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Engaging armed groups in peace processes

Reflections for practice and policy from Colombia and the Philippines

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1. Executive summary

Conciliation Resources (CR) believes that people involved in peace processes can benefit from drawing lessons and inspiration from the successes and difficulties of other situations, as well as from reflecting on their own experience. The Comparative Learning Project is designed to facilitate this process of learning, and the first exchange visits in Colombia and the Philippines focused on questions and dilemmas relating to the engagement of armed groups in peace processes. In both contexts, the topic created opportunities for meetings and forums involving government officials, representatives of armed groups, civil society actors and foreign diplomats. Their contributions created a rich tapestry of different perspectives on the topic. This short paper is intended to highlight some of the key challenges and issues identified, and to propose policy and practice points as a basis for further reflection

CR recently produced two publications on this topic: a Joint Analysis Workshop Report (2004) and an issue in the Accord series, *Choosing to engage: armed groups and peace processes* (2005). The visits reinforced issues that had been highlighted in both these publications. In particular, they drew attention to questions about understanding the nature of armed groups and the particular importance of perceptions regarding their distinct motivations and goals. Colombia and the Philippines are both countries where there is a complex picture with many armed groups acting extra-legally. In such a context one is very aware of important distinctions made regarding the issues that motivate the groups and the implications of these for the way a group is willing to engage with other parties. While each type of group has some common features, it is also important to recognize that each is a distinct entity with its own unique features and characteristics.

The paper reflects on questions of ideology, power and representation and their implications for conflict resolution strategies.

While CR's Accord publications on this topic had focused on issues connected with the process of initiating engagement with armed groups, the protracted conflicts and peace processes in both countries demonstrate challenges at all stages of a peace process, including pre-negotiations, negotiations proper and in the post-agreement implementation phase. The paper therefore explores the importance of issues emerging at each of these three different stages and their implications for tactics and strategies of engagement.

The discussions also highlighted further important angles to consider: whether armed groups are willing and ready to engage with the government and whether the government is making that engagement easier or harder. The paper explores the influence of efforts to promote humanitarian standards on the prospect for negotiations. It also considers the impact of criminal activity for conflict resolution approaches, and takes a fresh look at the thorny question of legitimacy. In relation to negotiations proper, it assesses the challenges of reconciling negotiating positions, the creation of a framework for negotiations and structures for interaction with armed groups. It gives some examples of different roles played by civil society in supporting and participating in peace processes. Finally it analyses influences on the prospects of armed groups' integration into non-violent politics and on mechanisms for monitoring the implementation of agreements and the parties' commitments to peacebuilding.

2. About this initiative

This paper is the first in a series of reflections generated by CR's Comparative Learning Project. The project is structured around a series of visits to Colombia and the Philippines during which insights developed through CR's Accord publication series are shared with key actors involved in the conflicts and peace processes in each country. At the same time the particular circumstances of each country provide a prism through which these insights can be tested. The particular national experiences of conflict may confirm some of the learning from previous experience but it is anticipated that they will also reveal aspects of the conflict and peace process that have not been fully developed in the Accord series. Some issues which have been given wide attention take a different form when seen from the point of view of people in a specific conflict and in this way add an extra, often more complex, dimension to thinking about the issue. In this way, existing understanding can be extended and developed, with the purpose of improving practice and policy on peace processes.

3. About CR and its partners

The Comparative Learning Project is facilitated through partnerships between CR and institutions in Colombia and the Philippines:

The Institute for the Study of Development and Peace, Colombia

The *Instituto De Estudios para el Desarrollo y la Paz* (Institute for the Study of Development and Peace – INDEPAZ) is a Colombian non-governmental organization which works to create a climate of reconciliation, dialogue, non-violence and respect for human life. INDEPAZ engages actively in political debate on options for addressing the armed conflict in Colombia, and has excellent access to government and establishment officials as well as a breadth of civil society actors. INDEPAZ provides documentation and analysis on current challenges facing the peace process in Colombia and organizes a national educational network on peace and development issues. INDEPAZ translated Accord 16, *Choosing to engage: armed groups and peace processes,* into Spanish for use during the visit and distribution throughout Colombia.

The Centre for Integrative and Development Studies of the University of the Philippines

The Centre for Integrative and Development Studies at the University of the Philippines is an academic research institute committed to analysing and developing alternative perspectives on national, regional and global issues. Within the centre, its

Programme on Peace, Democratization and Human Rights (PPDR) convenes the activities relating to the exchange visit. The PPDR is currently serving as the secretariat of the newly formed citizen network, 'Sulong CAHRIHL', which aims to promote the goals and monitor implementation of the Comprehensive Agreement on Human Rights and International Humanitarian Law between the government and the National Democratic Front. The Centre and its staff are well-placed to convene a broad spectrum of actors involved in the various negotiation processes in the Philippines and have extensive experience of campaigning on peace issues and contributing to policy dialogue and initiatives related to the peace process.

For more information about Conciliation Resources and its Accord publication series, please see the back cover of this publication.

4. Key issues and challenges

The visits to Colombia in August and the Philippines in September 2005 focused on the most recent Accord publication *Choosing to engage: armed groups and peace processes.* This topic seemed particularly relevant to the local experience in each country (as indeed to many others). At the same time the local situations raised concerns and issues that should be explored and amplified further, as well as salient aspects of conflict which may easily be overlooked but were very evident to people in Colombia and the Philippines.

The paper is structured into two sections. Section A considers a range of issues related to understanding the nature of armed groups. Section B will look at issues which arise at different points in a peace or negotiation process: (i) issues related to the decision to engage; (ii) problems in the process of negotiation once engagement is underway and (iii) lessons which can be drawn from experiences of implementing agreements.

A. The nature of armed groups

Class conflict versus identity struggles

It is obvious that there are many different types of armed group and one cannot assume that they will be governed by similar considerations and will react in similar ways. But nonetheless we can easily overlook the particular characteristics of each armed group because in its outward manifestations in terms of methods, structures, demeanour and traditions it seems similar to other groups. Indeed many groups look for inspiration from groups in other places that are in fact fighting a very different struggle. But accepting that each group has its own unique individual characteristics, the situations in Colombia and the Philippines reconfirm the importance of
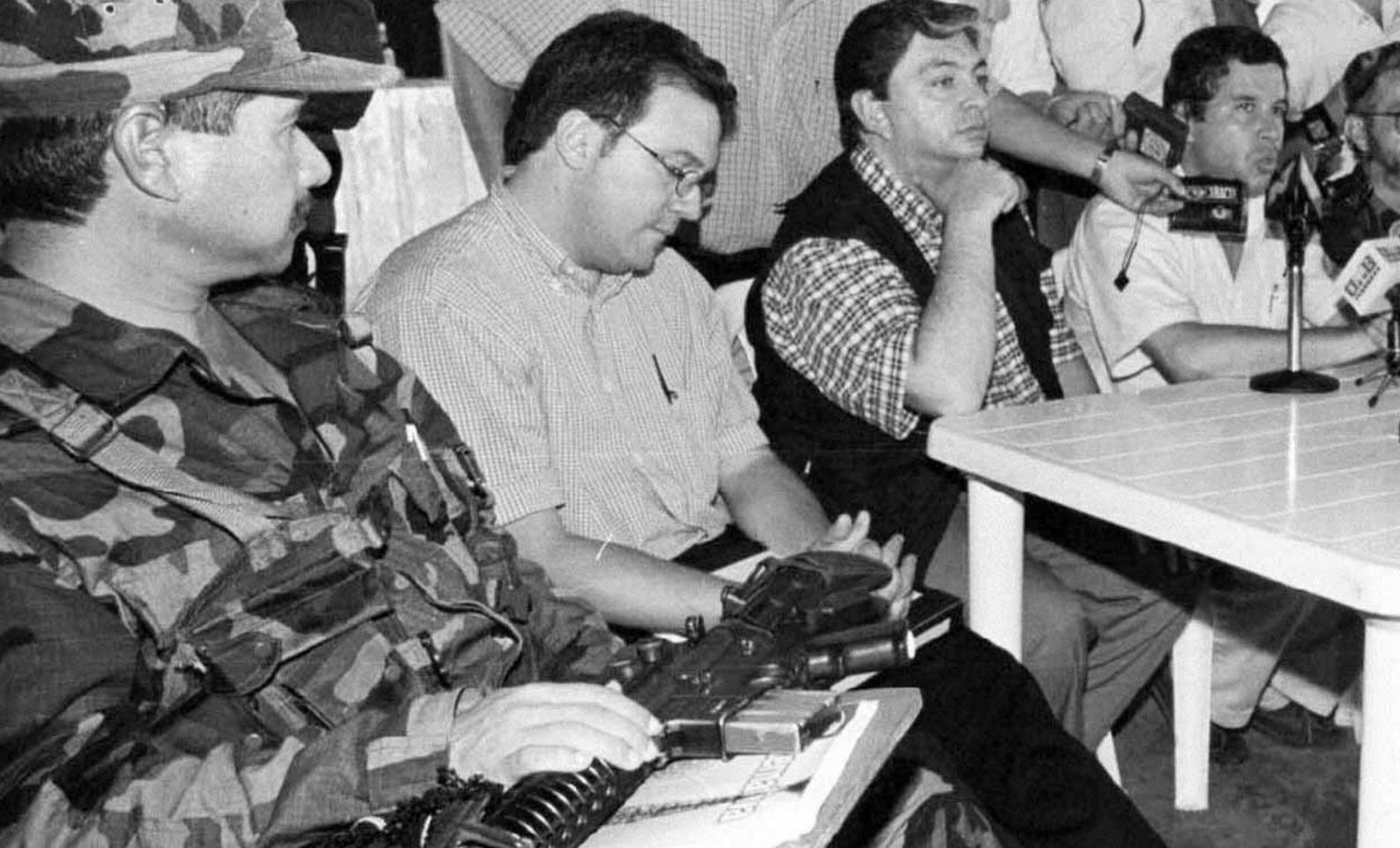
Colombian government and FARC negotiating teams at the peace talks in Caguan, 1999. Source: INDEPAZ

distinguishing different types of armed group and particularly their issues and motivations. Leaving aside criminal gangs, we would suggest four broad models which are usually but not always distinct:

· Revolutionary groups whose motivation is based on an ideological analysis of the social conditions in the community

· Identity struggles which are based on the common identity of their community and the means, often secession, by which that identity can be asserted

· Paramilitary forces which are normally counter-revolutionary in their wish to maintain the *status quo* in reaction to revolutionary or liberation movements

· International networks such as Al Qaeda

While important, the recent focus in conflict analysis on understanding the 'greed and grievance' factors driving armed conflict has to some extent shifted attention away from understanding the importance of ideology in armed struggle. Yet each type of group has its own distinct perceptions of itself and its struggle, which have important implications for how it functions and how it relates to opponents, the local community and to third parties in the conflict.

These distinctions are very evident in Colombia and particularly in the Philippines where there are examples of all types of armed groups. In the Philippines there is the New Peoples Army (NPA), the military wing of the Communist Party of the Philippines which has been involved in campaigns against the government of the Philippines since 1968, and which is represented in negotiations by the National Democratic Front (NDF). In the southern Philippines the groups are more secessionist in character referring back to the pre-colonial Muslim sultanates which were not incorporated into the Philippine colonial state: the Moro National Liberation Movement (MNLF, also founded in the late 1960s) and the Moro Islamic Liberation Movement (MILF) officially founded in 1984 after a split from the MNLF. Islamist extremist groups, Abu Sayyaf and Jemaah Islamiyah, operate in the south of the country. The Accord publications did not include international networks within the main focus of study but whatever its international scope and focus, Abu Sayyef has a direct impact in the Philippines and is in direct conflict with the government of the state and therefore cannot be ignored. Finally there are counter-revolutionary paramilitary groups, such as the Civilian Armed Forces Geographical Units or Civilians Volunteer Organizations. These groups are much less strong than the paramilitary groups in Colombia, which also describe themselves as citizens self-defence organizations, some of whom operate under the umbrella of the United Self-Defence Forces of Colombia (AUC). In Colombia the main anti-state armed groups have been closer to the revolutionary model, with the

Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) the main bodies still active. While there are movements for greater autonomy for indigenous people, they are not engaged in armed struggle.

In recent times there has tended to be more emphasis in academic literature and the media on conflicts that have an ethnic or identity component than class ideology-based conflicts. Of course most identity conflicts will have a class dimension as the ethnic groups are often separated along class lines and the class division will often accentuate and make more salient the ethnic distinctions. In a heterogeneous society with deep class divisions, ethnic identity makes it easier to mobilize opposition than would be the case in more ethnically homogeneous societies, but often that opposition will be mainly from one ethnic group. Nonetheless it is important to remember that many conflicts are more accurately characterized as class conflicts even though it is also true that minority communities will tend to be part of the underclass. In some heterogenous societies, and the northern part of the Philippines are a case in point, ethnic identity has not become a focal point for opposition to the state and armed mobilization. As yet we have only imperfect understanding of the factors that determine whether ethnicity or class are more salient in divided societies but it is clear that the ethnicity-based conflict in Mindanao is peculiar to its history.

Who the armed groups represent

The armed groups claim to represent a defined constituency, usually the ordinary peasants or workers, but it is not always clear if that is indeed the case. The relationships between an armed group and the people it claims to represent are often extremely complex, given that neither is a monolithic structure but rather a web of overlapping or competing interests. To further complicate matters, many groups have been operating underground for a very long time and it may be difficult for them to maintain close links with their people. It seems it is easier for an identity group to retain that link compared to a revolutionary group; yet in the case of the NDF they have had little outside help and so have had to rely on their own people. At the same time some of their leaders have had to live overseas in the Netherlands and as with other such leaders it may be difficult for them to maintain a close connection with the situation in the country and the feelings of the people.

One consequence of the impact of the military struggle may have been to sever the connection between the people and the warring parties. This development seems to be more evident in Colombia where the government, the paramilitaries and the revolutionary groups have been exchanging territory over many years

and the people have suffered many abuses. As a result, in rural areas in particular, they are often war weary and intimidated and give little support to any party. The same may be said in some parts of the Philippines where both rebel and government abuses have precipitated the formation of peace zones which ban the presence of armed groups in their locality.

Practice / Policy point

- In analysing parties to a conflict, it is important to identify the motivation, goals, history, organizational structure and culture of an armed group. This helps to determine the type of group it is and to understand the important influences on its behaviour

The struggle for power

All conflicts are of course a struggle for power. The leaders of each party claim that they want power for positive reasons: to benefit the country or specific sections of the community. In ethnic conflicts each ethnic group feels threatened by the actual power that is held by their opponent or the potential power they might gain. Consequently they argue that they need power in their own hands because they will use it more wisely. They are seldom willing to contemplate sharing power because they fear that in that scenario the other side will gain more control. They only reluctantly accept the sharing of power towards the end of the negotiations as the price for a settlement. In reality in some conflicts the leaders may want power for its own sake but they are able to present their ambition in terms of more lofty or honourable ideals.

However in some situations it is hard to identify the goals of the parties to the conflict over a period of time. While these goals may sometimes shift in response to changing circumstances or opportunities, in other cases it can seem more like a naked struggle for power either over the whole state or over a specific territorial area or a commodity or industry. It may be that there were originally other goals but they seem to have got lost in the course of the struggle and may have become corrupted and are inconsistent with the actual behaviours and actions through which the conflict is pursued.

Such a scenario presents fundamental problems for conflict resolution. It is normally considered important to explore beyond the positions of the parties to their needs and interests and often it will be possible to reconcile those needs and interests even though current positions seem irreconcilable. But in the situation of a power struggle it may be difficult to identify the broader needs and interests of the parties

and even if they can be identified, they are likely to be as irreconcilable as the parties' positions. It is also probable that the needs and interests of the wider population are fundamentally at odds with the interests of the leaders on all sides and they are the passive victims of the power struggle that is fought out over their land.

Furthermore, in the context of a power struggle, an intermediary who wishes to work with the parties to resolve the conflict is likely to be seen as a threat because their efforts, however well meaning and even handed, in effect challenge the power of the parties. This concern is often felt in relation to peacebuilding constituencies within the country who may be reaching out to the power bases of the parties. But in general in these circumstances the parties will try to marginalize both external and internal parties who wish to facilitate processes of resolving the conflict. They may be ignored, threatened and even attacked.

Practice / Policy points

- Third parties need to recognize the issue of power that motivates parties to a conflict and understand the limitations that this places on principled negotiation and the vulnerability that it creates for their efforts

- At the same time the limitations of power-based negotiations demonstrate the need to challenge such an approach with principled negotiations

- It is important to build alternative bases for influence if one is unwilling or unable to exercise power over the parties to the conflict

B. Issues emerging at different phases of a peace process

I. Issues related to the decision to engage

Choosing to engage devoted considerable space to the factors and processes that influence armed groups' consideration of the benefits of a political approach to the conflict. It also explored the arguments that suggest that states and other actors should engage with such groups. Colombia and the Philippines are two countries with long historical cycles of engagement and polarization. In the past a number of armed groups (such as the M-19 movement) have entered into negotiations with successive Colombian governments and reached a settlement. Currently the government of Colombia is in active negotiations with the paramilitary groups with regard to conditions for their demobilization. Over the last six months it has also engaged in exploratory talks with the ELN. Despite

various proposals and counter-proposals, talks with the FARC seem hard to re-establish following their breakdown in 2002, though the parties' rhetoric often makes it difficult to interpret what is actually happening. However there is no consensus on either side that negotiations are the appropriate way forward. With its multiplicity of armed groups, there is a plethora of negotiation forums and monitoring bodies in the Philippines and it is more widely accepted that negotiations are the way to deal with the conflicts. However there is an exception to that position as there is little support for negotiations with the militant Islamist groups *Abu Sayyaf* or *Jemaah Islamiyah*. There is even co-operation between the Philippines Government and the MILF through the Coordinating Committee on Cessation of Hostilities to ensure that there are no tensions and misunderstandings between the parties as a result of the government's military campaign against Abu Sayyaf and bandit groups. This multiplicity of experience provides many new perspectives on the issue of engagement.

Practice / Policy point

- In conflict situations the use of force is the norm, however regretfully it is adopted. Support for negotiations, advocacy of alternative dialogue approaches and initiatives to establish trust and goodwill between the parties are important and legitimate activities; often, however, they will initially be treated with suspicion

Overcoming the cycle of violence

In conflicted societies such as Colombia and the Philippines, it is very evident that the parties have become set in conflict patterns and the use of force by each party reinforces the perpetuation of the violent conflict. One Filipino participant, Al Mendoza, had written in an earlier article:

> " Those lonely voices clamouring for the respect of human life and the inalienable dignity of each individual learn rather sadly that violence has not only bred despair and tragedy but has also nurtured a sub-culture of brutality thriving on the continued perpetuation of fear, aggression and abuse. The path to peace is therefore not only a matter of discontinuing organized armed conflict; it also necessitates remoulding mindsets and transforming ossified perspectives that have been held captive by years of fighting. In this respect, re-establishing norms and painstakingly cultivating new peaceful habits become utterly indispensable."

Humanitarian standards and conflict resolution

A key issue for activists in Colombia and the Philippines is the failure to maintain humanitarian standards and respect human rights, though the emphasis is different in each country at the present time. In both Colombia and the Philippines the parties to the conflict, including the state, have at times imposed a strategy of 'all out war' which impacts severely on civilians. While the visit was taking place FARC was operating a blockade on the southern departments and over recent years the US has been providing extensive military support to the Colombian government through Plan Colombia. In the Philippines, there were two 'all out' military campaigns against the MILF in 2000 and 2003 in the course of the protracted negotiations between the government and the armed group. These actions have time and again suspended negotiations and had a very negative effect on the local communities.

Providing humanitarian assistance in such circumstances has been important and some examples were documented in *Choosing to engage*. This is an important issue in Colombia at the present time and in August 2005 a major conference took place in Cali entitled 'Pongámonos de Acuerdo Humanitario' – 'Let's make a Humanitarian Agreement.' The conference considered how a broad range of humanitarian concerns could be better addressed in the context of ongoing conflict, and focused specifically on discussion of a detailed proposal regarding the release of hostages held by the FARC in exchange for the release of some of their members from prison. Speakers advanced a range of arguments in favour of the initiative, including the possibility that such a process could represent a positive step forward in efforts to renew a peace process.

Wider international experience indicates that such initiatives have in some cases contributed to a more productive conflict resolution process. However there are other examples of humanitarian initiatives being hampered because of the lack of an ongoing negotiation process into which the discussions can fit and which gives the parties confidence to make concessions necessary or take the necessary risks. *Choosing to engage* describes successful negotiations with the ELN in relation to landmines but since publication it has taken several months of further ongoing negotiations to identify mutually acceptable ways of implementing it.

In the Philippines, civil society activists have tried to look at ways in which humanitarian standards can be enforced. An interesting development has been the agreements reached between the parties on the application of humanitarian standards. The Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL)

was agreed between the government and the NDF in August 1998. The government was hesitant to implement the agreement because the NDF argued that they could use their own judicial system and legal process to apply sanctions against human rights violators. The government feared the NDF would be able to exercise political authority in parallel. Nonetheless, the CARHRIHL was reaffirmed in the new negotiation process under Norwegian facilitation as part of the Second Oslo Joint Statement in April 2004. While the implementation of this agreement has not been very wholehearted, it is an important example of an approach to these issues and seems to be an important step in trying to ensure humanitarian standards are maintained.

It seems obvious that third parties should work to ensure that the parties to the conflict operate in ways that maintain humanitarian standards in matters such as the treatment of the civilian population and combatants who have been captured. Our partner in the Philippines, Professor Miriam Coronel Ferrer has said:

> " The message, simply put, is that peace is founded on respect for human rights. By respecting and enhancing our rights, then we will be able to build a just peace, step by step, in a dynamic and constructive way. In building a society founded on human rights, we are able to respond to the deep-rooted socio-political causes of the long-standing armed conflicts that challenge the state. At the same time, through prevention of conflict, we are able to spare individuals and communities from potential human rights violations that almost always accompany war."

But in the midst of conflict the issues become very difficult. Seldom does any party have 'clean hands' and they have all fallen short of accepted humanitarian standards. The derogation from those standards has come about as each side responds to the behaviour of the other in an escalatory, or more accurately, a vicious circle through which the wider society suffers. But it is probably inevitable that each side in challenging failures to maintain humanitarian standards presents themselves as reasonable and correct and the other side as brutal and inhumane. When the state says there is no justification for armed insurrection it does not acknowledge that its own behaviour may have been oppressive. When political prisoners talk of their rights they do not acknowledge that they are at war with the state (although of course this does not give the state the right to torture them or to disregard their obligations under International Humanitarian Law). Those challenging the behaviour of their opponents towards the civilian population do not acknowledge as a factor that the civilian population, or some sections of it, may well support them and be hostile to their

opponents. In fact as part of the struggle for legitimacy there is a struggle to have the right to define the status of the civilian population or detained persons and therefore how they can be treated.

Practice / Policy points

- The duty to protect the wider community is a justification for engagement which outweighs other considerations on whether to engage with opponents

- In order to campaign effectively for the application of human rights standards it is important to be aware of the political realities which influence the willingness of parties to respect human rights

- A negotiated agreement between the parties is a helpful tool in achieving clarity about the application of such standards in the specific situation and may create a better atmosphere for wider negotiations

- But the implementation of such an agreement is likely to be more difficult than its negotiation and will need the endorsement, support and monitoring of compliance by other parties

Criminal activity

In all situations where law and order have broken down there is increased scope for criminal activity for profit. And where armed groups are operating outside the law for political purposes it is not surprising that their activities encompass some level of criminal activity. It is argued that these are necessary to finance the struggle. This is particularly evident in Colombia where the drugs trade finances the conflict but also control of this lucrative activity becomes a reason for maintaining the conflict. A similar phenomenon can be seen in relation to diamonds in parts of Africa. Criminal activity is not confined to opponents of the state but may also be adopted by governments and other representatives of the state - for example the sale of government-issued arms and other hardware to some armed groups. There is a tendency for those involved in conflict resolution to ignore or avoid those features of the groups with whom they are working and this is relatively easy to do when there is still a clear political dimension to the conflict. It is then argued, rightly or wrongly, that when the political issues are resolved, then the weapons can be put on one side and the criminal activity for profit can be shown for what it is and dealt with the full support of the community.

However, if it reaches the stage where the criminal activity or personal benefit is the main motivation of

members of the different parties then it is increasingly difficult to make sense of the conflict using conflict resolution concepts and frames of analysis. It also has other implications for conflict resolution workers. The parties are less likely to respond positively to a conflict resolution process. They will not see any benefit in such a process unless it consolidates the gains they have made from (criminal) activities.

As our partner in Colombia, Camilo Gonzalez Posso argues:

> " *A future peace process would need a clear strategy to address economic factors 'oiling' the conflict, in particular the resources from drug trafficking and external support for the conflict. Whilst both the guerrilla and the paramilitaries continue feeding the dynamic of the conflict with these resources, it is unlikely that they will be interested in a negotiation process that implies an end to this business.* "

Practice / Policy points

- Criminal activity is a major impediment to a conflict resolution process, especially if it is ignored

- The existence of criminal activity accentuates rather than denies the need for shared support for an agreed system for the application of the rule of law, and the importance of a process to achieve that

- Monitoring and reporting criminal activity is a difficult and dangerous action, especially if undertaken by non-governmental organizations, but it is necessary if universal standards of rule of law are to be recognized and applied

Government legitimacy in the context of actions which forfeit legitimacy

Discussions about armed groups often revolve around issues of their legitimacy. Are their activities part of a legitimate freedom struggle? Do states convey legitimacy on them by engaging with them? And does it convey legitimacy if their grievances are recognized?

There is less frequent discussion or acknowledgement of the issue of the legitimacy of the authorities of the state, although opposition forces are often very aware of such concerns. Often a rebel movement justifies its actions in terms of the failures of the government. What is the basis of the authority of the governing structures? In what circumstances does a government lose its legitimacy? What happens if it uses oppressive means to maintain its control? If the state does not respect the

Panelists respond to the Accord publications at a forum in Manila, September 2005. Source: UP-CIDS

legitimate aspirations of the population of one part of its territory, might it forfeit the right to demand the integrity of its territory and legitimize the claim for self-determination? The struggle is often around these questions of legitimacy as each party attempts to give itself a moral and legal basis for its actions. This is not primarily a question of the level of public support for the administration, though that is of course important. There are large sections of the population who will fear the dangers of revolutionary change and will tolerate the government even though they may agree with the armed group's critique of the regime. Often there will be a situation where neither the government nor its militant opponents are respected by large sections of civil society. The issue at stake for the armed group is often less focused on achieving a popular mandate and more concerned with having a credible basis for challenging the legitimacy of the state, which is easier to do when the government fails to respect the needs and rights of its citizens.

It is clear that militant groups in Colombia and the Philippines have different perceptions of the legitimacy of each administration depending on its level of popular support and its willingness to engage with the issues underlying the conflict. It is also apparent that the militant groups are weaker when the administration has more obvious legitimacy. This was particularly evident in the Philippines after the fall of the Marcos dictatorship. The NDF stood aloof from and did not acknowledge the change that had taken place, and in the early part of the new administration of Corazon

Practice / Policy Points

- It is important to clarify the basic concepts that are used in arguments about the legitimacy of the government and relate them to the actual situations that exist

- A clear position on the nature of legitimacy is important to ensure that parties do not use the concept in an abstract way, choosing those arguments that support its case

Aquino, who had widespread popular support, it did not find it easy to create an adequate stance in relation to the new regime.

The struggle for legitimacy by the armed group

Choosing to engage dealt in some detail with concerns about the legitimacy that may be conferred on armed groups through engagement with them. In particular it also highlighted the greater emphasis on punitive measures such as proscription and listing for groups described as terrorists following from the attacks of 11 September 2001 and the US-led 'war on terror'. In practice, one of the unintended consequences of these instruments is that they can create obstacles to peacemaking, and in particular pose problems for third parties wanting to engage with groups that appear on these lists.

CR's visits to Colombia and the Philippines reinforced the arguments in Accord. One person in the Philippines noted that "Nations are expected to balance their support to the global effort against organized terror with political policies aimed to advance unity and peace." This tension is more acute in the Philippines around the issues of proscription, which the NDF has stated is a major obstacle to continuing the talks with the Philippines government. The NDF believes that the government was complicit in the proscription of the NPA by the USA and the European Union, a charge which the government denies. It has also said that the NDF should be judged on its attitude to the talks process. Whatever role the government has had, the NDF has said they are willing to resume talks but only if the government does all in its power to have the proscription lifted.

There is also concern in Colombia that proscription by the state makes it difficult for civil society organizations to engage with armed groups because they will be seen as breaking the law and risk prosecution. However a fiercer controversy rages around the government's refusal to accept that there is an "internal armed conflict" in Colombia and to frame the country's problems as an attack by terrorists on a legitimate democracy. Civic organizations and international representatives have criticized this analysis and for a time, the ELN cited it as one of the reasons for its refusal to engage in talks with the government. The government subsequently modified its position to acknowledge the existence of the armed conflict under certain conditions, once exploratory dialogue with the ELN got underway.

In an effort to encourage a more sophisticated international approach to these challenges, one of our Filipino partners, Sol Santos, has proposed a new international legal categorization based on the attitude of a group towards negotiations:

- Non-state armed groups (NSAG) with a peace agreement or settlement undergoing a transition period

- NSAGs engaged in peace negotiations with a ceasefire

- NSAGs engaged in peace negotiations without a ceasefire

- NSAGs not engaged in peace negotiations but have declared a ceasefire or suspension of military operations

- NSAGs not engaged in peace negotiations and actively engaged in military operations

We feel that this typology has much to recommend it. It is more nuanced than other schema and it acknowledges how far a group is making efforts to achieve a peaceful settlement of the conflict. Providing a situational guide as to appropriate strategies and responses, it allows groups to be recognized for progress made and can facilitate confidence-building measures. At the same time, it can make it easier for civil society groups and states to justify when they are willing to engage with armed groups.

Practice / Policy points

- The language of the 'war on terror' can be a barrier to the development of conflict resolution processes which deal with both the original and subsequent causes of conflict

- Greater effort needs to be made to balance punitive measures such as sanctions with policy instruments that create positive incentives for all parties to find a peaceful resolution of long-standing armed conflicts

- Punitive measures such as proscription should be nuanced so as to safeguard the legitimate peacebuilding activities of civic organizations

- The approach proposed by Sol Santos is worthy of further refinement and its applicability explored by parties in conflict and also by third parties

- Consideration should be given to ways in which the proposals, or a refinement of them, could be adopted as a more useful way of describing armed groups and a guideline for future engagement with armed groups by states and non-state actors

II. Problems in the process of negotiation

Reconciling negotiating positions

The main purpose of negotiations is to reconcile the conflicting positions of the parties. That is seldom easy. and many factors play a part, including leadership preferences, domestic and international variables, changing demographics, and state responses. It is sometimes even difficult to state clearly what the positions are. Often the conflict has been going on for so long that the original issues have been lost, with questions of power or securing the benefits of criminal activity gaining importance. There is concern that the process in Colombia between the paramilitary groups and the government is more about legitimizing the power base of the former rather than dealing with any issues of substance. In fact with counter-revolutionary

groups there is seldom any substantial differences over goals dividing them from the government because they do not want to change the overall *status quo.*

However where there are clear issues of substance normally the positions of the parties appear irreconcilable. After all, the original decision to pursue the option of force was justified on the grounds that the government was not willing to make the changes demanded by the opposition groups. In a revolutionary context the armed group wants a new socio-economic and political order under a new administration while the government wants to continue the existing system and its own administration.

While both class-based and identity conflicts seem equally intractable it appears that the former conflict turns out to be the more problematic scenario. A class-based revolutionary group will be seeking redistribution of wealth by the upper classes and a restructuring of state power in order that the underclass is given greater equality. The state is not willing to give up its power nor the upper classes their wealth, so it is sometimes difficult to see what solution is possible. This has negative implications for conflict resolution when one considers the interests of the parties and how they may be reconciled in a win/win solution where neither side has to make significant concessions. There is a tendency instead for the parties to rely more on the force they have, whether in the form of material resources, moral legitimacy, strength in numbers, or capacity to immobilize some or all functions of society. Even those involved in trying to resolve the conflict will tend to also rely on the source of power and influence that they possess. The creation of mechanisms based on fairness, justice and human rights are often only of interest to the weaker party; the other parties are more inclined to advocate the operation of natural competition to resolve issues as if all parties could compete equally.

While the parties in an identity conflict are often far apart at the beginning of negotiations, it may be possible to move behind their initial positions to their interests and find ways in which they can be made compatible. In the case of a secessionist movement there again seems to be a zero-sum situation as the movement is seeking separation and the state is reluctant to give up some of its territory. In these scenarios issues of fairness, justice and human rights appear simpler, in that they are subsumed within the question of governance and it is claimed that the basic issue is that one ethnic group is discriminated against and deprived of their rights. While territorial conflicts may be more complex to describe they may well be easier to resolve in that a division of competencies may provide a mutually beneficial solution and all parties may come to realize the value in creating such

mechanisms. The concept of autonomy provides room for manoeuvre and often gives scope for each side to find common ground. Within such an arrangement the parties can reconcile different values and principles, as can be seen in the willingness of the government of the Philippines and the MILF to explore the possible application of Sharia law to the Muslim community. The main contentious issue is then who constitutes the population of the autonomous administration; in the Southern Philippines there is a diverse population, many of whom do not wish to be part of the new system and have moved to the area only in the time of historical memory. This is why the issue of ancestral domain acquires such significance, with the claims of the Muslims, the more recent Christian inhabitants and the inhabitants who predate both, the Lumads, all based on different principles.

Practice / Policy points

- While polarized negotiation positions are common in contexts of both revolutionary and liberation struggle, there may be fewer mutually beneficial outcomes in revolutionary contexts

A framework for negotiations

The problem of reconciling positions is immediately highlighted as the parties consider the basis for negotiations. Armed groups are expected to accept that the negotiations will take place within the framework of the existing state and existing demographic patterns even if those are themselves the subject of the conflict. Again this seems to represent a greater problem for revolutionary armed groups than for liberation groups. Liberation groups are struggling to break away from the state and create a state of their own but they may not be arguing about the nature of the state itself, in the sense that they have only limited interest in how the rest of the state functions after they gain their independence. Of course, if they settle for autonomy, then they have a stake in the reconfiguration of the existing state, for example from a unitary to a federal system, or an Islamic state within a bigger state. For revolutionary groups, the very nature of the state is the subject of the conflict. So in the Philippines, the NDF has argued that the priority issue for negotiations is the framework for a comprehensive political settlement to flesh out fundamental social and political reforms. The focus of the government in all its engagement with the armed groups is the end of hostilities and the existing national constitution as the basis for negotiations. It argues that other issues can be discussed later. The revolutionary group argues that this is tantamount to surrender. In these circumstances it perceives peace as superficial and counter-revolutionary

and sees peace advocates as a threat to the military struggle. The revolutionary group resists the peace advocates' arguments, however rational and humanitarian, and resents their tendency to see the resistance of the armed group as irrational and unconcerned with the humanitarian impact on the civilian population. Its own experience and the experience of other groups elsewhere tells it that without tackling the fundamental issues of the future nature of the state they will be marginalized, especially if they end their hostilities. They will often resist calls for a ceasefire and this frequently leads to a stalemate as soon as negotiations begin.

Practice / Policy points

- A framework for negotiations needs to recognize the concerns of all sides even though it is likely that each side's concerns are difficult and unpalatable for their opponents to acknowledge

- Calls for ceasefires by armed groups as a precondition to substantive negotiations may be unrealistic and jeopardize opportunities to build confidence on how substantive issues could be addressed

Structures for interaction with armed groups

The way in which negotiations are structured can take many different forms. Both Colombia and the Philippines have adopted their own individual patterns. In Colombia, the system has changed with different presidencies and various innovations have been introduced at different stages, historically including official Peace Commissions and also a National Peace Council created by law. The present system is very centralized, with the main responsibility for oversight of negotiation processes held by the President's High Commissioner for Peace and his small office. The president takes the view that too many people involved in negotiations can cause confusion, and third party involvement either from within civil society or from external organizations, is generally discouraged. Regional authorities in provinces where armed groups are operating are also discouraged from taking initiative at this level, whether because of a preference for a military strategy or because the president wishes to avoid the involvement of political rivals. Recent exceptions to this include official statements of support for efforts by the church-based National Conciliation Commission to set up exploratory talks by the FARC and the decision to temporarily release ELN spokesperson Francisco Galan into a 'House of Peace' initiated and guaranteed by five civic actors. The House of Peace

initiative facilitated consultations between the ELN and a range of civic organizations, and resulted in exploratory talks between the ELN and the government in Cuba. [For further information about this initiative, please visit www.casadepaz.info]

In the Philippines, the structure on the government side is much more devolved and has been adopted by all the presidents since Marcos. The president does not take day-to-day responsibility for the negotiations and talks, many of which take place outside the Philippines. The main coordinating body is the Office of the Presidential Adviser on the Peace Process. But each set of negotiations is undertaken by a negotiation panel, whose members are not government officials but individuals chosen for their expertise in specific areas such as law and human rights. Therefore they do not have decision-making powers but can negotiate agreements that can then be adopted by the government. While this gives them more freedom in the discussions, it also means that the other side in the negotiations cannot be sure that the ideas being formulated will be acceptable to their principles and they also reserve the right to report back before ratifying any agreements reached. In fact, a Cabinet cluster on national security supervises and sets the policy on the peace negotiations and comprises military and civilian government officials including the President. Currently the military, the police and the national security adviser are dominant forces within this cluster.

The reliance on part-time lay panel members also creates some difficulties. There is a great deal of material to absorb and there are many demands on their time. On the government side, some panel members may also have little experience of negotiations and conflict resolution, whereas those panel members representing the armed groups have often been close to those groups and have been dealing with the issues for many years. Government panel members note that some of the representatives of the armed groups are living outside the country and therefore are less constrained by the attitudes of their supporters; they on the other hand feel more constrained because they have to be mindful of many interests within the administration and public attitudes. They have also noted that they have little interaction with those representing the government on other panels and believe that there could be benefit from more shared reflection on their work. They also believe that they could benefit from more training. One interesting development was a shared training workshop on the issue of ancestral domain held jointly for panel members representing the government and the MILF.

In addition to the negotiation panels, there are a variety of other bodies managing, for example, the ceasefires at different levels, and dealing with rehabilitation issues. One former presidential adviser, Teresita Quintos-Deles, has made the point that the multiplicity of forums means that even when progress in one area is difficult, other forums can still make progress and build momentum and confidence in the overall process. It is evident that joint work on the cessation of hostilities between the government and MILF has been effective and has created goodwill and trust between the parties. The members of the panels on both sides have talked about the impact of travelling together and working together to defuse tensions and this has affected the willingness of both sides to consider alternative political and constitutional arrangements.

Practice / Policy points

- The peace panel model can create a specialized and flexible mechanism for negotiation, particularly when panel members are provided with adequate training and support

- Multiple forums can keep momentum alive and allow parties to make progress in some areas even if others are deadlocked

- Initiatives at regional or civic levels can breathe new life into a peace process if they are able to win the consent of the parties

- Opportunities for mutual learning between different peace panel members

Roles played by civil society

Both Colombia and the Philippines are noteworthy for the vibrancy of civil society and in both countries it has been possible to mobilize impressive expressions of popular feelings in relation to many issues including the national conflicts. Both countries have also produced impressive individuals who have shown leadership in civil society.

Filipino civil society has had significant impact, not least in the role of people power in bringing down two presidents, Marcos and Estrada. At one level this means that individuals and institutions within civil society, notably the Church, have significant influence over the presidents that they helped to bring to power but at the same time the administrations are keen to limit the role of civil society given its evident potential. In the Philippines civil society is confident in its actual and

potential role in relation to peacemaking. Examples include the Balay Mindanao Peace Centre which has provided the secretariat for the talks between the government and the Peoples Revolutionary Party of Mindanao (RPP-M) and Bantay Ceasefire (Ceasefire Watch) which has a recognized role in relation to supporting and monitoring the ceasefire between the government and MILF.

General Ramon Santos, who is the chair of the Government/MILF Coordinating Committee on the Cessation of Hostilities with which Bantay Ceasefire is concerned, has said that when a third party appears he initially sees them as part of the enemy. They spend time with the enemy and seem to help the enemy. They may bring reports which he thinks are exaggerated and may publicize them before giving him a chance to investigate. But over time he has come to see the value of Bantay Ceasefire. They articulate the concerns of the people and can defuse tension between the negotiating parties. They are forward looking and make suggestions about future arrangements. And the parties have agreed that the way to deal with complaints is through tripartite fact-finding and verification missions that include Bantay Ceasefire Watch. [Further information about the work of Bantay Ceasefire is documented in van Tongeren et al. 'Grassroots and South-South Cooperation: Bantay Ceasefire in the Philippines', *People Building Peace II*, (Colorado: Lynne Reiner Publishers, 2005)].

Our partner Professor Coronel Ferrer has cogently articulated the roles that civil society can play:

> "Each third party has its respective advantages and clout. A government like Norway carries with it the weight of the whole international community, aside from having significant financial resources. A third party from the citizenry brings with it the weight of domestic public opinion. In the beginning, the government did not welcome the participation of an international third party. Then it eventually accepted it in order to enhance the process. The NDF is reluctant to accept the role of a citizens' third party in keeping with its stance that it represents the people, and that the people are either for the revolution or for the status quo. Perhaps in the near future it will be more open to the complementary role played by autonomous citizens' groups who share their goals of social justice and national sovereignty but may prefer other methods to achieve these goals."

Civil society in the Philippines is often able to build on existing relationships and acquaintances between individuals which pre-date involvement in political activity but these connections are not unusual in other conflict areas. However they may not always be used effectively.

Colombian civil society has also played a noteworthy role in the peace efforts of the last two decades. Its most prominent success was perhaps the mobilization of 10 million Colombians to vote for a Mandate for Peace which was taken up by former President Pastrana when he launched his presidency and new negotiation initiatives in 1998. There have also been a number of other successes, including securing the government's commitment to stop the recruitment of minors into the armed forces and convincing the ELN to free kidnapped children.

However, following the breakdown of the peace process in 2002 and the subsequent election of President Alvaro Uribe on a platform of national security, the space for civic participation in peace initiatives has contracted. This is in part due to the current administration's preference for a predominantly military response to the revolutionary groups, which has left little room for dialogue. It is also partly due to the reluctance of many civil society organizations to support the ongoing process with the paramilitary groups due to widespread concerns about its failure to uphold human rights standards or create the conditions for truth-telling and reparation for the victims of atrocities. Finally, as in many contexts, divisions within civil society also make it difficult to create the common cause required for engagement efforts.

Nonetheless individuals and groups have been able to create spaces for themselves at local, regional and national levels to make a contribution through initiatives such as zones of peace or campaigns to limit the use of landmines. In the absence of a clear strategy to achieve a sustainable political resolution to the conflict at a national level, these practical initiatives to challenge its local dynamics or to prevent its worst excesses seem to be the primary arenas for civic influence.

III. Lessons from experiences of implementing agreements

In both Colombia and the Philippines there has been a range of agreements over the years, including some final agreements and some for the cessation of hostilities. Getting an agreement seems immensely difficult but implementation of the agreement is often even harder; the parties fail to honour their commitments and at the same time blame the other side for failing to carry out its obligations.

Practice / Policy points

- Civil society actors have demonstrated their capacity to contribute to a peace process by mobilizing large sections of the population, but they must also recognize that this may generate greater suspicion of their actions in the future

- Civic actors need to demonstrate the value and legitimacy of their actions to those parties (such as the military) who primarily operate through lenses of 'us and them'

- Because of their vulnerability, victims' groups can often encourage a new dynamic between the parties, especially if they represent a cross-section of the sectors affected by the violence

Integrating armed groups

In most conflicts armed groups are expected to function within a conventional state system and this is often difficult to achieve. When they gain power they may have little experience and lack competency. As a result they may lose the confidence of the people and more seriously the people may lose confidence in the settlement itself. The problems that the MNLF faced in the administration of those areas of the Southern Philippines for which they had some responsibility following the Tripoli Agreement of 1976 undermined the process and facilitated the growth of other more radical movements. The fact that the government did not fully honour the Tripoli Agreement compounded the MNLF's problems, which in effect may have damaged the interests of the government.

Former militants are often at risk from attack once they re-emerge from the underground and again such actions do not ultimately help the process and therefore do not help the government. In Colombia after agreements with some of the armed groups in the 1990s many of their representatives were killed. Somewhat similar has been the assassinations during the 2001 and 2004 elections in the Philippines of politicians from the political parties associated with NDF such as Bayan Muna.

Such actions make armed groups very suspicious of taking part in mainstream politics and cause them to rely more on the continuation of the armed struggle.

Practice / Policy points

- It is in all parties' interest to create trust in the process of resolving the conflict. Inflicting damage on one party may give immediate gains but in the long run it undermines the process and damages the interests of all parties

- Security guarantees for ex-combatants will be a key interest to armed groups who participate in negotiations and may need to be linked to weapons' disposal processes

- Armed groups that intend to become political parties after a peace settlement will probably require training and support to make a successful transition

Agreeing a process for public participation

It has been stated earlier that it is difficult to reconcile the interests of revolutionary armed groups and governments when they both want a different political structure. However in the Philippines there have been some interesting developments involving some of the more localized revolutionary groups such as the Cordillera Peoples Democratic Front in Northern Luzon and the Revolutionary People's Party of Mindanao (RPM-M). One factor may be the existence of strong and effective civil society organizations (the Concerned Citizens of Abra for Good Government and the Balay Mindanaw Peace Centre, respectively).

In relation to the RPM-M, the talks have not reached a final settlement but the parties have agreed a process through which administrative districts are able to formulate and implement development plans. The Balay Mindanaw Peace Centre facilitates this process, which is effectively guaranteed by the parties to the conflict. This is an interesting development because through this process the government has been able to retain its authority and the revolutionary movement has been able to achieve partially its aim of greater peoples' control of economic and social development. Perhaps for this reason the talks process is on hold. The process is not perfect given the logistical problems of rolling out such a scheme across a large population but nonetheless it demonstrates a way to resolve the contradictions between the government and the revolutionary group. It suggests the conflict can be transcended if the focus is put back on the people rather than on the solutions and programmes of the protagonists.

Similar initiatives have taken place in Colombia, particularly through mechanisms such as municipal constituent assemblies and the 'peace laboratories'.

Both of these approaches aim to put communities at the heart of the development process, facilitating social consensus on priorities for investment and thereby stimulating broader ownership and legitimacy. While these initiatives came initially from civil society actors, they have to differing degrees managed to secure the active or passive consent of the government and the armed groups.

As our partner, Camilo Gonzalez points out:

> " Dialogue and negotiation are part of the political solution, but the principal strategy is the construction of a democratic citizenry and of civilian forces that support non-violence and peace."

Practice / Policy points

- Local development processes can create an important opportunity for pilot initiatives of collaboration between the parties to the conflict and civil society, sometimes transcending the positions of the main conflicting parties

- The security of civic actors who participate in or facilitate such processes must be given priority attention and agreements must be reached on how it will be guaranteed

Implementation and monitoring

An important issue, which has emerged especially in the Filipino context, is the question of monitoring implementation. Who keeps parties aware of their commitments? Traditionally parties to the conflict often look for international guarantees, but such guarantees do not always provide the parties with confidence because they cannot be sure of the continued interest of the foreign guarantor once stability returns. In the Philippines civil society has been assuming this role for itself. Bantay Ceasefire Watch have created a model which has established its credibility with the government and armed forces of the Philippines and with the MILF because of the serious and transparent way it has undertaken the task of monitoring and supporting the ceasefire. Another initiative, Sulong CARHRIHL (CARHRIHL Watch) has stated that it wishes to model itself on Bantay Ceasefire Watch and our partner, Professor Coronel Ferrer has explained its rationale as follows:

> " There is a need to complement [official] mechanisms with additional structures that will promote, monitor and respond to HR/IHL concerns. Sulong CARHRIHL helps on this count by providing additional avenues

for dialogues, undertaking inquiries/investigations, promoting respect for the rights of all stakeholders (including the combatants), and exerting pressure on whichever party should be held accountable."

Monitoring is usually only applied to compliance with a ceasefire agreement but it could also be used much more widely in relation to the implementation of commitments under the settlement and to the general contribution of each party to post-settlement peacebuilding. One lesson to be drawn from ceasefire monitoring experiences is that the monitoring body may be slow to confirm that breaches have taken place because of the danger that the breach will put the ceasefire at risk and place the monitoring body under pressure to impose sanctions. However ignoring violations also undermines the credibility of the ceasefire. A less authoritative body without the capacity to impose sanctions would be in a better position where it could only 'name and shame' violators. Parties would not want to be criticized publicly but the publication of violations would not automatically put pressure on the continuation of the ceasefire.

Similar insights could be transferred to a body monitoring compliance with the settlement and peacebuilding. Four elements would be required.

a) An acceptable institution, preferably from civil society, could be identified or created and agreed during the negotiations.

b) The powers of this body would be agreed. It is suggested it would have broad powers of access and the capacity to speak to all sections of society including the parties to the agreement. It would not have the power of sanction but it would have the right to discuss its findings with the parties and work with them to resolve any issues of non-implementation that are identified.

c) Each party would need to make precise commitments with timetables laid down in the agreement. Sometimes because it is so hard to reach an agreement, rather vague commitments are included and then it is difficult to monitor whether the commitments have been complied with.

d) It would be necessary to negotiate a statement of the responsibilities of each party and, importantly, all sectors of society for post-settlement peacebuilding, as well as expectations of how those responsibilities would be carried out. Ideally this would also be agreed during the negotiations but if this is not practical then they could be proposed by the monitoring body and hopefully agreed with the parties themselves.

On this basis, the monitoring body could take up its work knowing that it had a clearly agreed mandate. In return the parties would be aware that they were under greater scrutiny but would have a clearer understanding of expectations and limits of agreements. This increased clarity and accountability could contribute to more effective implementation of peace agreements.

5. Conclusion

Colombia and the Philippines, as any other countries facing severe internal conflict, bring home to the observer the political realities that are often central to conflicts. This short paper does not attempt to analyse these realities in depth and only begins to develop strategies to deal with them. Many of the issues identified are not unfamiliar to the conflict resolution community; however that community often tends to ignore them because they do not fit neatly into current conceptualizations of analysis and practice. Those who wish to facilitate conflict resolution processes are often frustrated that their insights are not of interest to the parties and do not recognize that the parties do not share their basic perspective and are still focused on winning rather than reaching a fair and just resolution of the conflict. People working in the field of conflict resolution have to start where the parties are and find a purposeful balance between recognizing the realities which govern their thinking and behaviour without condoning or supporting them and at the same time challenge the limitations of their positions and strategies. This requires deeper understanding of how to build relationships with the parties to the conflict on that basis and equally a more refined and robust statement of basic principles and assumptions which justify this approach to conflict – first to those working in the field and ultimately to the parties themselves.

About CR

Conciliation Resources (CR) works to prevent violence, promote justice and transform armed conflict into opportunities for development.

CR's goals are to:

· Support people working at local, national and international levels to develop effective solutions to social, economic and political problems related to violent conflicts.

· Provide opportunities for inclusive dialogue and improved relationships within communities and across conflict divides at all social and political levels.

· Influence governments and other decision-makers to employ conflict transformation policies that promote alternatives to violence.

· Improve peacemaking practice and policies by promoting learning from peace processes around the world.

· Challenge stereotypes and increase public awareness of human rights, conflict and peace issues in divided societies.

CR works mainly in the Caucasus, Fiji, Uganda and West Africa in partnership with local and international civil society organizations and governments, and publishes *Accord: an international review of peace initiatives.* Many Accord issues have been translated into other languages and all issues are available on CR's website, www.c-r.org/accord, where print copies can also be ordered.

The Comparative Learning Project

CR aims to maximize the practical value of its Accord series through sharing the publications' findings with people directly involved in peace processes. In cooperation with partners in Colombia and the Philippines, CR translates and publishes relevant Accord articles and co-organizes a series of discussions on key issues in the peace processes. These activities enable the hard-won experiences of conflict transformation to be shared across the world, as well as ensuring that CR's work is informed by ongoing practical challenges. The insights emerging from this process are published in a series of 'reflections' papers for practitioners and policymakers, of which this document is one example.

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