enforced disappearance of the students and therefore highlight the responsibility of organized crime in

²⁹ Joel Guerra Castañeda., *Ibidem*, p. 35.

³⁰ Informe del Instituto para las Transiciones Integrales y del Fondo de Capital Humano, *Op. Cit.*, pp. 12-13.

the case. Legally speaking, the investigations of the acts of the 27th Infantry Battalion, the Federal police, the Federal Ministerial police and the State and Ministerial Police of the state of Guerrero have shown significant irregularities³¹.

Indeed, the Mexican government has become hostage to a self-imposed metric. Peña Nieto had declared in the first weeks of her mandate that reducing violence was a priority, but the result was a considerably higher homicide rate than in 2012 (namely 27 per 100,000 inhabitants, compared to 22 in 2012). His administration wanted to focus on crime prevention and ended up discrediting the concept. The National Program for the Social Prevention of Violence and Crime began with a funding in all sectors, and ended in almost absolute discredit³².

As part of the fight against the «gray areas of non-physical presence» in Mexico, the incoming government of Andrés Manuel López Obrador, in addition to the reforms in the various institutional areas that we mentioned above, aims to create a security corps specialized in the fight against the Mexican Drug Trafficking Organizations (MDTOs). This is the National Guard (*Guardia Nacional*). In fact, the idea of the National Guard is not entirely innovative. It resembles the initial proposal of the Gendarmerie, exposed by Enrique Peña Nieto in 2012: to create an intermediate security corps, endowed with military and police training functions. This proposal responds to the same diagnosis because the police at all levels are incapable of fighting crime and the use of the army is considered essential to make up for the deficit.

Peña Nieto's original idea did not have tangible results for two reasons: first, its conception involved attaching the Gendarmerie to the Ministry of the Interior (*Secretaría de Gobernación*) and the armed forces were claiming compensation for the loss of staff and budget. Second, when the gendarmes they reite, the loose the benefits of the military career, so the State will be forced to compensate them for this loss. These two adjustments ended up making the initial proposal impracticable and the more modest idea of creating the Gendarmerie division within the Federal police was retained. The current proposal may have different results. By keeping the National Guard within the Ministry of Defense (SEDENA), the need to compensate the army and change the social security system of its members is eliminated. However, the administrative problems are not negligible. The integration also of elements of the Navy and the Federal police will involve the harmonization of their ranks and

³¹ Anabel Hernández., *La verdadera noche de Iguala, la historia que el gobierno trató de ocultar*, Grijalbo, México D.F., 2016, pp. 349-350.

³² Alejandro Hope., «¿Seguirá la violencia?», *Nexos*, México D.F., 1 febrero 2019.

their wages and perhaps their compensation on a special budget. And this, without taking into account the conflicts that could arise due to differences in organizational culture³³.

We observe that for the moment the fight against the «gray areas of non-physical presence» will no escape, in the medium term, from a «remilitarization»; despite the consequences and the weakness previously mentioned. The argument in favor of the National Guard is quite fragile. Approval of the constitutional reform in place would solve the problem of the constitutionality of the participation of the armed forces in public security tasks, but in the most complicated way possible (and perhaps it will create a problem of conventionality). The design proposed for the new corps departs from the models invoked as inspiration and requires extremely complex administrative processes. Finally, according to the proposed terms, the new corps would not have a particularly significant impact on the security conditions in the country³⁴.

In conclusion, I would like to return to the characteristics of the emergence of the «gray areas» phenomenon in the two cases of this PhD, in order to assess the current situation. A potential «remilitarization» with the creation of the National Guard in Mexico would lead to an impasse if other public policies focused on strengthening the presence of the State in the «gray areas of non-physical presence» are not engaged. Moreover, when the criminal actors in the Mexican case remain «invisible», an isolated «remilitarization» should not make it possible to fight in an absolute way against the phenomenon. There is a need to strengthen the state in the areas of education, work and health, and to reestablish the rule of law in order to combat violence, the parallel economy and multiple trafficking.

Furthermore, in the same way, in Colombia the peace-building and the concrete reconquest by the State of the «gray zones of physical presence» left by the FARC, can only be achieved by a strong state presence in these regions in the areas mentioned above, catalysts for the fight against the phenomenon itself and the new threats to Colombian state sovereignty.

The relationship between state interests and the individual interests of members of society is at the heart of this analysis. It is relevant to understand that, as Raymond Carré de Malberg wrote, *the state is not an end, but a means, that is to say an institution that exists only for a human purpose*³⁵. This particular relationship is reinforced by the fact that state interest is closely linked to individual interest.

³³ Alejandro Hope., *Op. Cit.*

³⁴ *Ibidem.*

³⁵ Raymond Carré de Malberg., *Op. cit.*, p. 25.

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