Non-conventional armed violence and non-state actors: challenges for mediation and humanitarian action

By Ivan Briscoe

■ Executive summary

Some of the most lethal episodes of armed violence in recent years have taken place in countries that do not suffer from conflict according to its conventional definitions. At the same time new armed conflicts in Mali and Syria appear to be shaped not just by political differences, but also criminal motives, jihadist ideology and an extraordinary level of violent factionalism.

The hybrid character of both armed violence and conflict stands at the heart of current global security concerns. But the specific challenges posed by armed violence in non-conflict settings have yet to receive a coherent response from peace and development professionals. The coercive power exerted by non-state armed groups over communities and territories, and their connection with transnational networks make it hard to negotiate anything more than short-term deals aimed at reducing violence or providing humanitarian relief. Legal provisions to protect civilian lives are particularly difficult to enforce.

Hostility towards these groups from states and the international community is deep and widespread, particularly when they are associated with terrorist acts or organised crime. However, this report outlines four areas of future research in policy and programming that would be highly relevant to the work of organisations devoted to peace and humanitarian affairs: the nature of an outreach strategy to armed groups, the legal instruments that are available, the sort of community engagement that should be sought, and the approach towards formal economic and political structures. Establishing a broad network of practitioners, scholars and policymakers is suggested as a means to make progress on all these fronts.

Introduction

Some of the most lethal episodes of armed violence in recent years have taken place in countries such as Mexico and Honduras, neither of which suffers from conflict according to its conventional definitions.[1] At the same time, in countries and regions that do fall into the class of armed conflict – most recently, Mali and Syria – the composition and dynamics of warfare appear to be shaped by interests and motives that are most conveniently described as "hybrid". The initial formation of rebel groups and causes, whether the Tuareg revolt in northern Mali or the anti-regime protesters in Syria, has been rapidly complicated and supplanted by escalating violence, cross-border influences, external financial backing, ideological extremism and criminal trafficking.

New approaches to dealing with humanitarian and human rights abuses are needed to address the activities of violent actors in both these conflict and non-conflict contexts. This is partly an effect of the exposure of civilian populations to acts of extreme violence, which has become an intrinsic parts of armed groups' strategic outlook – a means of ensuring local control, exercising rudimentary justice and engaging in asymmetric warfare.

But the challenges posed by new non-state armed groups go far beyond the threat of physical harm. Whether in their more criminal, insurgent or ideologically extremist manifestations, these groups often provide informal and generally illiberal systems of governance. Although there are major flaws in their provision of services or representa-

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1   At present Honduras has the highest murder rate in the world (85.5 per 100,000 inhabitants: see <http://www.insightcrime.org/news-briefs/2012-record-year-for-homicides-in-honduras>), whereas in 2008 Mexican organised crime and the fight against it generated a death toll that was only surpassed by one conventional armed conflict in the rest of the world (Stepanova, 2010).

tion of community interests, and despite their conflicts and uneasy co-existence with formal state institutions and security forces, these groups nevertheless aspire to some sort of elective bond with their local citizens. The bond may be a shared political goal, as has been the case for certain national liberation movements and guerrilla causes throughout history; but it may also be about providing odd jobs or a bit of money; it may revolve around the claim to have "restored peace" after eliminating other armed factions; or it may be because the group represents the only opportunity for advancement for young unemployed men in highly stratified societies.

In short, the issue of how to approach and engage these groups can be subdivided into two main concerns, each of which has significant legal, political and security implications for the international community. The first is how to ensure that excessive violence is not meted out to non-combatants by non-state groups that cannot be held legally accountable in the same ways as states. The second and broader concern is how to guarantee the basic conditions for peaceful community development in conditions of fractured and fragmented governance, where formal states are weak and where alternative authorities may respond, albeit imperfectly, to short-term public needs. Engaging in such contexts is an arduous balancing act between the threat of armed force and the prospect of an illiberal peace, in which efforts to limit and contain the threat to civilians of physical violence may merely serve to strengthen the provision of informal governance, and thus contribute to other forms of exploitation and abuse.

Non-conventional violence and non-state armed groups: key trends for peacebuilding, mediation and humanitarian aid

Although it is possible to identify a violent context through various indicators, such as battle deaths, or levels of homicide or forced displacement, it is no longer possible to draw a clear-cut distinction between theatres of armed conflict and non-conventional violence. This is not a novelty: the end of the civil wars in El Salvador and Nicaragua was followed soon after by spikes in politically charged criminal violence, while the "liberation" of Kosovo in 1999 from Serbian rule was followed by a wave of ethnic reprisal killings. But the exceptional character of contemporary non-conventional violence consists in its very intimate linkages with intra-state warfare, while at the same time armed conflicts continue to assume many of the characteristics of criminal activity common to sites of non-conventional violence – such as the use of local protection rackets, engagement in illicit trafficking and the competitive fragmentation of armed groups. It is of course

this common hybrid shape to violence and war that underlies theories of "new", "post-modern" or "medieval" conflicts (Duffield, 2001; Rapley, 2006; Kaldor, 2012), or supports the argument that structured, law-bound "war" is giving way to its predecessor, anarchic "warfare" (Coker, 2010).

The diffusion of practices and fighting methods across the customary divide between conflict and mere armed violence makes it hard to establish clear and neat distinctions between the two. Mexico's ongoing security crisis is described by one seasoned observer as an "atypical armed conflict"[2] that is carried out for profit in the style of guerrilla warfare. The engagement of French troops in Mali generated a virtually bloodless victory for the Western forces, while the Islamists' main armed riposte assumed the form of a tangential criminal act: a hostage crisis in a neighbouring country.

Syria's civil war appears to conform more closely to the definition of an armed conflict, with battle fronts, direct combat (e.g. in Aleppo) and grievance-based origins in the repressed popular uprising of 2011. However, the multiplication of foreign funders, the fragmentation of rebel forces, and the early dependence of both sides on informal agents of terror and profiteering (the *shabiha* ethnic paramilitary on the side of the state against kidnapping gangs linked to the rebels) reveal a number of continuities with episodes of politico-criminal violence elsewhere. The extreme three-way violence suffered by Colombia from the late 1990s – involving state, paramilitary and guerrilla forces in a shifting geometry of deals and rivalries – is not dissimilar, with its internal conflict delegated to armed factions that mixed criminal and political motives.

Complexity is certainly a recurrent characteristic of contemporary violence, whether in conventional conflicts or elsewhere: estimates of the numbers of prominent non-state armed groups reveal a continuous rise, with their numbers multiplying by a factor of four in the Middle East and North Africa, and by five in sub-Saharan Africa from 2001 to 2008 (Podder, 2012: 6). The microdynamics of armed groups' fragmentation and multiplication depend on context and are shaped in various ways according to a number of factors.[3] Each rebel group's strategy of violence, whether predatory or defensive, can also be regarded as a logical response to its initial support structure and resource endowments, and is thus dependent on the circumstances of each rebellion (Weinstein, 2007).

Yet in spite of the very different pathways taken by armed groups, a number of characteristics of non-conventional violence – and its close partners in conflict or post-conflict contexts – can be identified, apart from complexity. These

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2   "Narco gunmen attack like guerrillas using rocket-propelled grenades and belt driven machine guns yet do not possess an ideology. Cartels fight over territory yet they are still clandestine, acting as ominous shadow powers" (Grillo, 2013).
3   These include the presence on the ground of radical ideology (such as Islamism), foreign military or diplomatic intervention, state weakness and repression, natural resource endowments, and trafficking revenues.

have been described and analysed extensively in the recent academic and policy literature, whether in terms of the use of identity politics, patterns of state failure, new hybrid styles of warfare and territorial control, or the emergence of a global war economy (as well as the rise of an institutional architecture for supporting post-conflict recovery).[4]

At the same time, a smaller number of trends in violent settings stand out for their particular relevance to the work of peacebuilders, mediators and humanitarian workers. These characteristics and dynamics are crucial because of the way they determine the possibility of influencing the behaviour of armed groups, gaining access to the civilian populations controlled by the groups, or reaching some sort of peace deal.

i. *Networked structures*. Non-state armed groups have not just multiplied in number over the past decade, but have also assumed greater levels of internal differentiation. Although the precise dimensions of this process are hard to gauge, there is evidence that non-state armed groups are adopting more networked and combinatorial organisational structures in response to the various requirements for survival and growth. Groups as diverse as al-Qaeda in the Islamic Maghreb, the Revolutionary Armed Forces of Colombia (FARC) and certain militia in Syria or Libya rely on paramilitary control of civilians, rudimentary governance (especially in security and justice), illicit trade and occasional acts of selective terrorism. This multifunctionality renders these groups more durable and predictable as alternative providers of governance, but may also account for their tendency to fragment, their confusion over political and economic goals, and the difficulty of negotiating any sort of integral peace treaty with each group. One clear instance is the possible estrangement from the Colombian peace process of those FARC fronts that are most involved in the drugs trade (ICG, 2012b: 22).

ii. *Transnational connections*. The internal differentiation of armed groups in situations of conflict and violence is compounded by the role of transnational networks as supporters and facilitators. This aspect of contemporary conflict is not new and has long existed in the form of diaspora support for guerrilla or insurgent causes (notably in Ireland, Kosovo and Sri Lanka). However, the pan-ethnic solidarity that distinguished these fighting causes appears to have given way to more instrumental uses of local conflict dynamics by transnational operators. Thus, major Mexican drug cartels, such as the Sinaloa or Zetas, ally themselves with local providers of violence and protection according to transnational trafficking needs, whether these are gangs in El Salvador or Ecuador, former special forces troops in

Guatemala, or neo-paramilitary armed groups in Colombia (UNODC, 2012: 21). These territorial groups provide protection and control through the use of violence. But in establishing these economic links with transnational actors they tend to weaken their ties to the communities in which they are based (Rocha, 2007) and may also come under the influence of competitive dynamics at the transnational level, which then spread into local armed violence. This pattern has been witnessed in spikes of violence in some of Latin America's most criminalised territories, especially northern Honduras and coastal Colombia (e.g. the port of Buenaventura), and clearly complicates any plan to introduce demobilisation processes among these local groups. The existence of transnational nodes connected to several countries also helps explain the regional resilience of criminalised violence and instability, as shown in the Sahel.

iii. *Assimilated violence*. Strong illicit commercial interests perpetuate competitive violence, undermine armed groups' sense of community responsibility, and weaken prospects for a negotiated, "political" peace. However, it would be wrong to regard communities as innocent sanctuaries overrun by external armed predators. Extensive work has been devoted to the internal community grudges and suspicions that in times of armed conflict lead to atrocities (Kalyvas, 2006); similar expressions of genocidal hatred have been heard among the various ethnicities of what were until recently mixed Syrian cities (Briscoe et al., 2012). Communities are thus not entirely innocent victims. But in sites of non-conventional armed violence the long-standing existence of illiberal political orders and criminal groups tends to cement a particular tolerance and even complicity with ongoing violent practices (Adams, 2011). In these circumstances it is uncertain whether a community would recognise more formal types of state presence or whether public officials could ever deliver the basic services and security that locals expect (illiberal orders, above all in Latin America, often preside over relatively low levels of petty crime, for which local citizens tend to be grateful). At the same time, assimilating current local leaders into the system of formal state or municipal power risks entrenching patterns of illicit accumulation and political exclusion.

iv. *Distance from formal power*. Areas where armed violence is prevalent and entrenched tend to exist in a peculiarly peripheral relationship to their country's formal systems of political and economic power. However, this does not mean these zones of informal and formal power are far apart, or even physically separated. They may form part of joint urban spaces (as in Caracas or

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4   Aside from the accounts cited above, useful analyses of these conflict trends can be found in Ballentine and Sherman (2003), Collier (2009), and Davis (2010). An account of how street gangs and criminal cartels are assuming greater political powers can be found in Bunker and Sullivan (2011). The current range of international approaches to non-state armed groups is studied in Podder (2012) and Hofmann and Schneckener (2011).

Medellín) or exist in borderland areas where legitimate businesses are also active (as in Burma and northern Mexico). Representatives of hybrid politico-criminal elites can be present in national political and state bodies, to the extent that major decisions on security strategy depend on them, as has been the case in Mali and Guinea-Bissau. But it is also apparent that formal approaches towards armed groups are increasingly difficult to achieve: the existing U.S. and UN legislation and rules of engagement with terrorist groups (Podder, 2012; Jackson, 2012), as well as the deep cultural and political prejudice against criminal groups and guerrilla forces in many countries (Sassoli, 2010), generate a hostile climate for any sort of conversations.[5] A lack of internal coherence on the part of the armed group may thus be met with a lack of interest on the part of formal political actors, both at the state and the international level – even if clandestine ties between the group and state or security officials are prospering.

Policy issues for further research and discussion

Each of these aspects of non-conventional armed violence and more conventional intra-state conflict merits further research. But their particular importance for development, peace and humanitarian work derives from the effect they have on programmes and policies – above all those seeking to reduce violence and secure better living conditions and development opportunities for citizens in violent and criminalised environments.

A number of areas of current and future policy involving international donors and agencies stand out in this respect:

i. *Outreach strategy to armed groups*. Despite the hostile international environment for direct dealings with non-state armed groups, especially those connected with terrorist activities, local initiatives and "spot bargains" that fall short of full peace talks have become relatively common. Examples include the negotiations to reduce levels of violence with the *mara* gangs in El Salvador, or with groups in South Sudan and Somalia to secure humanitarian access to affected populations. These partial, goal- or target-oriented dealings with armed groups have not always been successful, and in certain cases (e.g. Afghanistan, Rwanda pre-1994) have been linked to an increase in insecurity due to the capture of aid resources, either by the state or by armed groups (Podder, 2012: 21-22). Various issues stem from this kind of circumscribed and instrumental

engagement. On a practical level, uncertainties revolve around how to contain the risk that such contact could be exploited by armed groups, particularly the more commercialised or radicalised ones, in order to rearm, reorganise and redeploy.[6] On a broader, systemic level, it is as yet unclear how low-level, goal-oriented dialogue with armed groups can be reconciled with existing criminal legislation, which in El Salvador, for example, clearly states that membership of armed gangs and negotiations with such gangs are illegal (Sanz, 2013). Other problems are international doctrine on dealing with terrorist groups and the reluctance of governments to afford any legitimacy or legal status to armed actors on their own soil (Higgins, 2009). This lack of systemic clarity is particularly evident in talks with the FARC, which are occurring against a backdrop of ongoing conflict. Suggestions that a more coherent and comprehensive approach be adopted in which local-level actions are co-ordinated with and supported by international bodies (e.g. the UN, the International Committee of the Red Cross (ICRC) or international non-governmental organisations (NGOs)) are still on the drawing board and will require much greater international political backing.

ii. *Legal instruments*. A major issue connected with the above is the applicability of current legal instruments, notably international humanitarian law (IHL) and human rights law, to the actions of armed groups, particularly those of a hybrid character operating in settings of non-conventional violence. Efforts to include non-state armed groups under the umbrella of the Geneva Conventions, its Additional Protocols, and more recent conventions and protocols (e.g. on landmines and child soldiers) are hindered by the primary and (in the case of the latter agreements) exclusive role of states as signatories. In cases where international criminal law cannot be applied, the sole mechanisms to enforce humanitarian and human rights laws remains the consent of armed groups: "IHL is still basically enforced horizontally" (Sassoli, 2010: 21). A number of initiatives, notably those of the NGO Geneva Call, have made substantial progress in gaining the support of armed groups for humanitarian rules of engagement. But the status of these arrangements is quite precarious and their recognition by the international community is tentative. Moreover, there is as yet no inclusion of more criminal and commercially minded armed groups in these arrangements (DCAF & Geneva Call, 2011).

iii. *Community engagement*. The preceding points on issues of strategy and legal treatment apply primarily to decision-making at the international level: how is

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5   This hostility to dealings with armed groups was recently confirmed in the U.S. Supreme Court's ruling on the *Holder v Humanitarian Law Project* case (June 21st 2010). This ruling upheld the terms of a federal law banning support for foreign terrorist organisations, including any advice, assistance or training, even on matters of law or peaceful dispute resolution.

6   This issue is a matter for intense debate and uncertainty in El Salvador, where there is no doubt that murder rates have fallen significantly since the agreement with imprisoned gang leaders was reached in 2012. A consideration of these issues by a journalist on the El Salvadorean digital newspaper *El Faro* can be found at <http://www.wilsoncenter.org/sites/default/files/Jose%20Luis%20Sanz.pdf>.

engagement with armed groups to be shaped and under what binding rules? These decisions are complicated by the trend among armed groups towards hybridity, complexity and marginalisation identified in the previous sections. But these trends also affect some very practical aspects of on-the-ground engagement. A leading concern in violent and criminalised environments revolves around how mediators or humanitarian workers should interact with community leaders. Given that a core strategy of criminal paramilitaries is to eliminate alternative sources of local leadership (Kaldor, 2012), there is some doubt as to what sorts of engagement are possible with local civil society and how exclusive reliance on the co-operation of armed criminal groups can be avoided without endangering the lives of other civilians. The issue of how to balance and sequence dialogue with both armed actors and unarmed communities is critical in Colombia and Central America, above all given the economic interests that have led in recent years to mass land displacement and attacks on community leaders by criminal factions (especially in the former).[7] Community engagement is also likely to be a significant issue in a post-conflict period in Syria, where civil society-based local co-ordinating committees and armed rebels may well vie for local political and social control. Meanwhile, in areas that have seen a longstanding insurgent armed presence, such as Afghanistan or various sub-Saharan countries such as Somalia and Mali, the success of long-term state-building is likely to depend on a community-based approach that is at least tolerated by armed groups.

iv. *The economic and political context.* It goes without saying that armed groups exist as a result of flaws and fault lines in the existing political economy of a country. However, in non-conventional violent settings the relationship with formal powers in politics and business is complex and fragmented. Non-state armed groups often have strong ties to corrupt state and security officials; they may control land that is coveted by multinational corporations; and they may themselves have diverse and licit business interests, as well as support certain political parties in order to influence government decisions and future legislation. All of these types of interaction with the formal economic and political system cause significant damage to governance, but may also be regarded as openings and opportunities for achieving an eventual demobilisation of a particular group, e.g. by converting it into a legitimate political party. Understanding exactly when and how the "threat" to governance can be converted to an opening towards peace and the risks of doing so requires more substantial research in contexts of non-conventional violence.[8]

Conclusions

This report has sought to identify the principal trends in conflict and violence in non-conventional contexts and to outline which aspects of these developments are most relevant to the work of peacebuilding, mediation and humanitarian relief. In particular, it has focused on novelties in the structure and objectives of non-state armed groups as a means to understand the difficulties posed by current and future engagement.

Acknowledging the hostility towards these groups from nation states and the international community, as well as the difficult legal environment for any sort of dealings with them, this report has also outlined four concrete areas of future research in policy and programming that would be most relevant to organisations devoted to peace and humanitarian affairs, i.e. the nature of an outreach strategy to armed groups, the legal instruments that are available, the sort of community engagement that should be sought, and the approach that should be adopted towards formal economic and political structures.

This range of issues and the numerous countries across several continents in which they are pertinent mean that future policy debate would benefit from the involvement of various partners and players. On the one hand, this debate would require the involvement of country-based practitioners, such as mediators, relief workers and development professionals, as well as political, legal and security specialists with thematic expertise on non-state violence. This combination of practice and theory is essential in understanding the dynamics of non-conventional violence and the complexities of embarking on any sort of changes to the conditions governing negotiation with these groups.

On the other hand, the involvement of a number of international organisations would provide an intellectual and strategic platform for discussion of how local-level initiatives might be linked to a broader global approach, or be supported in targeted ways, or complemented by legal and other policy innovations requiring greater international co-operation.

Essential partners in this sense would be the ICRC, the UN Children's Fund, humanitarian NGOs and key institutions in the field of mediating with non-state armed groups (e.g. Geneva Call, the Centre for Humanitarian Dialogue, the Dialogue Advisory Group); the UN's Department of Political Affairs and UN Development Programme; development policy forums such as the Development Assistance Committee of the Organisation for Economic Co-operation and Development and the partner organisations of its 2011 New Deal for Fragile States; the foreign and security departments of major regional blocs such as the European Union, the African Union and the Organisation of American

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7   A total of 12 community land activists were killed in Colombia in 2011 (Romero et al., 2012).
8   It should be stressed that much research has already been carried out on the demobilisation and reconversion of non-state armed groups in contexts of traditional conflict. See, for example, De Zeeuw (2008).

States; donor governments such as Norway, the Netherlands, Germany, Britain and the U.S.; and financial institutions with a keen interest in the issues of conflict and violence, such as the World Bank, the African Development Bank and the Inter-American Development Bank. Representatives of major emerging powers would also be highly valued additions to this network.

Through such a combination of field experience, scholarly knowledge and international policymaking it should be possible to establish more effective tools and strategies to reduce harm and empower local communities in contexts of chronic armed violence.

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