Background Paper Two

Asymmetric mediation
Armed groups and peace processes

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1. Introduction

The most recent figures, for 2002, show 21 major armed conflicts in 19 countries, of which 20 are *internal* conflicts involving one or more armed groups fighting either government forces or other armed groups, or both.[2] Including too conflicts of lesser intensity, or in abeyance, other studies point to upwards of 176 armed groups in 64 countries worldwide.[3] Given these statistics, it follows that efforts to contain, resolve or mitigate the worst effects of these conflicts will necessarily involve contact and negotiation with armed groups.

Although armed groups are an essential feature of contemporary armed conflict, surprisingly little policy analysis has been devoted to the particular problems that arise when engaging these groups in peace processes. Studies have examined the engagement dilemmas faced by human rights NGOs[4] and by relief agencies[5], or have looked more generally at the problem of encouraging armed groups to adhere to international human rights and humanitarian norms.[6] The problem as seen from the perspective of Track 1 mediators, however, has not been adequately considered.[7]

The purpose of this brief paper is to describe some key issues regarding conflict mediation and armed groups, sketch out the problems that arise and suggest some

possible ways these might be addressed. The scope is to consider the issues that arise in engaging groups in both full peace processes, as well as less far-reaching cease-fire and/or humanitarian agreements. The paper aims to provoke further discussion and debate. A revised paper that draws on comments at the Mediators' Retreat might eventually be circulated more widely.

The paper includes a few tentative recommendations, including that a mechanism be established whereby armed groups could declare their intent to abide by human rights and humanitarian law standards to a common and recognised authority. Reaction to this proposal will help HD to determine whether we take it further.

2. Definitions

There is significant confusion over a definition of armed groups. A working definition proposed by one study seems simple and straightforward "… groups that are armed and use force to achieve their objectives and are not under state control."[8]

This definition would exclude paramilitary forces. That is, those groups aligned with or supported by state forces (even if they exist outside the law) but where it makes sense in practical terms to address states to seek accountability for their actions. The key test is one of effective control – if this lies with the government, then it makes sense to deal with the government not the group directly.

Some insist that only groups with a political objective – for example, the pursuit of political or state power – should be included, leaving out purely criminal organisations (like the Mafia). Though sensible in theory, in practise distinguishing between the two is increasingly difficult. Criminal gangs that profess no political ideology have seized political power, apparently for the sole purpose of pursuing their criminal activity. Similarly, armed groups with an outwardly strong and coherent political ideology appear increasingly to be run internally as if their main purpose were criminal enrichment. In many countries gang violence is a dominant feature of urban environments; where the state is also weak, such gangs may increasingly appear to assume political functions.

The aims, ideologies, modes of operation, means of fighting, structure and essential character of armed groups vary widely. They are certainly responsible for some of the most notorious atrocities of recent times. Indeed, it can fairly be stated that most of these groups routinely show little regard for human rights and humanitarian principles, and many operate internally in ways reminiscent of state totalitarianism. It would be unwise, nevertheless, to conclude in all or even most cases that they are any worse than the governments they confront.

Armed groups range from very small bands, living as urban terror cells, through large, army-like formations fielding thousands of soldiers. Command and control may be very tight and orders dutifully obeyed and rigidly enforced, or the "group" might actually have no coherent military strategy or very little sense of shared purpose beyond creating havoc. Armed groups with an educated, urban leadership will differ considerably from

those whose leadership and constituency are essential rural and uneducated. Where leaders have experience of international politics they will relate in more sophisticated ways to international actors. Some groups will have strong internal accountability mechanisms, perhaps even subordinating a military wing to civilian control, and in other cases one or two military leaders will rule the group in dictatorial fashion. Armed groups may in some cases be supported by a majority of the civilian population and genuinely seek to represent the views of that population. In others, a leadership cult may be so strong that the group itself seems to exist solely to perpetuate that leadership. Where armed groups express a coherent ideology, and where attachment to it is genuine, then clearly the values flowing from this ideology will impact on the group's proclivity to end abuses and seek reasonable solutions to the conflict. But in a number of cases, there appears little ideological basis for a group's armed activities.

In short, armed groups share little in common beyond the fact that they do not (yet) wield state power. This suggests we need to be cautious in preparing any typology, or in arriving at any general conclusions concerning their likely behaviour.

It is the case, nevertheless, that because armed groups are not states there are some important, and shared, consequences for a conflict resolution system that is still largely state-centric. That is, many of the problems and pitfalls that arise for conflict mediators in engaging armed groups do so precisely because the mediators represent or operate within a conflict resolution system that is still primarily based on the needs and expectations of states. For example, it is only in recent years that the UN Security Council has found it a straightforward matter to mention armed groups in the resolutions it passes. It remains unthinkable that representatives of armed groups might appear before formal UN bodies, even though UN field staff might be in daily contact with such groups in the field.

3. Old problem, new dilemmas

Conventional wisdom notwithstanding, there is nothing particularly new in the fact that non-state armed forces are significant actors in modern conflicts. Such groups figured prominently in the conflict paradigms of the past, including nationalist uprisings in 19th century Latin America and Europe, post WWII anti-colonial struggles in Asia and Africa, and rebel "communist" "nationalist" or "counter-revolutionary" battles of the Cold War. Those active in ending wars for the past two centuries have actively engaged with a wide variety of armed groups in order to do so.

If this is so, what's the issue? Presumably there is plenty of experience to draw on. What are the new or contemporary factors that make engaging armed groups in peace processes so troublesome?

The following factors might be considered to add some novelty to current efforts to engage armed groups:

(i)   War on "Terrorism"[9]

Security issues figure prominently in the post 9/11 environment, and the attacks on civilian targets in the United States, Indonesia, Spain, Morocco, Turkey and elsewhere by Al Qaeda and other Islamist armed groups have focused state attention on locating and eliminating or bringing to justice those involved. Many commentators have noted that the war against Al Qaeda has provided significant political 'cover' for many states to further de-legitimise armed groups operating in their territories. More than that, through post 9/11 UN Security Council resolutions, states are required to take a number of specific steps to ensure "terrorist" groups cannot operate from their territories *[CHECK – and add detail]*

In an era where particular armed groups aim deliberately to kill as many civilians as possible, it is not surprising that armed, insurrectionary violence in general loses legitimacy.

This is not only as a result of Al Qaeda and Islamist armed groups. The RUF in Sierra Leone, and the various ethnic-based and/or state sponsored groups roaming the eastern DRC are good examples of situations where armed groups have killed, mutilated and raped tens of thousands of civilians. The public image, at least in the mass media, of rebels is changing, from the 1960s "freedom fighter" image of Che Guevera in a red beret, to an image of a West African youth, eyes bloodshot from drug use, toting an AK 47, and roaming streets looking for loot.

Whatever the specific cause – blacklists of "terrorist" groups, greater international attempts to suppress trans-border aspects of terrorism, public horror and outrage at the tactics used – there is a de-legitimisation of the resort to force by armed groups. At first glance, this trend is advantageous for mediators, as it creates incentives for armed groups to pursue their struggle through other means. There is reason for thinking that progress towards a negotiated settlement for conflicts in countries like Sri Lanka and Northern Ireland has been possible because of this trend.

On the other hand, there are also some obvious problems arising for conflict mediators. Those they need to engage are increasingly seen by governments and inter-governmental organisations as beyond the pale. The pariah status of "terrorist" groups creates very real political *and* practical problems. Talking to them is not only frowned on, but actively discouraged, not least because the mere notion that such groups might be willing to engage undermines efforts to further ostracise them. At a practical level, the global outlawing of such groups makes engagement with their leadership very difficult – and could raise legal issues for the mediators involved.

In sum, in the current international environment efforts to engage armed groups may be more difficult and lack international support.

(ii)   Weakened state sponsorship

In analysing the difficulties it has faced in internal conflicts since the end of the Cold War, the ICRC has noted that it no longer "has an address" for many of the armed groups it needs to engage. During the Cold War a majority of internal insurrections enjoyed the tacit or overt sponsorship of either the US (and its allies) or the Soviet Union, and certainly most were funded or supplied with arms by one of the two superpower-led alliances. The result was that it was usually clear whom to contact in order to engage the particular armed group.

The ICRC's argument is that in today's "unstructured" conflicts, where local grievance, criminal urges, or simple insecurity may be the drivers for conflict, outside states and/or alliances of states see no need to take sides. Outside powers "don't have a dog in the fight", as it were. Indeed, given the conflict prevention agenda pursued vigorously by the UN, international financial institutions and major donor governments, one could argue that the primary interest of many outside powers (at least those among OECD countries) in relation to a majority of on-going internal conflicts is to end them as quickly as possible. Where such an agenda is genuinely pursued, such powers will tend not to take sides. In any event, the paradoxical result is that in the post Cold War environment, having abandoned their role as sponsors, the major powers may have less control over armed groups.

This point should not be over-stated, however. Even during the Cold War, many armed groups operated without American or Soviet sponsorship. And today many armed groups that seem to have a *sui generis* grievance are enjoying some form of state sponsorship. That is, one can still find an "address" in the capital off a neighbouring or regional state where an armed group's sponsors reside, or where at least a point of considerable leverage vis-à-vis that group is located.

Nevertheless, there are some real problems, and again some of these are quite practical. How to contact a rebel group that has no outside state sponsor? In looking for points of leverage, mediators will need to look to private actors including companies, faith-based institutions, and elsewhere (and this is a good reason for linking Track 1 and Track 2 efforts). Where making contact requires forgoing customary diplomatic approaches, states and state-driven institutions, like the UN, will face difficulties – particularly if it is not possible to ensure absolute discretion.

In sum, mediators will need to be more creative and look beyond the confines of traditional diplomacy in identifying and engaging "sponsors".

(iii)   Technology

In the age of the satellite phone, it might also be the case that armed groups do not need "an address" (except in cyberspace). Though face-to-face contact is still desirable, technology has made it easier to contact armed groups. State sponsors are helpful

conduits, but it is also increasingly the case that armed groups can be contacted directly. The leadership carries satellite or cell phones, and can often be reached in very remote locations.

This point seems banal but it does have consequences. Problems of access to armed groups are not as insurmountable as they once were. On the other hand, technology too may require an armed group leadership to be more clandestine, as it is easier to locate (and target) them. Technology also opens the possibility for the armed group to engage at an international level, for example through radio interviews by sat phone. Many armed groups operate web sites where they post regular news releases and position papers.

(iv)   International legal developments

International law is not static. It evolves to reflect the preoccupations of the dominant players and to respond to the changing international environment. Even if we treat with caution any conclusion that the power of states generally is weakening, we can still comfortably say that the power and influence of other international actors is increasing. As they do so, they too are being brought closer within the framework of international rules. There is a clear trend to extend international legal obligations to 'non-state' actors, be they the IFIs, transnational corporations, international organisations – both private and official, and armed groups.

Part of this trend is to ensure greater accountability for the actions of armed groups. Accountability efforts at the end of WW II focused on states and state agents. Contemporary international tribunals include armed groups within their purview and it is now settled that the actions of armed groups, no less than states, may make those committing these acts liable to international criminal prosecution.

The fact that there is a greater likelihood that war crimes committed by armed groups will be punished is a welcome development. It does, however, give rise to potential problems that mediators will need to deal with (this issue is discussed in a separate paper prepared for the meeting). It is only a symptom, however, of a broader trend to increasingly subject non-state actors to international legal processes. One consequence of this broader trend is that as these non-state actors become subjects of international law, they will increasingly too demand to be part of the rule-making process. There will also be opportunities for hybrid solutions, whereby "private" bodies like companies or foundations are assigned particular responsibilities in international agreements.

In sum, even though significant political opposition remains to granting armed groups any substantial and formal role in international rule-making, in regards to other non-state actors states are ceding their once exclusive role.

(v)   Propensity for violence?

There is a perception that today's armed groups show a greater propensity for violence, that they care little for ideas of civilian immunity, and indeed see it as their purpose to wreak as much havoc as possible on society. Evidence for such a view is plentiful, and not only in the actions of Al-Qaeda and other Islamist armed groups.

Leaving aside the issue of whether this behaviour is a response to, or is in any case mimicked by the actions of state forces, the perception that armed groups are incapable of restraint creates difficulties for mediators. Similar to problems arising from the "terrorist" moniker, the notion that an armed group is running amok, bent on destruction, and its members essentially irredeemable, de-legitimises efforts to engage with that group.

Of course, where the perception is the reality, and indeed an armed group does show no coherent purpose other than mass destruction, or achieving its purpose is dependent on mass violence against society, than engagement is in any case extremely difficult. The potential mediator is apt to consider whether in fact a military solution is not a better option. It is also the case, however, that demonising armed groups helps neither in understanding their motivation nor in efforts to moderate their behaviour.[10]

It is also argued in relation to groups' propensity for violence, that there is an increasing likelihood both that armed groups will develop or get their hands on weapons of mass destruction (WMD), and will be willing to use them. Nuclear, chemical and biological weapons are not new – chemical weapons technology has existed for a century, and forms of biological warfare (deliberate release of smallpox virus) were used 200 years ago by British troops against indigenous peoples in Upper Canada. There is, nevertheless, a fear that technological developments allow those bent on mass destruction greater access to the means for doing so.

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In sum, the contemporary scene presents contradictory tendencies and factors for those wishing to engage armed groups in peace processes.

- The propensity for violence and WMD proliferation create an urgent need to engage precisely at the moment where the political space for doing so may be shrinking.

- International rules are changing to create greater means for holding armed groups accountable, but remain static in relation to allowing for processes of engagement that if successful would obviate the need for legal sanctions.

- Technology creates practical opportunities for direct engagement but indirect leverage arising from state sponsors may be diminishing.

4. Legitimisation, manipulation and fraternisation

Having considered some contemporary challenges to engaging armed groups, and noted the contradictory tendencies they give rise to, we should consider too the persistent difficulties mediators face. These can be divided into three categories. Through engagement a mediator might:

- enhance an armed group's status in inappropriate ways;

- be used by the armed group to further illegitimate political objectives: and/or

- find her/himself taking sides with the group as a result of its weaker capacity and/or sympathy with its cause.

(i)   Legitimisation

An essential dilemma that recurs repeatedly is the problem of engaging armed groups without legitimising in unwarranted ways their behaviour or enhancing their status in ways that are undeserved or dangerous. If the UN or a government agrees to meet, negotiate or establish contacts and "relations" with an armed group it confers on that group a degree of respectability. It may also imply that whoever is making contact recognises that the armed group is the legitimate representative for a particular cause (or community), or indeed that there is some basis for the grievance the group articulates. The fact that armed groups appear in many cases to use such meetings and contacts precisely to make themselves more respectable at an international level suggests those who fear such developments have some reason to do so. A notable feature of many armed groups is the manner in which they mimic states in their international relations, appointing representatives abroad with all manner of former titles and generally trying to act in diplomatic ways. A formal meeting with a UN official, or senior diplomats from a powerful state, does bring with it some enhanced status. It might as well lead to enhanced expectations on the part of the armed group regarding its demands.

The risks of legitimising an armed group through opening contact and negotiations must be seriously considered. In some cases, a particular armed group may enjoy little or no local legitimacy; it might use international contact to justify the decision it made to take up arms, whereas other local actors may have pursued grievances through non-violent means. Indeed, some argue that this is precisely the intention of several armed groups – to gain greater international attention to a cause by taking up arms (discussed further below). Granting that attention might in fact be a motor for further violence. In a situation where there a plethora of armed groups, outside decisions regarding which one or two to speak with, or to treat as representative, not only run the risk of getting it wrong, but also of being a further reason for such groups to fight among themselves.

There are three sorts of responses to the legitimisation problem. One could respond pragmatically that there is no choice. Resolving conflict through peaceful means requires engagement with armed groups. More theoretically, one could argue that the risks of legitimisation are offset by the benefits of engagement, most notably by the fact that opening a channel of communication at least offers the possibility of negotiating a reduction in violence. Taken further, this line of argument posits that legitimisation may be a good thing, as it is through winning international legitimacy that an armed group is more likely to accept international norms. The need to feel important and to be taken seriously is a key factor for these groups; however problematic in political terms, this creates tactical opportunities for those trying to engage them. Treating groups as beyond the pale will not assist in efforts to moderate their behaviour, and indeed there is no solid evidence to suggest ostracising groups has any useful impact in this respect.

The third response is to recognise both the risk of legitimisation and the benefits arising from engagement, and, therefore, to proceed in ways which minimise the risk and maximise the benefits. Easier said than done, of course, but at least such a response suggests a well-reasoned way forward (i.e., neither engagement for the sake of it, nor paralysis for fear of risk). Would developing some rules-of-thumb for such an approach be useful? (The points raised in section 5 below may be of use here.)

There is no point in lamenting the fact that states will object to outside interference in the form of international diplomatic contacts with rebel groups operating in their territory. In the eyes of the state, such groups are guilty of the worst crime of all – treason. It is quite natural and normal for states to lobby against such contacts, and to denounce them when they occur. The trick then is to make such contacts less extraordinary, less status-enhancing and altogether more 'normal'. If contacts with armed groups were regular and normal, it might be that opening them in any particular case became a matter of little significance. In other words, the more the international community engages with armed groups, the less likely it might be that such groups gain any greater legitimacy, as this derives from the "shock" and exceptional value of engagement today.

The fact that the more important and formal the interlocutor, the greater legitimacy and status will be conferred is a key reason why the UN may shy away from contacting rebel groups in particular circumstances. It also underlies much nervousness on the part of governments.

(ii)   Manipulation

A serious charge levelled against outside actors, including mediators, who engage armed groups is that by doing so they only encourage further violence. The strategy of many armed groups, it is argued, is precisely to "internationalise" a local conflict and in doing so gain greater leverage to advance their particular cause. They do this in different ways, but one tactic is to provoke government forces into using strong-arm and repressive measures precisely to attract international attention, and thereby set the scene for international mediation.

Some argue that this tactic was used very effectively by the Kosovo Liberation Army (KLA) in Kosovo in 1998-99, provoking not just efforts at international mediation but, eventually, NATO intervention. Others point to the manner in which the National Liberation Army (NLA, also Albanian) in neighbouring Macedonia appeared to mimic this tactic a year later.

Armed conflicts are, literally, matters of life and death, and in political terms the stakes could not be higher for the parties involved. They can be expected, therefore, to resort to manipulation, duplicity, and all types of underhanded tactics to gain advantage. Mediators can be manipulated by states no less than armed groups, and it is not clear that armed groups pose particular problems in this regard. A small state may resort to similar manipulative tactics against a bigger neighbour to provoke outside mediation.

(iii)   Fraternisation - taking sides

In any mediation, there is the risk that the mediator will lose his/her impartiality (or the appearance of such) and be seen to take sides or to favour one party over the other. When one of these parties is an armed group there is perhaps a greater risk in this respect for the mediator in a number of cases:

- Where the government in question enjoys very little domestic or international legitimacy. That is, where a particular armed group is seen to be waging a legitimate struggle by a majority of the population, and by outside actors, the group will naturally gain sympathy and support.

- Where the government is responsible for serious human rights abuses and war crimes, and the armed group's struggle is at least in some ways a means of defence against such abuses.

- Where the armed group has considerable less capacity than governments to engage in ceasefire or peace negotiations. They may lack technical expertise in a number of crucial areas, and lack too sufficient resources to mobilise this expertise. Problems of legitimisation may make it difficult for international organisations to assist in building this capacity. The mediator may find her/himself compelled to 'fill in the gaps'.

The first two situations may well overlap with an unwillingness of the part of the government to engage in talks, which itself could tend to push the mediator towards sympathy for the other side.

Little can be done in relation to the first two situations. Mediators must retain the trust of the parties in order to be effective, and doing so will usually require that they remain impartial. This does not imply, however, that the mediator has no position in relation to repression and violence. Provided her/his yardstick is grounded in international standards,

and is applied equally to both sides, s/he can take a position. The party affected, of course, may not understand this point.

In relation to the third situation, mediators might avoid the problem by looking for third parties – other states, private foundations, NGOs – to provide needed support where an armed group's negotiating capacity is weak. It is not always easy, however, to find willing third parties, or to fund such activities, especially where the opponent government disagrees with capacity-support to an armed group.

Finally, it should be noted too that showing partiality towards an armed group may increase one's leverage with the group.

5. Planning engagement

Clearly, one part of the answer to problems of legitimisation, manipulation, and fraternisation is for mediators to plan carefully their engagement with armed groups. Conflict mediation is more art than science, and it would be pointless to attempt a rigid methodology. It might be helpful, nevertheless, for those engaging armed groups to consider a number of points, in relation to their own strengths and weaknesses, and in relation to the character of the armed group.

(i) Identity and comparative advantages

Possible interlocutors should assess carefully their own identity and assess too how they will be perceived by the parties to the conflict. There might be situations where 2 or 3 different governments and 1 or 2 intergovernmental organisations might be acceptable mediators. In such a case, which potential mediator (or combination thereof) would be the least likely to confer unwarranted legitimacy, or best be able to resist manipulation?

The need to assess one's own strengths and weaknesses is clear, but ideally such an assessment must account too for the strengths and weaknesses of others. Even if most of the ticks fall in the weakness column, the potential interlocutor might still have more strengths than anyone else. The essential point here is to understand the range of possible interlocutors and weigh decisions on engagement by an objective assessment of who is best placed to minimise risk and maximise beneficial impact.

A relatively weak mediator (e.g., small state or private foundations) may mean less risk of legitimisation, but more risk of lacking the clout to resist manipulation or make an agreement stick. This suggests the need to think about co-operation and sequencing. For example, the role of the weak interlocutor might be simply to initiate an engagement, opening the door for the UN or other stronger interlocutor to enter when circumstances permit. Certainly weak interlocutors will need to ensure through partnerships, advisory groups etc., that where needed they are using the leverage of

others. Co-operation and co-ordination are key, and it might well be that mediation efforts should be seen as multi-party endeavours, where a lead actor is able to involve others as and when needed.

One of the difficulties in relation to such comparative assessments, of course, is that there may be tensions or competition between different potential interlocutors. The fact is that the number of possible international mediators is expanding, as regional organisations pay greater attention to preventive diplomacy, as private foundations increasingly pursue Track 1 efforts, and as individual governments pursue bilateral initiatives.

(ii) Character of armed group

There are also numerous factors that ought to be considered in thinking about ways to win an armed group's confidence and acceptance of a potential mediator. Most of these are obvious, and the purpose here is simply to list them for ease of reference. As noted above, armed groups are as diverse and varied as the situations and countries that spawn them. Generalisations are (generally!) unhelpful. Thinking about the following points will help to pin down some of the most salient features:

- **Leadership**
  - Whose in charge, and how did they get there?
  - What degree of command and control do they have over their forces?
  - What mechanisms of accountability, if any, are in place in relation to the decisions they make?
  - What role do civilian/military, urban/rural, "legal"/clandestine and exile/home divisions play in the exercise of leadership?

Answers, even if only partial, to all of these questions will be of central importance in determining how to engage, and with whom.

- **Ideology** – While perhaps increasingly hard to decipher in many conflicts, most armed groups still have some shared vision or purpose, even if identifying a coherent ideology might be difficult. What is that shared vision? If it includes an aspiration to political power and statehood then it ought to be possible to engage the armed group within an existing framework of international law and institutions, as achieving their purpose usually requires accepting this framework. While this seems banal, it is crucially important as the legitimacy of this international framework can be invoked to justify insisting on certain minimum standards of conduct.

  Outsiders tend to conclude too readily that an armed group's ideology or value system is incoherent, absent or of little relevance. The cohesion of the group usually requires some shared vision even if that might appear obscure or indecipherable to outsiders. In this regard it is worth noting that where a

religious motivation is claimed, it may prove harder for interlocutors to engage the group through the secular, internationalist language of standard diplomacy.

- **Insiders and constituencies** – It is not always easy to win an armed group's confidence to be accepted as a mediator, and more difficult still to convince them of the idea that a negotiated solution is desirable. Doing both is essential. Who are potential allies who have influence with the armed group?

  In most civil wars, there are various civil society organisations (NGOs, trade unions, faith groups, etc.) who might be sympathetic to or supportive of the armed group involved. Whether or not they are formally aligned (even if clandestinely) such groups can play a very useful role as "insiders", with access to and listened to by the armed group leadership.

  An armed group's willingness to accept the need for talks, for a particular mediator, or for accepting a particular element of an agreement, will be greater if those they trust and depend on are pushing for such acceptance. (This is another reason why it is important that Track 1 mediators maintain close contacts with the peace building efforts of civil society.)

  Similarly, most armed groups have some sort of constituency – those they claim to fighting on behalf of (the poor, minority X, religious group Y, etc) Diasporas sometimes form a critical constituency. The degree to which the group actually fairly represents its claimed constituency will vary, of course, and where there is little support for the group the constituency will have little influence (although this might be a reason to find means of ensuring their views are taken into account in the peace process).

- **Sponsors** – As discussed above, many armed groups still have external state sponsors, even if the end of the Cold War means there is less great power interest in controlling such groups. Obviously, identifying these sponsors and other sources of external support will be important in building leverage over the group.

- **Capacity** – As already noted above, many armed groups lack the technical expertise or resources to effectively negotiate. They may lack too the means to implement agreements, or to ensure their forces abide by agreed provisions. No doubt the same might be said of states, but, again, in relation to armed groups building capacity will present problems for outsiders, at least those representing official institutions. It would seem sensible for potential mediators to think carefully about an armed group's capacity to engage in serious negotiations and identify creative ways in which to strengthen that capacity.

The above is a non-exhaustive list. No doubt more points could be added. The point is to suggest that considering such issues ought to ensure the mediator is better able to minimise legitimisation, manipulation and fraternisation risks.

6. Policy options

If the foregoing discussion fairly presents the issues and dilemmas arising, the task ahead is to develop some possible solutions.

Clearly, mediators themselves, through careful planning, can minimise the risks of engagement and maximise the chance of a successful negotiation. **Better analysis** is the key (and, of course, the resources and time to undertake it).

Are there, however, institutional solutions to some of the problems identified?

(i)   Assessing the comparative advantages of potential mediators is crucial. In some cases, only private or bilateral contacts are possible with an armed group, in others such relatively weak interlocutors will lack the clout to carry through. Is there a way to ensure that the UN, regional IGOs, mediating states and private foundations work more closely together in making such assessments? What type of **co-ordinating mechanism** might work, and where should it be located?

(ii)   A key task remains to make engagement with armed groups more routine, and therefore less status-enhancing. The UN has found ways to engage with all manner of NGOs, including many that are actively opposed and disliked by governments. Is there a way to allow some kind of 'soft' representation for armed groups in international forums? This would have to begin in an obscure and less-threatening area of concern – the UN's cultural or educational work, for example. The point would be to make one of the UN's many tents big enough to accommodate armed groups.

(iii)   Peace agreements ending civil wars almost always require painful compromises, and the pariah groups of yesterday are often the opposition parties of today and the elected governments of tomorrow. Recognising this fact, it should be possible for the international community to accept means through which armed groups could be brought further within and subject to structures of global governance. There is a precedent in regards to the treatment given "national liberation movements". The PLO, SWAPO, and ANC were all accorded observer status at the UN and Additional Protocol I to the Geneva Conventions included provisions whereby these movements could declare their willingness to abide by its provisions. Without going this far, it should be possible to find ways to encourage all armed groups to make declarations committing themselves to human rights and humanitarian law principles. One example is the "Geneva Call" initiative, whereby a small NGO (associated to the ICBL) accepts and publicises armed group declarations that they will not purchase, stockpile or use anti-personnel

landmines. Though few groups have done so, an expanded and perhaps more formal initiative might be worth pursuing.

ENDNOTES

[1] I am grateful for the advice and comments of my colleagues at the Centre on an earlier draft.

[2] SIPRI Yearbook, 2003.

[3] See Amnesty International, Annual Report 2004.

[4] See International Council on Human Rights Policy (ICHRP), *Ends and Means: Human rights Approaches to Armed Groups*, 2000. The author of the present paper also wrote the *Ends and Means* study. Readers familiar with both will note the similarities, and credit is due also to Robert Archer at ICHRP who edited the earlier study.

[5] See the various background papers prepared for the conference 'Curbing Human Rights Violations by Non-State Armed Groups'**,** held in November 2003 at the Centre of International Relations, University of British Columbia, Vancouver, at http://www.armedgroups.org

[6] See two case studies published by the Centre for Humanitarian Dialogue in 2003, *Humanitarian engagement with armed groups – The Colombian paramilitaries* , *Humanitarian engagement with armed groups – The Centra.l Asian Islamic opposition movements* , available at http://www.hdcentre.org.

[7] Conciliation Resources, a London-based conference resolution NGO, is planning to begin a significant piece of research on this question, although their focus will be primarily on the problems as seen from the perspective of civil society actors.

[8] See *Ends and Means.*

[9] "Terrorism" is placed in quotes throughout this paper given that no accepted legal definition of terrorism has yet been adopted. There are clear definitions for terrorist acts, but not for "terrorist" groups.

[10] See *Ends and Means*. This report drew on 10 case studies and in all of them local NGOs and other actors consulted all felt that, whatever an armed grouup's behaviour, it was necessaary to engage them wherever possible.