INTERNATIONAL
COUNCIL ON HUMAN RIGHTS POLICY

Ends and means:
human rights
approaches to armed
groups

Summary of Findings

Sri Lanka. Sierra Leone. Kosovo. Rwanda. The Philippines. Chechnya. Somalia. Northern Ireland. Spain. Armed Groups are active in numerous civil conflicts. Considered "terrorists" by some and "liberation fighters" by others, they have been responsible for serious abuses of human rights.

These abuses primarily affect civilians who are caught in the conflict, but they raise many concerns for organisations that defend human rights, work for peace or provide humanitarian relief. How can armed groups be influenced to reduce or stop the abuses they commit?

Based on international consultation and research in ten countries, this report pragmatically discusses the issues. It lists actions that can be taken to influence armed groups' behaviour and suggests factors that should be considered when deciding which actions are likely to be effective. It does not prescribe any course of action and argues strongly that only the organisations concerned can decide whether or not, and how, to undertake such work. It offers options – an approach for those thinking about armed groups and the abuses they commit.

> *"… congratulations on a carefully worded, comprehensive and rich report. I look forward to circulating the final version to staff, and using this to adapt into analysis and advocacy strategies."*
> Nicola Reindorp, Policy Department, OXFAM

> *"I have read it with great interest and would like to congratulate you on your work, which will be very useful."*
> Marion Haroff-Tavel, ICRC

> *"We have read through the report and we have found it excellent."*
> Henry Odraa Raga, Executive Secretary, Fellowship of Reconciliation, (JYAK), Uganda

This summary is also available in French and Spanish. If you would like to order the Main Report or copies of the Summary, please see details inside the flap.

OVERVIEW

The majority of violent and deadly conflicts in the world take place within states. Armed groups that are not under government control are a key feature of these conflicts and are responsible for many, sometimes extreme abuses of human rights. These are of immediate concern to civilians affected by the fighting, but they also raise issues for national and international organisations that protect human rights, work for peace or provide humanitarian relief.

What can be done to influence armed groups to respect human rights? Do the same techniques apply that are used to shame abusive governments? Can one – should one – enter into a dialogue on human rights with groups that have engaged in acts of terror and laid waste to their societies? Does engaging with armed groups imply recognition and therefore legitimacy? Will focusing on the abuses of armed groups undermine efforts to hold governments accountable or deflect attention from violations committed by government forces?

To these questions we adopted an essentially pragmatic approach. We asked national (and later international) organisations to describe the actions they had taken and the obstacles they had encountered. The aim was to provide a framework useful to organisations grappling practically with how to reduce abuses by armed groups. Internal conflicts are highly diverse as well as dangerous. The report therefore does not prescribe courses of action and it argues strongly that only the organisations concerned can decide whether or not, and how, to undertake such work. It lists actions that can be taken to influence armed groups' behaviour and suggests factors that should be considered when deciding which actions are likely to be effective. This framework does not offer answers but, rather, options – an approach to thinking about armed groups and the abuses they commit. Underlying the framework are three core ideas.

Understand the context

Our research and discussions suggest that understanding the context is the key to effective action. It is essential to look at the environment in which abuses take place and the character of the organisations that operate in it. In different circumstances, different factors will influence the success or failure of particular courses of action. Effective action requires above all else a dispassionate analysis.

THE RESEARCH PROCESS

This Summary describes the different actions that might be taken to encourage armed groups to respect human rights and identifies some of the obstacles to more effective action. It sets out the main findings of a research project, begun in April 1999, which focused on the experience of national organisations in countries where armed groups operate.

In starting this work, we did not assume that abuses by armed groups are increasing or deserve more attention than abuses by governments; nor did we give close attention to international legal standards, the nature of modern conflict, or theories of state collapse. Our enquiries were above all pragmatic. We wanted first and foremost to identify problems that organisations face on the ground when they relate to armed groups. The aim was to describe the actions they had taken and what had been effective. Further discussions looked at the perspective of international actors. We began by recognising that the human rights tradition has generally considered governments to be the only proper focus of advocacy, but that many humanitarian and human rights organisations are now working increasingly to reduce abuses by armed groups.

The report does not *prescribe* courses of action and certainly does not suggest that organisations should undertake types of work that they themselves decide would be unwise or unsafe. It does not tell groups what to do or whether they should act at all. Rather, it suggests an *approach* – a way of thinking about armed groups that may be helpful to those who, in very difficult conditions, are trying to protect human rights.

To arrive at the report, the Council commissioned papers describing the experience gathered in ten countries: Colombia, El Salvador, Northern Ireland, the Philippines, South Africa, Somalia, Sri Lanka, Sudan, Turkey and Uganda. In September 1999 the authors discussed their findings with experts in international and national organisations who were familiar with the issues from their experience of other countries. A draft report was written and between December 1999 and March 2000 over 600 individuals and organisations in over 60 countries were invited to comment on it. Those consulted included national and international NGOs, staff in intergovernmental organisations (such as the UN), academic and research institutes and government officials. In addition, members of the research team discussed the draft at meetings in Colombia, Egypt, the Philippines, Sri Lanka, Turkey and the United Kingdom. The final report integrated points raised during the consultation.

Ends and means: human rights approaches to armed groups was published in September 2000. This Summary of Findings has been produced in English, French and Spanish.

THE RESEARCH TEAM

The report was written by **David Petrasek**, a Research Director at the International Council on Human Rights Policy.

Country papers were written by **Myrna J. Alejo**, (Philippines); **Mohamed Barood Ali** (Somalia); **Janet Cherry** (South Africa); **Benjamín Cuéllar** (El Salvador); **Monyluak Alor Kuol** (Sudan); **Andrew Mawson** (Uganda); **Kieran McEvoy** (Northern Ireland); **Helmut Oberdiek** (Turkey); **Jaime Prieto** (Colombia).

An Advisory Group provided general guidance and direction. Its members were: **Rachel Brett**, Quaker UN Office, Geneva, Switzerland; **Radhika Coomeraswamy**, UN Special Rapporteur on Violence against Women, Director of the International Centre for Ethnic Studies, Sri Lanka, and a Member of the International Council; **Dr. Stephen Ellis**, Professor, African Studies Centre, University of Leiden, The Netherlands; **Susan Lee**, Researcher in the Americas Programme, Amnesty International, UK; and **Samuel (Kofi) Woods**, currently at the Institute for Social Studies in the Hague, The Netherlands.

Ignacio Saiz and Carlos López-Hurtado translated research papers. Consuelo Green and Amalia Thaler translated this summary into Spanish and French.

The Council wishes to thank those who contributed but who, for security reasons, have not been identified. The Council thanks all those who read and commented on the draft report, and especially the following organisations that convened meetings of national organisations to discuss the draft: the Civil Rights Movement (Sri Lanka), the Institute for Popular Democracy (Philippines), the Colombian Commission of Jurists, the Turkish Human Rights Foundation and Quaker Peace and Service, UK.

The International Council on Human Rights Policy

The International Council on Human Rights Policy was established in Geneva in 1998 to conduct applied research into current human rights issues. Its research is designed to be of practical relevance to policy-makers, within international and regional organisations, in governments and intergovernmental agencies, and in voluntary organisations of all kinds. The Council is independent, international in its membership, and participatory in its approach. It is registered as a non-profit foundation under Swiss law.

Step back

Many people see armed groups as "good" or "bad". There is disagreement about whether political violence is ever legitimate, even when the motive is to end injustice. Such judgements are understandable but in general sanctifying or demonising armed groups does not help to improve respect for human rights. It is important to take an objective view. In the political conditions of internal conflict, this is extremely difficult – particularly for those who are close to victims. Foreign governments and intergovernmental organisations such as the UN also need to think clearly when they consider the same issues.

Acknowledge the diversity

As a category, armed groups take many forms and defy easy description. They share in common that they are not state forces, but this indicates little about their willingness to respect human rights. Armed groups range from small cells based in urban areas and living in safe houses to armies controlling large territories and fielding tens of thousands of combatants. A few have more resources at their disposal and exercise control over larger populations than some states. It is unwise to draw general conclusions about their character or their behaviour, in relation to human rights or other matters.

The framework

The main elements of the framework we propose are pictured on the inside back flap. In thinking about context, we suggest three sets of questions can be asked, relating to the character of

- the armed group,
- the state,
- civil society.

These are related sets that influence each other. The behaviour of armed groups is influenced by that of the governments they oppose (and vice versa); and the ability of civil society organisations to act effectively depends on the degree to which states and armed groups tolerate their actions.

In thinking about options for action, we suggest these can be divided broadly into:

- Punishment – criminal prosecutions and other legal sanctions;
- Shaming and persuasion – actions from public criticism to private dialogue that aim to shame or persuade armed groups to cease certain practices;
- Working with armed groups – actions that involve working directly with armed groups to assist them to better respect human rights and humanitarian norms.

These categories are not mutually exclusive and the dividing lines between them are not firm.

CONTEXT

We list below some characteristics that influence the capacity and willingness of armed groups to respect human rights and humanitarian norms. Each is named and key questions raised.

Aims and ideology

In what terms does an armed group present its struggle? What is it fighting for? In many cases, armed groups explicitly contest political power; they seek to replace a sitting government or establish a separate state. Such aims are compatible with contemporary notions of statehood and with the idea (widely accepted) that states seeking admission to the international community must commit themselves to human rights principles. Others have aims that do not take a conventional political form. Even in these cases, the group's ideology may contain notions that are consistent with the idea of exercising restraint in warfare, perhaps based in religious or traditional values.

Leadership

The nature and style of an armed group's leadership strongly influence the degree to which it will respect human rights. Where the political leadership is to some degree accountable to its constituency (perhaps even through elections), abuse – at least of civilians under its control – is less likely. Abuses also occur within armed groups and accountable leaderships are probably less likely to initiate (or lose control of) purges leading to mistreatment of the group's members.

Openness

Closely related to leadership is the issue of openness. Who can join? Can members leave? Does the leadership tolerate dissent? Many armed groups are deeply authoritarian and require absolute adherence to the "party line" from combatants and also the civilian populations they control. Authoritarian tendencies within armed groups lead to abuses against members (such as those suspected of disloyalty) and inhibit the emergence of internal reformers whose criticism might help put an end to abusive practices.

Military command and control

The professional quality of an armed group's military leadership is important. Where lines of command are clear and military control is effective it is easier to ensure that combatants adhere to human rights and humanitarian norms. Though this applies to government forces too, armed groups face particular problems of control, for example when groups are small or clandestine or are led by leaders who are imprisoned or abroad. Strategies that focus on

leaders who are not able to control their forces are unlikely to stop abuses effectively.

Foreign sponsors

Many armed groups have links to foreign governments, who support them politically or financially, or arm them. In some cases, foreign corporations directly or indirectly support armed groups, by trading with them or operating under an armed group's protection. Such outside sponsors can influence armed groups – and can equally insulate them from criticism.

Constituency

Who supports the armed group? Who does it claim to represent? Constituencies may be defined on ethnic, linguistic or religious lines or based on distinctions of class. The relationship of a group to its constituency will influence its willingness to respect human rights – notably the rights of people who are defined as "enemies" or outsiders. Similarly, the degree to which an armed group is perceived to be legitimate by its constituency will influence its accountability and willingness to respect human rights. Does the group need to win genuine support, or can it survive by intimidation and repression – for example because it is financed and armed from abroad? In many cases genuine support does exist and constituencies can be key points of engagement (provided issues of safety can be managed).

Many armed groups have links with international constituencies of immigrant and refugee communities abroad. Such diasporas can play an influential role by providing (or withholding) legitimacy, funds, and political support. From loyalty or because of distance, expatriate constituencies often have an imperfect understanding of the real behaviour of armed groups and can inhibit as well as promote efforts to reform abusive practices.

THE STATE

The actions of governments have an obvious impact on the behaviour of armed groups that oppose them, and also on independent actors who engage armed groups on human rights issues.

States engage in internal conflict in very different circumstances, and their political strength and legitimacy, economic strength and military capacity all influence both the character of armed groups and the government's willingness and capacity to protect human rights. When thinking about the way the character of the state affects efforts to ensure armed groups respect human rights, three factors deserve special attention:

Legitimacy of the state

Legitimacy is a particularly important factor. A state (or government) that is not perceived to be legitimate by the majority or a significant minority of its people is not well-placed to defend principles of human rights, the rule of law or its own incumbency. Where it is an armed group that is seen as the legitimate authority (or representative of the population or a segment thereof), then this affects how one engages with both the group and its constituency.

The relative legitimacy of the state (or government) has important consequences for international efforts at mediation or reform of the behaviour of armed groups. Where a government is perceived as legitimate, and secure in its international relationships, then this will affect the extent to which international actors will engage with an armed group opposing it.

State violence

Where state forces are themselves engaged in widespread violations of human rights, or state forces are not held accountable for abuses, armed groups are much more likely to treat sceptically demands for improvement in their own behaviour. The equation is not perfect, and some armed groups have shown remarkable restraint in the face of state repression. Nevertheless, outside monitors will have little credibility if they criticise armed groups but not the state where the latter has a poor human rights record.

State tolerance for independent action

In many cases, governments obstruct independent efforts to engage armed groups on human rights issues. Some welcome but manipulate criticism of armed groups to suit their political interests. Others misrepresent independent initiatives to discredit the organisations involved. In very few cases have governments been prepared to encourage private dialogues or intervention by independent national or international organisations. Highly defensive responses by governments are understandable, given the issues at stake. Nevertheless, a general hostility to all forms of independent action is likely to undermine protection of human rights, and may close out opportunities to create conditions for peace. Government intolerance is so extreme in certain cases that independent initiatives become impossible because they endanger those involved.
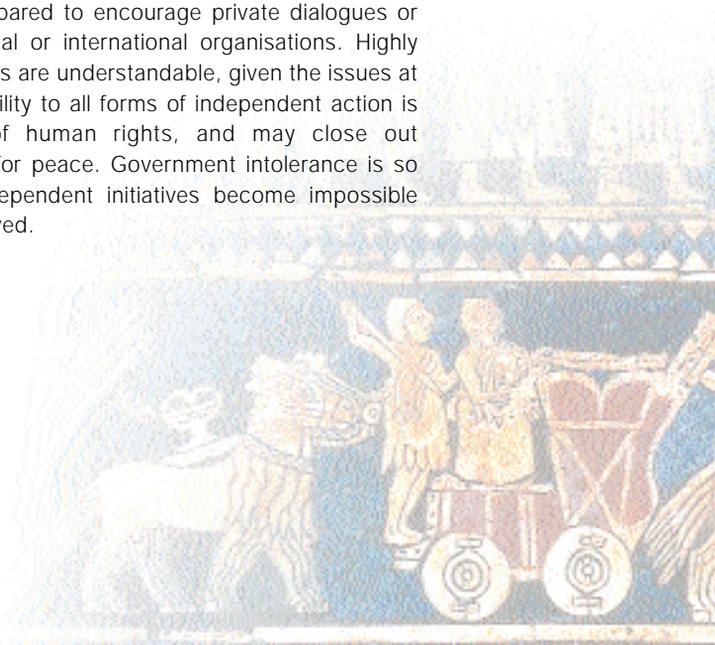
CIVIL SOCIETY

Independent organisations that want to prevent human rights abuses by armed groups also need to understand their strengths and weaknesses, and the capacity of other organisations around them (and abroad) that might support or oppose them in work to influence armed groups.

Nature of civil society

Civil society organisations also operate in very diverse circumstances. Is the agency concerned surrounded by few or a rich mix of independent organisations? Are they large, professional and well-resourced or small and impoverished? Is the human rights community independent of government and armed groups, or compromised by close relations with one or the other? Are civil society organisations marginal in the society or are they deeply respected and popular? Are their international relations strong or weak? Is there a solid tradition of co-operation and trust within and between different sectors (religious, human rights, relief, etc.) or not? Taken together, these and other factors will greatly influence the ability of organisations to work effectively.

Safety

Safety is a key problem. Many armed groups attack or intimidate those who criticise their behaviour. Even where this risk is absent, national organisations face other constraints. NGOs fear that actions they take to reduce abuses by armed groups will be manipulated by the government, or that their independent role will be undermined. Where territory is changing hands and the conflict zone is fluid, it may be difficult to attribute responsibility for abuses and investigation may be dangerous. Making contact with leaders of armed groups will often involve risks and difficulties.

Role for "insiders"

Insiders – individuals or organisations that are nominally independent but close to an armed group – can use their influence within armed groups to promote reform. Our research showed that, in certain cases, insiders had exerted a very positive influence over time, which could not easily have been achieved by other means. In other cases, insiders have used their influence within civil society to undermine and destabilise independent organisations that do not align themselves with the armed group concerned.

International actors

International actors – whether NGOs or official organisations – will often draw mistaken conclusions about the character of an armed group or its true constituency if they are not well-advised by national actors. Nevertheless, they enjoy distinct advantages. They are usually better placed to draw international attention to abuses, for example through the international media, and they may have easier access to the leadership of armed groups that seek international legitimacy. International actors also face fewer physical risks than most national groups who cannot readily leave the country or expect outside diplomatic intervention if they are threatened or taken hostage.

Coordination

Different actors have different strengths and weaknesses and these are worth understanding in advance. This applies too in the division of roles. Human rights NGOs are accustomed to fact-finding, religious groups to initiating dialogues, humanitarian relief organisations to negotiating access, and so on. Our research revealed actors at all levels were frustrated by the lack of co-ordination between those trying, in different ways, to encourage armed groups to respect human rights.

One cannot expect harmony. The diversity of actors and the complexity and insecurity of most conflict situations make co-ordination difficult. Some actors must operate in certain ways (for example, discreetly) and all will be wary of giving up any independence to act as they see fit in given circumstances. Nevertheless, where national actors do take co-ordinated approaches, and where international actors try to ensure their efforts are understood and supported by those in the country, the possibilities for influence are greater.

ACTION

In broad terms, an organisation that wishes to change the behaviour of an armed group can:

- shame or persuade an armed group to cease an abusive practice;
- work with the armed group to give it the means to do things differently; or
- aim to punish members of the group.

An armed group may commit abuses as a matter of policy or because it does not have the means to reform. In the first case, a group may consciously recruit child soldiers or murder suspected informants. To stop such practices the armed group must be persuaded to change the policy. Whether this is achieved by quiet dialogue and persuasion or by public denunciation is a matter of tactics.

In the second, leaders of a group may wish to stop abuses by their forces but have no system for training them. Where the desire for reform is genuine, direct engagement and assistance may be an effective and reasonable response.

Punishment for members of the armed group who commit serious human rights abuses involves criminal prosecution or other legal sanctions.

Punishment

Members of armed groups are subject to prosecution before national courts in their own country – often for mere membership of the group, or for crimes arising from human rights abuse. The deterrent effect of such prosecutions is difficult to gauge; certainly, national courts will enjoy little credibility with members of an armed group that has taken up arms against the state. For the most serious crimes (war crimes and crimes against humanity), members of armed groups are subject to international prosecutions before international courts or courts of other countries exercising universal jurisdiction.

Sanctions

Armed groups and their members might also be punished (and persuaded) by international sanctions. These may penalise those who trade or supply them with weapons or material, restrict their work abroad in other countries, prevent their leaders from travelling or require foreign states to seize their assets abroad. Sanctions can be imposed collectively (through the UN) or by states acting alone. The effectiveness of sanctions against armed groups needs more study, in particular to understand whether their impact on behaviour outweighs their negative consequences.

Fact-finding and denunciation

Many national and international actors have sought to influence armed groups by monitoring and reporting on the abuses they commit. This important activity is hampered by the difficulties of getting accurate information and assigning responsibility in situations where more than one party might be to blame. National

organisations often face grave risks when they undertake such work. Nevertheless, without reliable reports of abuses many other initiatives will prove fruitless.

Use of media

The media are an important vehicle for drawing attention to abuses and the results of monitoring and fact-finding. The choice of strategy matters. The international media (western-dominated) may not influence groups that define their struggle in anti-western terms. National and local media may have more influence on an armed group's local constituency. Also, media reports tend to simplify issues, and this can backfire where the aim is to create space for dialogue.

Points of entry

Some human rights issues are more easily raised with armed groups than others. It may be easier to discuss the protection of children than use of certain weapons or the treatment of captured combatants. Similarly, armed groups may find it more difficult to shrug off public criticism of certain abuses than others. Our research showed many actors look for these entry points, and felt doing so was an effective way of beginning a broader dialogue.

Dialogue

There was wide support for dialogue. Even when armed groups had committed the most horrifying abuses, both national and international actors felt dialogue should always be an option. They considered it was unhelpful to demonise armed groups or treat them as beyond the pale.

Engaging constituencies

Where it is safe and feasible to do so, it is important to engage the armed group's constituency on human rights issues. This might begin as a general discussion on human rights and humanitarian norms, and later progress to discussion of specific abuses. A key point is that, wherever its constituency supports an abusive practice, the armed group faces less internal pressure to reform.

Assistance for reform

Both international and national actors have worked with armed groups to assist internal reform efforts. Activities can range from training combatants in the laws of war to assistance in demobilising. Much relief and development work undertaken with armed groups can be seen to have a human rights component, including work in education, health care or empowerment of women. Providing assistance to armed groups raises quite distinct problems, compared with aid to governments. It will not be an option in many cases, for example where the armed group does not have stable control over territory and population. The government of the country is also likely to view foreign assistance of this kind with extreme suspicion.

Developing codes of conduct

Our research demonstrated the need for armed groups to adopt codes to regulate the conduct of their combatants and deal fairly with allegations of disloyalty and abuses of human rights and humanitarian law. "Legal" systems are needed to adjudicate disputes in areas that armed groups control and govern their relationships with civilians in those areas. Signing up to international agreements is important, but ways need to be found to implement the obligations they contain.
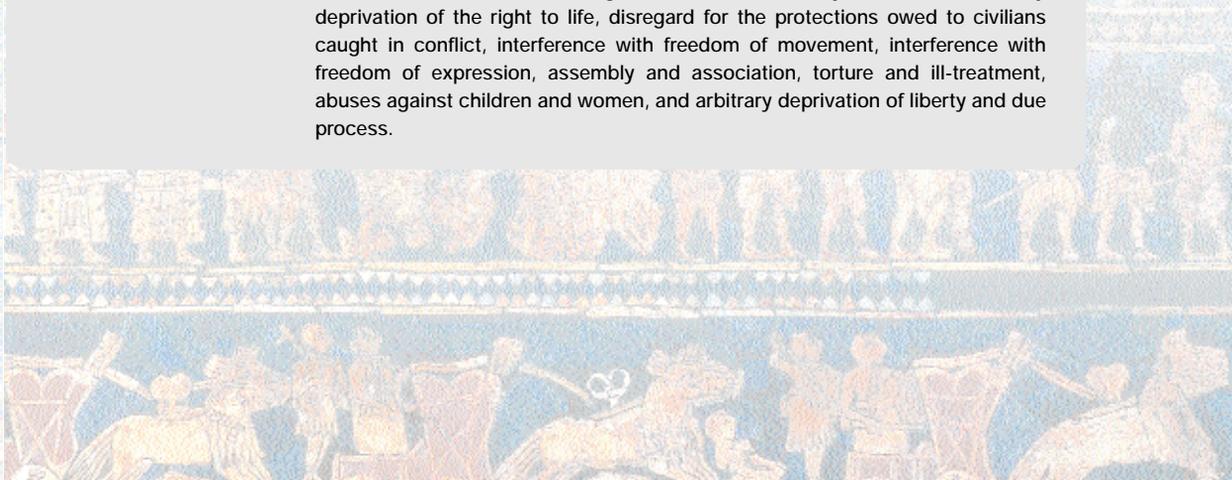
> **"I think that many more violations would have occurred, many more murders of people accused as informants, many more executions of mayors, even more indiscriminate use of explosive devices and attacks on barracks and the like by the guerrillas would have occurred if pressure from the [human rights] organisations had not been exerted to respect international rules…".**
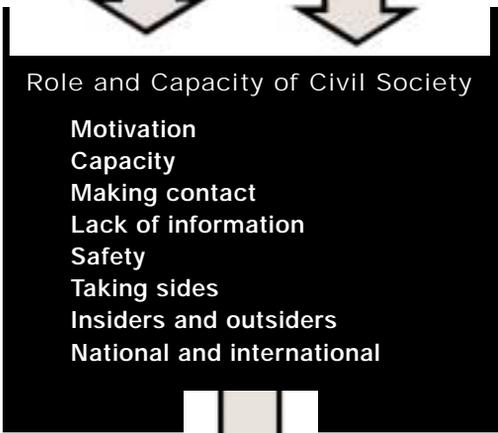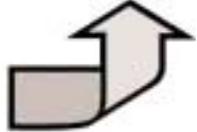>
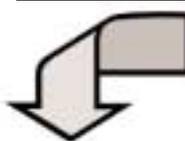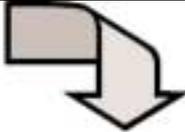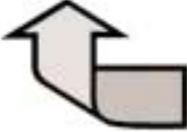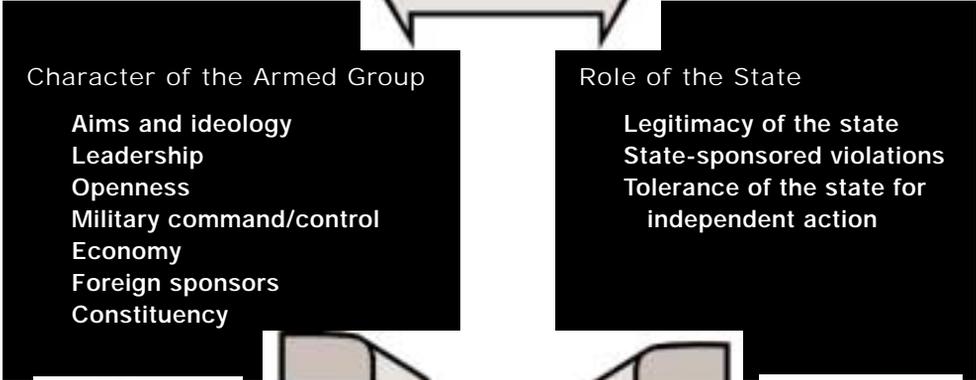> Former FMLN guerrilla, El Salvador.

DEFINITIONS

Armed group refers to groups that are armed, use force to achieve their objectives, and are not under state control. In general, we mean groups contesting political power, though it is difficult to distinguish clearly between groups with political as opposed to criminal objectives. We do not include paramilitary bodies that in fact the state controls, unless these have some real autonomy.

Human rights abuse refers to conduct or practices that clearly infringe standards of international law, whether international humanitarian law (the laws of war), international human rights law, or both. Briefly, it includes: arbitrary deprivation of the right to life, disregard for the protections owed to civilians caught in conflict, interference with freedom of movement, interference with freedom of expression, assembly and association, torture and ill-treatment, abuses against children and women, and arbitrary deprivation of liberty and due process.

Context

Character of the Armed Group

Aims and ideology
Leadership
Openness
Military command/control
Economy
Foreign sponsors
Constituency

Role of the State

Legitimacy of the state
State-sponsored violations
Tolerance of the state for
independent action

Role and Capacity of Civil Society

Motivation
Capacity
Making contact
Lack of information
Safety
Taking sides
Insiders and outsiders
National and international

Action

Punishment

Shaming and Persuasion

Working with Armed Groups

International criminal
prosecutions

Sanctions

Fact-finding and
denunciation

Use of media

Dialogue

Points of entry

Engaging
constituencies

Assistance for
reform

Developing codes
of conduct

Conflict Resolution and Peace Campaigns
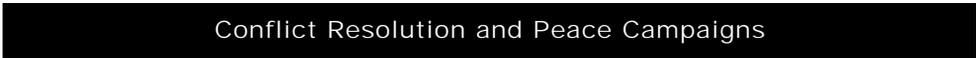
ENDS & MEANS: HUMAN RIGHTS APPROACHES TO ARMED GROUPS

The *Main Report* and copies of the *Summary of Findings* in English, French or Spanish, can be ordered from the International Council.

The Main Report
Ends & means: human rights approaches to armed groups – Main Report, International Council on Human Rights Policy, 2000, ISBN 2-940259-02-X, 94pp., 165mm x 220mm. Available in English. CHF. 36.– (+CHF. 3 – p.&p.)

Summary of Findings
Ends & means: human rights approaches to armed groups – Summary of Findings, International Council on Human Rights Policy, 2000, 16pp., 165mm x 220mm. Available in English, French and Spanish. CHF. 10.– (+ CHF. 3.–p.&p.)

Other publications by the Council
Local perspectives: foreign aid to the justice sector – Main Report, International Council on Human Rights Policy, 2000, ISBN 2-940259-04-6, 132pp., 165mm x 220mm. Available in English. CHF. 36.– (+ CHF. 3.– p.&p.)

Local perspectives: foreign aid to the justice sector – Summary of Findings, International Council on Human Rights Policy, 2000, 16pp., 165mm x 220mm. Available in English, French and Spanish. CHF. 10.– (+ CHF. 3.– p.&p.)

The persistence & mutation of racism, International Council on Human Rights Policy, 2000, ISBN 2-940259-09-7, 28pp., 165mm x 220mm. Available in English, French and Spanish. CHF. 15 .– (+CHF. 3.– p.&p.)

Performance & legitimacy: national human rights institutions – Main Report, International Council on Human Rights Policy, 2000, ISBN 2-940259-03-8, 148pp., 165mm x 220mm. Available in English. CHF. 36.– (+ CHF. 3.– p.&p.)

Performance & legitimacy: national human rights institutions – Summary of Findings, International Council on Human Rights Policy, 2000, 16pp., 165mm x 220mm. Available in English, French, Spanish & Bahasa Indonesian. CHF. 10.– (+ CHF. 3.– p.&p.)

Taking Duties Seriously: Individual Duties in International Human Rights Law – A Commentary, International Council on Human Rights Policy, 1999, ISBN 2-940259-00-3, 80pp., 165mm x 220mm. Available in English. CHF. 13.50.– (+ CHF. 3.– p.&p.)

Hard cases: bringing human rights violators to justice abroad – A guide to universal jurisdiction, International Council on Human Rights Policy, 1999, ISBN 2-940259-01-1, 72pp., 165mm x 220mm. Available in English. CHF. 15.– (+ CHF. 3.– p.&p.)

Also available in Spanish from IDL, José Toribio Polo 148, Lima 18, Peru. Tel: (511) 4 410 192, Fax: (511) 4 424 037.

Forthcoming publications
Human rights obligations of business under international law, Draft report available December 2000.

The International Council is happy to open accounts for individuals and organisations that would like to order copies of all publications and reports it publishes. To open an account, please contact the Secretariat. For further information about the Council's research programme, please contact the Secretariat.