

# **Human Rights and Armed Groups: Toward a New Policy Architecture**

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## **Introduction**

Some of the most serious human rights violations today are not committed by states but by non-state armed groups. A generation ago the international community barely paid attention to such violations. Because only states protect rights, the assumption went, only states can violate human rights. As a result, even gross violations by non-state groups were defined as merely “criminal” violence that fell within the domestic jurisdiction of sovereign states. But nowadays the old assumptions no longer hold. In places from Colombia to Congo, and from Sierra Leone to Sri Lanka, the international community has increasingly broadened the definition of human rights violations to include both states and non-state groups engaged in armed conflict.

Yet, there is a lag. Even though non-state human rights violations are now recognized as a problem, the tools available to the international community to deal with these are still inadequate. It is far easier to make states accountable for their behavior than non-state groups. Membership in the United Nations and a range of other political and economic agreements, treaties, and institutions confers special rights and responsibilities on states, including the right to monitor and exert diplomatic and economic pressure on other states. This state-based institutional architecture is a common framework for accountability, and sovereignty provides an increasingly weak shield for rulers who, for example, commit gross human rights violations. At the domestic level, moreover, citizenship allows a state’s own population to make its rulers accountable. Even where rulers violate citizens’ basic political and civil rights, these serve as benchmarks for domestic and international communities to try to make rulers accountable.

Notwithstanding the system's many deficiencies (such as its dominance by powerful players), it is a far more comprehensive and effective architecture than is currently in place to deal with violations by non-state armed groups, which are not bound by the same sorts of treaties, laws, and institutions. First, because non-state groups do not have formal political status, they are not susceptible to the same political pressures as governments. Indeed, because many non-state groups are fighting for political recognition, any formal dealing with them is likely to be diplomatically controversial. Second, because non-state groups do not receive government loans, they are also not susceptible to the same financial pressures as governments. Sanctions are rarely applied to non-state actors (the UN sanctions on UNITA are a notable exception) and they are not similarly susceptible to IMF or World Bank conditionality policies. And finally, because many non-state groups do not seek the same international or domestic legitimacy as states or governments, "naming and shaming" – arguably the most common instrument of the human rights community against states – is also unlikely to have the same effect. How can we address the problem of gross human rights violations in a more comprehensive way, to develop policies and institutions that effectively influence *all* relevant parties?

We can start by taking stock of the multifarious types of organizations actually observed on the ground. The current state-based architecture – premised on a sharp distinction between states and non-state groups – presents a serious hindrance in this regard. Contrary to the dichotomy it predicts, there is a great deal of *overlap* between states and non-state armed groups.<sup>1</sup> In some cases, non-state groups look and behave like would-be states, with administrations that provide services to populations under their

de facto control. In other cases, de jure states are such in name only, having dismantled their bureaucracies (or failed to build it in the first place), and operating as a series of loosely connected networks. In many cases, the only difference between states and non-state groups is international recognition.<sup>2</sup> A more comprehensive architecture to curb human rights violations must move beyond the dichotomy of state versus non-state. In this article, I offer a new framework to analyze how various groups – state and non-state alike – organize coercion, the most basic political function. Based on this analysis, the article discusses the sorts of leverage that might be exercised on different kinds of organizations. It concludes with a discussion of the kinds of questions the international community needs to address to further develop a more effective institutional and policy architecture to reduce human rights violations by state and non-state groups alike.

### **The rise and fall of the state**

The starting point in approaching non-state armed groups is to understand the origins and limits of the present state-based architecture. States have a domestic as well as an international face. According to the most widely accepted definition, states are those institutions that successfully claim the monopoly of legitimate coercive force within a given territory, and which other states recognize as such (cf. Weber 1946 (1918)). States are those institutions that prevailed in wars over their domestic rivals; and they are the basic unit of membership in an international community of states.

The modern state has its origins in European wars since the end of the Middle Ages. The European states and their progenitors are a set of contracts with their populations and with other rival states. The state provided its domestic populations with

security – protection from armed groups and from other states – in return for their support. Some successful states, such as Britain, struck bargains with wealthy sectors of the population, and especially with the new bourgeois classes, whose resources permitted the creation of large and effective armed forces. The state's reliance on domestic populations for resources, in turn, gave these sectors a powerful leverage over their rulers, to demand and achieve protection of property rights at first, as well as a series of other guarantees, including the rule of law and freedom of speech. New institutions such as courts of law, independent legislatures, and protection of civil liberties, placed limits on the executive's coercive capacity.<sup>3</sup>

At the same time, at the international level, since the treaty of Westphalia in 1640 states have adopted new mechanisms to control their relationships, including the conduct of war. Loosely organized roving bands of armed groups fought the Thirty Years' War, but after Westphalia war became an increasingly institutionalized set of struggles between well-organized armies loyal to states and their rulers (Holsti 1992, 1996). The modern state-centered architecture, with its panoply of treaties, laws, and institutions such as the United Nations, the World Bank, and the International Monetary Fund, are the direct progeny of the system that Westphalia set in place.

The history of the modern state, in other words, is the history of the institutionalization of relationships among states and between states and their domestic populations. As states became increasingly institutionalized, so did the leverage over them at both the domestic and international levels. The urgency of the current concern with the prevalence of non-state armed groups stems from the breakdown in many parts of the world of the state-centered order.

Several factors are behind this. First, states are more precarious institutions than they were in the past. Throughout the world, states are coming under challenge as the primary political unit both from sub-state as well as from supra-state organizations, institutions, alliances, and norms (Held 1999; Holsti 1996; Jackson 1990; Sassen 1996; Smith and Naím 2000). Second, many non-state groups have no interest in being a state. This follows in part from the first factor, but it is also a signal that many groups have opted to forego the benefits of statehood (such as international recognition of sovereignty) in order to avoid the costs associated with it, such as having to build and finance an administration. Indeed, in many cases states are being deliberately dismantled by groups who happen to occupy the reins of state power but who do not want to bear the burdens and costs traditionally associated with this, such as maintaining a large bureaucracy (Reno 1998). Third, the nature of armed conflict is changing. War is no longer simply an armed struggle between states. From Colombia to Congo, Sri Lanka, and Indonesia, armed conflicts are increasingly likely to involve non-state groups (Kaldor 1998, 1999). Moreover, as the events of September 11 have made all too clear, because non-state actors are not party to the same treaties and institutions that bind states, they are much harder to monitor and to make accountable. Last, globalization – the ever more easy flow of capital, information, technology, ideas, and people across borders – has affected not only business, culture, and technology, but armed groups as well. Again as September 11 has shown, many groups throughout the world have learned how to operate both locally and globally, moving easily back and forth between both spheres, to mobilize resources, gather support, and carry out operations. The distinction between domestic and international politics that lies at the core of the state-centered system is thus increasingly

blurry in the age of globalization.

As a result, either the principal institutions to make states accountable are breaking apart, or they are proving ineffective against actors and organizations that operate beyond their reach. It is far more difficult for domestic populations or the international community to exercise leverage over coercion when the institutions and mechanisms for doing so are either non-existent, ineffective, or irrelevant.

### **Moving beyond the state**

A central obstacle to developing more effective policies and institutions is the absence of a systematic way to analyze the variety of organizations, among both state and non-state actors, observed on the ground. As suggested above, many non-state armed groups operate like quasi-states, with sometimes-complex domestic and international administrations and representations. At the same time, leaders in many states have dismantled their administrations to the point where they have become almost indistinguishable from non-state armed groups. A state-centered framework with essentially only two categories – state and non-state – fails to capture the overlaps in the variety of organizational forms that both states and non-state groups can adopt.

A more comprehensive framework would map sharp distinctions among all possible types of organizations. There are many potential starting points for such a map. For example, we can distinguish coercive organizations according to their ideology, their size, or their military threat, among others. All of these are possible starting points, and we should develop as exhaustive a set of organizational maps as possible.

In this article I offer a way to map different organizations based on the quality and quantity of information leaders acquire about the operations of their agents on the ground. While this is not the only possible way to map organizations, there are several reasons to consider it. First, all leaders everywhere face the problem of building an organization. Second, we can gauge how well different organizations process information, using various proxies for the depth and breadth of information. Finally, such information has significant consequences for how organizations operate. Organizations that are good information processors are likely to exercise coercion radically different from those that are not.<sup>4</sup>

The starting point for an information-based organizational map is the fact that nowhere do leaders lead alone. All complex human activity requires some sort of coordination among different people. Even in the extreme cases of personal dictatorship – in state and non-state organizations alike – leaders must rely on others to carry out their commands. In other words, they must build an organization of some sort.

A fundamental aspect of running any organization is monitoring the performance of agents on the ground. Leaders need to gather information on their agents to assess their behavior and to evaluate whether it conforms to their own goals. Normally it is not possible for leaders to know all of their agents' activities all the time. As a result, they need to rely on other ways to gather information on them. Internal monitoring (IM) is one of two available broad information-gathering mechanisms. It refers to information gathered from within the leader's same organization. Leaders can carry out internal monitoring themselves by personally observing agents' behavior, requesting reports, ensuring compliance with goals, and so on. If the number of agents is very small, it may be possible for leaders to monitor agents' operations directly. But as the number of

agents grows, it quickly becomes difficult for the leader to do this alone, and it is likely that he will rely on a special kind of agent – a monitor – to gather information on the other agents' operations. A leader may assign a monitor strictly monitoring duties or combine monitoring and operational duties that resemble those of the other agents. However, the main criterion that makes this monitor “internal” is that the information it generates comes from within the given organization.

The second information-gathering mechanism is external monitoring (EM). This involves information that comes from sources outside the direct control of the leader or ruler. One possibility, once again, is for the ruler himself to gather such information. For example, rulers in some cases allow appeals and information from the population at large, through special audiences or other mechanisms.<sup>5</sup> Another possibility is for independent organizations outside the direct control of the executive or leader (such as human rights commissions, ombudsmen, congressional committees, courts, special panels, etc., so long as they remain truly independent) to carry out external monitoring. The main criterion that makes this monitoring “external” is that the information generated comes from outside the given organization.

Internal and external monitoring are not mutually exclusive. It is possible to have different combinations of the two. Indeed, many organizations and regimes rely on such combinations, and these might change over time. Plotting degrees of internal and external monitoring along vertical and horizontal axes (using criteria such as the quality and frequency of reporting)<sup>6</sup> yields a readily identifiable typology to analyze the organization of coercion across different cases.

Cases with high internal monitoring and low external monitoring are those where

the top executive leadership likely has a great deal of information on the operations of coercive agents, but this information is not available outside the executive. I have labeled this space “bureaucratic coercion” to denote the monopolization of information at the top of the leadership hierarchy, and the fact that here a complex organization is likely, to gather and process information. Many dictatorships, including the USSR, Nazi Germany, or the Germany Democratic Republic, would fall into this category.

By contrast, cases that score low on both axes – “blind coercion” – are those where neither the leadership nor any other group or institution is likely to be very informed about the activities of the coercive agents. There is unlikely to be much of a formal organization in this sphere. If there is one, it is likely to be ineffective. As a result, where information on agents is available, it is at best patchy, and ad-hoc. Agents in this case operate with neither internal supervision nor the expectation of accountability to outside groups. State coercion in places such as Argentina during the dictatorship (1976-82), or present-day Sierra Leone would be examples of blind coercion.

The diametrical opposite to this is “transparent coercion,” where the executive leadership as well as other institutions and groups are likely to have a great deal of information about the operations of the coercive agents. Information here comes not just from one organization, but from many. Coercion here therefore takes place in a fishbowl: where a large number of actors and institutions have a great deal of access to and ability to collect information on all aspects of the executive’s use of coercion, from the principal’s policies to his agent’s actions. Places such as the U.K. or Canada are examples of transparent coercion.

Finally, in cases that score high on external monitoring and low on internal

monitoring, information on coercive agents is likely to be widely available to different groups, but not particularly deep. No one is likely to know very much about the details of the operations themselves, given that there is little or no direct oversight. Indeed, the leaders in this case may deliberately not want to exercise very much oversight, for example if their agents are carrying out controversial missions, or ones likely to carry a high political cost. The leader's mechanism to check whether the operations have achieved the desired results in these cases is to learn about their agents only from outsiders' reports, for example in the media. Information on the outcomes of coercion – such as the number and type of people killed – is likely to be readily available. More detailed information, however (such as the identities of the agents, or their precise modus operandi), is likely to be much harder to obtain. Indeed, coercive agents and external monitoring sources are likely to engage in a type of game: where the former try to hide their actions, and the latter try to find out what happened. I have therefore labeled this “hide and seek coercion.” An example of this is the squads that the Spanish government organized in the 1980s to crack down on the Basque terrorist group ETA. The government gave these groups wide latitude with minimal reporting requirements, but they operated in the context of a liberal democratic regime with institutions such as a free press and independent judiciary.

The following table illustrates the possibilities:

[TABLE 3 ABOUT HERE]

There are costs and benefits to the different types of organizations. For example, bureaucratic coercion presents obvious advantages. With high internal monitoring, leaders are likely to trust their agents. An organization in this space acts with a unity of purpose. Agents are likely to follow orders and transgressions are likely to be reported (and punished). There is a low level of corruption, and a high ability to coordinate activities within the organization's branches or with other institutions. Moreover, because of the low level of external monitoring, a ruler in this kind of organization will not have to worry about independent power centers either inside or outside the state.

However, there are also costs to bureaucratic coercion. The principal ones are expense and risk. A large amount of resources is required to build and maintain a complex organization, which not all leaders may be able to raise. Moreover, creating a complex organization of this kind may expose a leader to the risk of having its members gain in power and turn against him. Any leader or ruler will want to evaluate whether, all things being equal, the benefits of creating such an organization outweigh the costs.

Transparent coercion offers a different set of tradeoffs. Because organizations that monopolize information are likely to be more powerful than those that do not, in transparent coercion the costs of creating too powerful a bureaucracy may be mitigated by the increased external monitoring capacities of independent groups, organizations, and institutions in society. On the other hand, in transparent coercion there may be too much information on coercive agents' activities, resulting in overload and confusion. In addition, because transparent coercion requires respecting independent organizations, leaders will necessarily face more constraints in their actions. Leaders who already operate in this area, (for example in a democratic system that respects independent courts, presses, and

other independent monitors) may simply assume these costs as a given, and not question them. However, a ruler or leader who wants to maximize his own power and minimize the power of other institutions either inside or outside the state would likely try to avoid moving in this direction. With low external monitoring, rulers do not have to negotiate the limits of their coercive agencies with other independent institutions.

Blind coercion, with minimal internal and external monitoring, yields diametrically opposite sorts of tradeoffs. Here, leaders do not need to accept limitations on their power from external sources, but they are also unlikely to receive very much information on their agents' operations from *any* source, internal or external. This sort of deliberate ignorance may be useful for leaders who not want to know what their agents are doing, especially if they are carrying out politically costly operations. Indeed, most coercive operations (anything from detentions to killings) arguably fall into this category. Not knowing may be a good option for rulers who do not want to bear the costs of the "dirty work" their agents may be doing.

All things being equal, there are less likely to be strong incentives in blind coercion for coercion to be carried out in secret or to be applied selectively. (The reason is that agents are likely to have greater incentives to hide their actions as the effectiveness of external monitors grows. More effective external monitoring is also likely to impose costs on broad-based repression and lead to the application of coercion in a much more narrowly-targeted manner.) Leaders who want to operate in this area to reap the benefits of plausible deniability will likely have to take special measures to ensure that coercion is applied more secretly and in a more targeted manner than would otherwise be the case.

In blind coercion moreover, there are likely to be more difficulties in coordinating

inter- and even intra-branch activities. This may be a severe disadvantage for those rulers or leaders for whom such coordination may be important. In addition, the likelihood that agents will deviate from their organization's task and engage in corruption and coercion for their own purpose is extremely high in blind coercion. With neither internal nor external monitoring as a check, it is hard to imagine how leaders may effectively be able to prevent this, or even to know much about it.

In hide and seek coercion, a ruler may deliberately want to have no direct internal knowledge of the details of his agents' operations, such as exactly who is doing what, how, or when. Only vague general orders might be given, and the leader may be interested only in whether or not the task is done, e.g. whether the intended targets are arrested or killed. Moreover, this can be provided reasonably effectively by external monitors' reports, for example in the media. However, even though hide and seek coercion provides a leader with more checks (through available external monitoring reports), coordination of agents and agencies in this case may remain as difficult as in blind coercion.<sup>7</sup>

The costs and benefits of different monitoring options are not the only factors a leader will weigh when considering how to design an organization or what to do with a preexisting one. Other factors, such as ideology, struggles for power, the availability of resources, or whom the particular leader wants to do business with, are also likely to affect what a given organization looks like. However, in no case can a leader avoid having an organization of some sort, which means that all leaders face – willy nilly – the kinds of organizational tradeoffs outlined here. As a result, we need to pay close attention to these tradeoffs and to their consequences.

The tradeoffs involved in the different options may prompt leaders to shift from one kind of organization to another, but the shifts themselves may also impose additional costs. For example, a leader who wants to break out of the pitfalls associated with internal monitoring may decide to shift toward external monitoring. While doing so increases the available information, it has costs of its own. External monitoring necessarily requires accepting some new limitations on a leader's power. It also likely means engaging openly with political foes that might otherwise have simply been disposed of. While these new constraints pose obvious difficulties for leaders who want to maintain a monopoly on power, they may also be an opportunity. New groups can provide benefits by presenting new possibilities for alliance building and competition.

On the other hand, the shift from high to lower external monitoring is also likely to be extremely costly. It necessarily requires closing down or seriously hobbling pre-existing independent groups or institutions, which may strongly resist these actions. Shifting outwards along the internal monitoring axis is also likely to impose costs and benefits. For example, increasing internal monitoring may impose impossible burdens and costs on an organization that may not be prepared to carry these. Similarly, decreasing internal monitoring may require getting rid of a powerful bureaucracy or hierarchy, which may be extremely costly politically.

### **Variation and tradeoffs among non-state armed groups**

We can apply this framework to analyze both state coercion, as suggested in the examples above, as well as non-state coercion. As with states, non-state groups can organize coercion in a variety of ways that impose different tradeoffs.<sup>8</sup> For example, a

group such as Sri Lanka's LTTE likely operates as a bureaucratic coercion organization. There are few independent sources of information on its operations (e.g. from the media or other organizations) in the Tiger-controlled areas, indicating low levels of external monitoring.<sup>9</sup> However, we can surmise from the available information (such as their public statements, and the pattern of their attacks against the Sri Lankan government) that the LTTE likely operates with a high degree of internal monitoring. All indications are that the LTTE leadership is able to obtain a great deal of information on the operations of its agents on the ground, and as a result, it exercises an extremely high degree of control over a very tightly organized and disciplined cadre.<sup>10</sup> As an organization, the LTTE is able to use coercion as a very sharply pointed weapon, for instance to carry out difficult and highly targeted assassinations against their political enemies.<sup>11</sup>

By contrast, groups such as the RUF in Sierra Leone likely operate with very low levels of internal monitoring. Here, the top leadership is able to exercise only minimal control over its cadre. Indeed, in many cases it is difficult to know exactly whom the cadre consists of. The RUF is mostly unable to pay its members, relying instead on forced recruitment (e.g. of children), or on the promise of war booty (Keen 2000, 35-36; Reno 1998, 123-24; Richards 1996, 34-104).<sup>12</sup> Given that there is very little by way of external monitoring capacity in Sierra Leone, especially in the rebel-controlled areas, we can surmise that the RUF operates as a blind coercion organization.<sup>13</sup>

Indeed, most non-state armed groups likely operate without high levels of external monitoring in the areas they control. Rebel groups either take over the institutions of state, or do away with them altogether and replace them with their own institutions and personnel. They tend to impose rigid control over the media, if they allow any at all. In

Sudan, for example, the SPLA exercises strict control over any would-be independent sources of information. There is neither an independent media nor a judiciary that would serve as a monitor on the SPLA's actions (cf. Amnesty International 2000; Human Rights Watch 1999a). At best, various non-governmental organizations collect information on the conflict and on the SPLA's actions.

Other non-state armed groups, when able, impose similar restrictions on would-be external monitoring sources. In Colombia, the FARC exercise rigid control over the local media in the areas under their control, as well as other independent monitoring groups. Threats against local journalists range from beatings to kidnappings and assassinations. As a result, the media operates with a great deal of self-censorship. The FARC also does not allow independent judges or prosecutors. However, the FARC has allowed the local mayors previously in place to remain. The mayors and their administrations are technically (*de jure*) answerable to the central government, in Bogotá. In practice, however, these officials operate in a sword of Damocles situation. FARC officials scrutinize their actions, and impose control by kidnappings or assassinations (Kirk 2001).<sup>14</sup>

In Indonesia, the GAM has exercised increasingly rigid central control over about 75% of the province of Aceh. Most government officials have left the GAM-controlled areas, but in some areas, some government services (such as health care) remain. The GAM routinely intimidates local human rights groups, and these are generally more effective in reporting government abuses than those committed by the GAM (Human Rights Watch 2001a, 2001b).

There are costs and benefits to different types of organization. A high level of

internal monitoring allows the principals in an organization to exercise stricter and more direct control over their cadre. An organization such as the LTTE is therefore able to carry out highly sophisticated and finely targeted operations, through a disciplined and well-organized cadre. Yet, this form of organization is also costly. Training and financing a sophisticated fighting force requires a great deal of money. The LTTE has been especially adept at meeting the challenges this imposes. It has developed sophisticated fund-raising mechanisms, relying on Tamil diasporas and on networks of companies and financial organizations to raise and transfer funds (cf. Wayland forthcoming).

Other organizations have adopted different strategies. The RUF in Sierra Leone, which operates with a minimal degree of internal monitoring, is unable to exercise the same degree of control over its cadre as the LTTE, and is therefore unable to carry out campaigns or coercion with the same degree of precision.<sup>15</sup> However, it is a far lighter kind of organization, providing plenty of opportunities for middle commanders and lower-level cadre to exploit and extort the local populations and to enrich themselves personally.

Some organizations mix forms in order to optimize the benefits of different ones, and mitigate their costs. For example, in Osama Bin Laden's Al'Qaeda, we can speculate that the organization immediately under his control (at least before the war in Afghanistan) is a hierarchical, bureaucratic coercion organization, with high levels of internal monitoring. This organization, however, appears to have looser kinds of relationships with other, relatively independent organizations elsewhere. The cells that operate in the West are closer to a hide and seek type of coercion. The center of Al'Qaeda might have very little internal monitoring information about the details of each group's operations, allowing the different cells to operate with a maximum of stealth and flexibility. Nevertheless, in

open societies with a free press and working independent judicial systems, a range of other external monitoring institutions will work to track information on the different group's operations, membership, and support.

However, groups in places such as Colombia, Sudan, Sierra Leone, the DR Congo, Sri Lanka, and Indonesia operate in contexts with a low level of external monitoring.

External monitoring provides the benefit of multiple sources of information, which can serve as a check on information gathered purely from internal monitoring sources.

However, this extra information comes at a price that many organizations are unwilling to pay. Independent organizations and institutions can gather and publicize information that might be embarrassing for the rebel group. We can expect such groups to be hesitant to give up control in this way, which would require accepting corresponding limits on their power.

### **Approaching non-state armed groups**

We have seen that there is a great deal of variation among both states and non-state armed groups. Along one axis, they can organize as loosely connected networks or as formal bureaucracies, or as anything in between. Along another axis, they can operate in a context of a single information gatherer, or anywhere from a few to a multitude of independent monitors. And we have also seen that there is a great deal of overlap between states and non-state groups, any one of which can lie practically anywhere in the matrix shown on Table 3.<sup>16</sup>

These are strong grounds for arguing that a more systematic policy framework

regarding human rights violations must take such variations into account. For example, understanding the tradeoffs faced by different types of organizations can be the basis for more systematic policies toward curbing human rights violations by non-state armed groups. Bureaucratic coercion presents the FARC with a series of tradeoffs. On the one hand, its leadership can count on loyal cadres who are able to carry out complex tasks at a high level of aggregation. On the other hand, however, it is often difficult for the leadership to have precise information on their agents' operations. The reason is that when the penalties for transgressing the leadership's policies are high (as they are under the FARC), agents have strong disincentives to report accurately on their operations when these are not strictly in line with policy, or when they make mistakes. The leadership has two options in facing this dilemma. It can impose even stricter penalties for transgression and create yet more internal monitoring mechanisms, or it can tolerate independent monitors, such as an independent judiciary or media. Under the first option, the leadership has the advantage of not having to deal with the costs of independent institutions that can potentially mobilize against it. However, the principal disadvantage is that layering punishments and internal monitoring institutions on top of one another does not really resolve the problem of getting accurate information on agents' operations. It merely transposes the problem from one level to another. At some point, the costs of maintaining such a cumbersome apparatus will begin to outweigh its benefits, or the organization's ability to pay for it.

Given these tradeoffs, there is likely to be an internal debate within the FARC over the merits of liberalization versus tighter control. The international community can offer carrots to those sectors that are most likely to favor liberalization and sticks for those who

favor tighter control. Raising the costs of tighter control – for example by making it harder to obtain funds – can be accompanied by offers of new conditional sources of funds administered by sectors more likely to favor liberalization.<sup>17</sup>

Bureaucratic coercion imposes similar sorts of tradeoffs on the LTTE in Sri Lanka. On the one hand, the LTTE is a disciplined hierarchical organization in which there is very little room for field commanders to take independent initiatives. Because the LTTE also tolerates little or no independent external monitoring, there are no courts, media, or non-governmental organizations constantly calling it to account for its actions. The LTTE has managed to mitigate many of the costs of bureaucratic coercion – such as inflexibility – through rigid internal control and brutal repression of dissent.

However, there also costs to these measures. Severe internal punishments for dissenters can undermine morale and erode support. The LTTE's reliance on large numbers of child soldiers, which it can more easily coerce into battle than adults, is a signal of the fear that this organization has imposed on the population it controls. Furthermore, the LTTE's large international financial network is a signal of the high costs of running a bureaucratic coercion organization. Unlike the FARC, which relies on drug trafficking to finance its operations, the LTTE relies more on political and financial support from expatriate Tamil communities, especially in North America and Europe (cf. Wayland forthcoming). Although the LTTE also maintains business interests throughout the world, it is more vulnerable than the FARC to strictly political pressures at the international level. For example, until very recently LTTE front organizations in Canada were able to operate without much hindrance from the Canadian government in their efforts to raise funds for the war against the Sri Lankan state. This situation has begun to change, in particular

after the visit of a high-profile Canadian cabinet minister to one such organization, which resulted in an embarrassing media backlash (Bell 2001; Greenspon 2001). Although there are no easy answers in this long-running civil war, at some point the costs of this regime will begin to outweigh the benefits. The challenge for the international community will be to understand the internal dynamics within the LTTE enough in order to provide appropriate carrots and sticks to shepherd a shift toward higher levels of external monitoring.<sup>18</sup>

The international community faces a different set of challenges regarding groups that operate in blind coercion, with low levels of both internal and external monitoring. Without internal monitoring to speak of, the international community cannot expect the cadres in blind coercion organizations simply to follow the leadership's commands, because the leadership is unlikely to have very precise control over their agents' operations. Indeed, such lack of control provides distinct tradeoffs. For an organization such as the RUF in Sierra Leone, for example, coercion is far more of a blunt weapon than for the LTTE. Field commanders and foot soldiers have free rein to pillage and coerce local populations. A disadvantage of this structure is that it would be impossible for the RUF to carry out the kinds of sophisticated, precisely targeted, and carefully planned operations that the LTTE is able to mount. On the other hand, such an organization is comparatively far less expensive to set up and to maintain. Without a complex bureaucracy or internal monitoring capacity to speak of, membership in the RUF is comparatively more fluid, and cadres at all levels are freer to plunder the population for personal gain. In the D.R. Congo, for example, the Congolese army fights alongside various free-floating rebel groups, such as the *Interhamwe* (Hutu rebels) and the

Congolese Mai Mai. Its enemies on the Rwandan-supported are similar. They include the Rwandan army and the Congolese Rally for Democracy (RCD), supported by the free-floating militias of the *Banya Mulenga*. In all cases, allegiances shift quickly as the leadership is freer in this kind of organization to create and destroy networks in pursuit of profit (Amnesty International 2001; Human Rights Watch 2001c; International Conflict Group 2001; Kippenberg 2001a, 2001b).

Although a conflict with rapidly changing free-floating allegiances presents serious difficulties, the international community could potentially capitalize on several aspects of this kind of situation. One is the fact that personal profit is likely to play a much greater role in determining actors' allegiances than with an organization such as the LTTE. Thus, buying off strategically important sectors is one possibility. Another is to disrupt financial networks, by freezing assets and cracking down on money laundering. Moreover, astute policymakers might turn the scarcity of information from a liability to an asset. When no one knows very much, those who know a little can use information to great advantage. For example, rapidly changing alliances are a strong sign that many players are unhappy and most likely victims of betrayal by previous allies. By obtaining good intelligence on the ground, and in particular by inferring how much information the different players have, it would be possible to design policies to leverage information against political ends such as peace settlements or institutions.

The wars currently underway in places such as Congo and Sierra Leone, where free-floating (blind coercion) armies and alliances plunder the countryside and wreak havoc on local populations, resembles that of the Thirty Years War in Europe, which the Treaty of Westphalia ended.<sup>19</sup> The treaty marked a concerted effort to institutionalize a far

different kind of war in the future. Instead of roving bands of floating and loosely organized fighters, hierarchically organized states fought the later wars in Europe. Indeed, although European state leaders did not describe it as such at the time, Westphalia marked the beginning of states and state systems as institutions designed to increase internal and external monitoring. A central challenge for the international community at the end of this period of war in Africa will be to muster the political will and the necessary resources to build and rebuild institutions to bring armed conflicts in that continent under greater control, by creating institutions that increase both internal and external monitoring. Especially important, not only for Africa but in all regions undergoing institutional change, will be for leaders throughout the international community to compare and share experiences of operating political institutions under increasing greater levels of external monitoring. Political leaders operating in a context of institutional transformation will need the support and expertise of other leaders with similar experiences, as well as from a broad range of political, economic, and social institutions.

### **Toward a new policy architecture**

This article presents a framework to analyze organizational variation in state and non-state coercion, and suggests some levers that the international community can apply to different organizations. It does not suggest that this sort of institutional change is easy. Indeed, the opposite is a more reasonable conclusion. A better understanding of the tradeoffs of various organizational options reveals that the institutional arrangement that democratically minded international policy makers might prefer – such as transparent coercion – is not necessarily a better alternative for others. On the contrary, in each type

of organization there are likely to be those with entrenched interests in favor of the status quo who will resist any sort of institutional reform. The particulars might differ from case to case, but in no case will any sort of institutional reform aimed at increasing external or internal monitoring be easy.

Nevertheless, the preceding analysis also suggests that no institutional arrangement is set in stone. A better grasp of the pros and cons of different options – which is possible with a comprehensive framework that captures the full range of coercion types – reveals the likely cleavages of internal debates within a given organization. Such cleavages can be the basis for more systematic policymaking and applications of carrots and sticks.

At a more general level, while this article does not aim to make specific policy recommendations, it suggests that a more comprehensive policy framework to curb human rights violations by states and non-state groups alike requires moving beyond the simple state/non-state dichotomy. Violence on the ground operates along a continuum, which policy making should better reflect.<sup>20</sup> Many of the diplomatic and economic tools currently applied only to states may be adapted to non-states. For example, states and state leaders can use the traditional tools of statecraft to shepherd non-state groups toward increased monitoring. Such tools include economic and diplomatic means, and in some cases military means. The human rights community, long a strong advocate of increased oversight over coercive institutions, has developed a broad expertise in tactics to “name and shame” states into respecting human rights norms. On the face of it, many of these tactics would appear to be applicable to non-state groups, particularly those that seek domestic and international support. In the same vein, the conflict resolution

community, with its experience in brokering peace among warring parties, can help negotiate institutional arrangements in difficult cases.

There are often contradictions between these approaches, however. The diplomatic pursuit of a state's interest in some cases may require the sacrifice, in the short or long term, of broader goals such as justice or human rights protections. The defense of human rights above all else can result in critiques of any violation, which in some cases can undermine fragile peace accords among warring parties. Moreover, while naming and shaming may be effective against groups such as the such as the SPLA that seek domestic support, it is likely to be less effective against groups such as the FARC, whose actions are financed by illegal businesses. In addition, placing peace as the ultimate goal can result in sometimes making deals with objectionable leaders, giving them veto power, or turning a necessary blind eye to their organizations' violations.

Moreover, dealing with non-state groups can pose special difficulties for the human rights community. While the diplomatic and conflict resolution communities have dealt with non-state groups and interests in various ways for a long time, the human rights community has only recently begun to change its state-centered focus. The standard modus operandi in many parts of the world has been to criticize states for human rights violations, relying on a range of local non-state actors for information. This practice grew out of the traditional doctrine that because only states protect rights, only states are responsible for their violation. This doctrine has come under increasing critique as non-state armed groups have gained increasing prominence, and as the human rights community has realized that groups such as the RUF or the FARC are responsible for gross human rights violations. Obtaining information on these groups, however, has led

many in the human rights community to establish new contacts and networks inside the state, which has its own interest in tracking the actions of its enemies. Relying on the state to criticize non-state groups is thus a departure for many in the human rights community who had traditionally operated in exactly the reverse manner.<sup>21</sup>

This article also indicates the need to move beyond the sharp distinction between domestic and international politics, and between criminal and political violence. In the old paradigm of the state-based architecture, the international community allowed states to deal with their own domestic criminal problems. But this division of labor is no longer tenable at a time when many states are unable or unwilling to deal with their criminal problems, and when people, money, arms, and information flow easily across borders.

One response to this new order might be the sovereigntist one: the desire to assert (or in some cases *reassert*) the primacy of the domestic sphere and to keep the international community out, as for example leaders like Le Pen in France might wish to do. At the opposite end of the spectrum is the globalist response: the belief that the creation of truly global institutions, such as the International Criminal Court, will in and of themselves address the problem of human rights violations in a comprehensive manner.<sup>22</sup> Neither position is especially realistic. We live in a world where the international community is increasingly and more aggressively interfering in the domestic affairs of states, especially where non-state groups pose a serious challenge to its monopoly of coercion. But at the same time, we are a long ways away from anything like a comprehensive global architecture to replace the sovereign state-based architecture. For the foreseeable future, we are condemned to live in a world of fragmented sovereignty, where the boundaries between domestic and international jurisdictions is fluid and

contested. This is the one we have to learn to operate in.

One start – and this is the spirit in which this article is written – is developing tools to analyze the varieties of state and non-state coercive organizations that we actually observe on the ground. Better analytical frameworks can be the basis for more systematic policy making and institution building, for instance according to the tradeoffs associated with different levels of internal and external monitoring.

In this light, the broad aims of the international community – the desire to establish legitimate democratic controls over coercion – can be understood as a desire to move in the direction of transparent coercion. However, it is appropriate to conclude with two cautions. First, the preceding analysis suggests that transparent coercion is only one of several organizational types, all of which have tradeoffs. In other words, even though democrats might prefer transparent coercion, it is not the only stable organizational arrangement. And second, even a case of fully transparent coercion is not the same thing as absolute peace, or no coercion. Coercion is a necessary and unavoidable aspect of political life. This article does not answer the million-dollar question of how exactly to design the new institutions of legitimate coercion in a world of fragmented sovereignty. It simply adds a new dimension through which to refocus the debates over how to curb human rights violations by non-state armed groups at a time when the cracks and inadequacies of the state-based architecture are becoming increasingly clear.

## **APPENDIX**

This section describes internal and external monitoring in greater depth, providing specific criteria to measure their degree. With few exceptions, the criteria apply to both state and non-state actors alike.

### **Internal monitoring**

Leaders (or principals) normally lack constant direct oversight over agents. It is not possible for them to know 100% of their agents' operations 100% of the time. As a result, they need to rely on other ways to gather information on them. Internal monitoring (IM) is one available option. It refers to information gathered from within the principal's same organization. Principals can carry out internal monitoring themselves by personally observing agents' behavior, requesting reports, ensuring compliance with goals, and so on. If the number of agents is relatively small, it may be possible for principals themselves to monitor their operations. However, as the number of agents grows, it becomes increasingly difficult for the principal to do this, and it is likely that principals will rely on a special kind of agent – a monitor – to gather information on the other agents' operations. The monitor may have strictly monitoring duties or combine monitoring and operational duties that resemble those of the other agents. Nevertheless, the main criterion that makes this monitor “internal” is that it remains under the principal's direct control.

Principals are interested in the breadth and depth of information gathered. A central question is how well the monitor itself is performing: how well it is gathering the

information it is supposed to gather. For instance, is the monitor reporting all the relevant cases? Is it reporting them in sufficient depth to allow the principal to make decisions for the purpose of pursuing his goals and implementing his policies? In addition, are the agents' reports regular and accurate?

It is possible to turn these questions into indicators that measure the extent to which an organization adopts internal monitoring of coercion. We can distinguish between two broad kinds of criteria: process and outcome. The first refers to procedural measures of how well the given organization performs, and the second to agents' behavior that serve as indicators of the quality of monitoring.

For instance, process criteria include how frequently and how well agents report to their superiors on their activities (**IM 1**), as well as how regularly monitors report on agents' behavior (**IM 2**). An information clearinghouse (**IM 3**), which receives and disseminates regular updates on operations to the relevant parties, also indicates that a ruler is relying on internal monitoring to keep track of agents' operations.

Internal monitoring is also likely to be higher where the ratio between monitors and agents is higher (**IM 4**). It is reasonable to expect better information overall when more monitors are keeping track of fewer agents than when the situation is reversed. For simplicity, a ratio of  $<0$  (when the number of agents exceeds the number of monitors) indicates low quality internal monitoring, and the reverse ( $>0$ ) is an indicator of high quality internal monitoring.

Performance criteria include indicators such as how much trust principals have over their agents (**IM 5**), and how well intra- and inter-branch coordination takes place (**IM 6**). If principals do not trust their agents, this is likely to reflect an internal monitoring problem.

The same is true when coordination is poor, where it is difficult for the relevant parties to obtain the information necessary to perform their duties. In addition, corruption and coercion carried out for personal ends (such as revenge or extortion) are also likely to reflect a low level of internal monitoring, as agents place personal ends over organizational ones (**IM 7**).

For simplicity, we can distinguish very roughly between “low,” “medium,” and “high” internal monitoring. Table 1 summarizes the list of different criteria that serve as indicators of each:

**Table 1: Internal Monitoring**

	<i>Low</i>	<i>Medium</i>	<i>High</i>
<u>PROCESS</u>			
1. Internal reporting by agents to superiors on their activities	Reports either non-existent or ad-hoc and unreliable	Reports may be reliable but ad-hoc, or regular but unreliable	Agents deliver regular, detailed and accurate reports on their activities
2. Monitors' briefings on agents' operations to principals	No briefings	Ad-hoc briefings	Regular briefings
3. Information clearinghouse	None	Ad-hoc	Present
4. Number of overseers minus number of agents	< 0	= 0	> 0
<u>OUTCOME</u>			
5. Principal's self-reported trust in agents	Low	Medium	High
6. Intra- and inter-branch coordination	Poor, frequent delays; relevant parties often lack adequate & timely info	Moderate delays	No delays; parties usually have adequate & timely info to carry out ops
7. Corruption and coercion for personal ends	Frequent	Occasional	Rare

## External monitoring

The second information-gathering mechanism is external monitoring (EM). This involves information that comes from sources outside the direct control of the principal. One possibility is for the principal himself to gather such information. For example, principals in some cases allow appeals and information from the population at large, through special audiences or other mechanisms.<sup>23</sup> Another possibility is for other independent organizations and institutions, such as the courts, the press, or watchdog groups, to carry out external monitoring.

As with internal monitoring, principals are concerned about the breadth and depth of information obtained through external monitoring. External monitoring is likely to be higher where there are more available sources of information on agents' operations, where these sources operate under fewer constraints, and where there are regular and reliable information sharing mechanisms between the executive and outsiders.

It is therefore also possible to measure the quality of external monitoring in the same way as internal monitoring. External monitoring is likely to be higher in cases where there is an ombudsman or interlocutor that outsiders can refer to and rely on, than in cases where no such nexus exists (**EM 1**). This need not be a formal interaction. Informal networks between insiders and outsiders indicate the presence of what in effect is information sharing between unofficial interlocutors and outside groups.

External monitoring is also likely to be higher in cases where outsiders have the legal right to obtain regular access to prisoners held by the coercive organization (**EM 2**). In addition, a principal's level of trust in outsiders' reports can be an indicator of their

quality (**EM 3**). However, this should be measured carefully. Principals may deeply mistrust outside observers' reports about coercive agents but the reports may in fact be accurate and useful. However, principals may claim in public to mistrust reports or agents themselves, while in private (especially if the reports are useful) they behave differently.

The presence of human rights agencies and how freely they are able to operate is an important gauge of external monitoring. The more agencies there are and the more freedom they have to operate, the higher the quality of external monitoring is likely to be (**EM 4**). The same is true with respect to independent media (**EM 5**). The media cannot serve as an external monitor unless they are free from restrictions and executive control.

In addition, independent branches of the state can serve as external monitors. One criterion that applies to state coercion only is legislative oversight. A signal of high external monitoring would be the presence of standing committees to check the executive's use of coercion (**EM 6**). Ad-hoc (or nonexistent) committees indicate lower levels of external monitoring. Judicial oversight, however, affects both state and non-state actors. External monitoring is likely to be higher where the judiciary has full jurisdiction over relevant cases (**EM 7**). In situations where a country's supreme court abdicates jurisdiction over coercive institutions, for instance to the military courts, external monitoring is low. It is also low where the courts are ineffective, or where they are unable to exercise de facto their de jure jurisdiction over a given territory.

Last, the quality of external monitoring is likely to be reflected in the quality of its freedom of information laws. The more that outsiders have legally-protected access to inside documentation and information, the more likely they will be able to monitor effectively (**EM 8**).

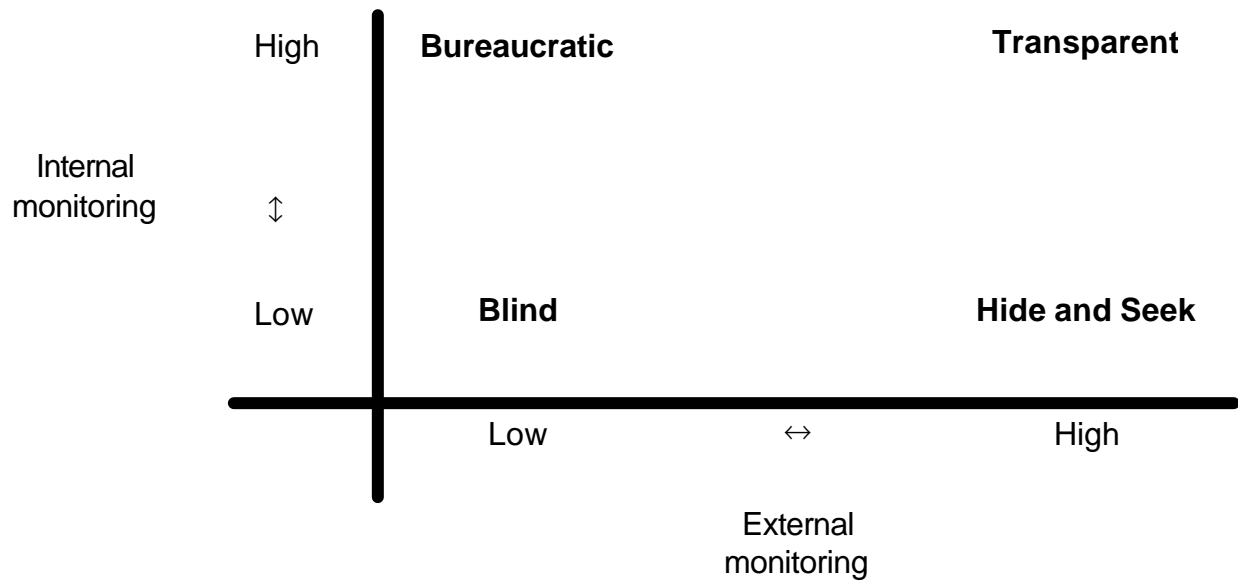
Table 2 summarizes these criteria:

**Table 2: External Monitoring**

	<i>Low</i>	<i>Medium</i>	<i>High</i>
1. Interlocutor or ombudsman for outside groups	None	Only on ad-hoc basis	Present and accessible full-time
2. Outsiders' access to prisoners	None	Legal but not necessarily granted	Legal and granted
3. Principal's trust in monitor's reports	Low	Medium	High
4. Unofficial human rights agencies	Not present or forced underground	Present, may operate in public, but often repressed	Present, and their rights respected
5. Independent media	Not present	May be present, but not very effective	Present and effective
6. Legislative oversight*	None	Ad-hoc	Standing committees
7. Judicial jurisdiction	None	Partial (some cases)	Full (all cases)
8. Freedom of information laws	None	Ad-hoc or ineffective	Broad and effective

\* Applies only to states.

The following table illustrates the possibilities:

**Table 3: Types of coercion**

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## Notes

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<sup>1</sup> This article refers to several cases in which non-state armed groups have been significant recently. These include, among others: Sierra Leone, Sudan, D.R. Congo, Sri Lanka, Indonesia (Aceh), and Colombia. The paper does not aim to present any one case, let alone all of them, in great depth. Instead, it draws on these cases for examples and illustrations.

<sup>2</sup> See Krasner's distinction between domestic and international legal sovereignty (cf. Krasner 1999, 11-12, 14-20).

<sup>3</sup> In other states, such as Russia, rulers extorted resources from their populations without accepting the same limitations on their power that business classes forced on the British monarchies (cf. Ertman 1997; Moore 1966; Skocpol 1979; Tilly 1992).

<sup>4</sup> By contrast, ideology is more of a factor in some organizations than others, and it is hard to measure; size can be easily measured, but is not necessarily significant. Any organization's military threat – its fighting potential – is certainly significant, but it does not allow nearly the same systematic grasp of the kinds of complex political tradeoffs that a focus on information does.

<sup>5</sup> For example, Argentine President Juan Perón and his wife Evita, routinely held audiences where the people lined up to speak with them directly.

<sup>6</sup> See Appendix.

<sup>7</sup> High levels of internal monitoring are generally more likely under hierarchically-organized institutions, such as formal bureaucracies, than more loosely organized networks, but not always. It is possible for a formal bureaucratic hierarchy to be poor at internal monitoring. And it is also possible for networks to be very good at gathering information on their various members' activities (cf. Stinchcombe 1990; Williamson 1975; Williamson 1987; Williamson, Winter, and Coase 1993).

<sup>8</sup> In preparing this article, in addition to the materials referenced below, I benefited from the Annual Reports and from various other country reports prepared by Human Rights Watch ([www.hrw.org](http://www.hrw.org)) and Amnesty International ([www.amnesty.org](http://www.amnesty.org)), which provide excellent background material on the countries discussed.

<sup>9</sup> For additional background information on the Sri Lankan conflict as well as on the LTTE and its activities, see also the reports of the University Teachers for Human Rights (Jaffna), Sri Lanka ([www.uthr.org](http://www.uthr.org)), and Armon and Philipson (1998).

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<sup>10</sup> For example, the LTTE gives its agents on the ground no room to deviate from the leadership's directives in carrying out a given operation. Those who do so, whatever the results of the operation, are punished.

<sup>11</sup> One example is the assassination of India's Prime Minister, Rajiv Gandhi, in 1991. The LTTE has also carried out high-profile targeted assassinations against prominent Tamil moderates (cf. Dugger 1999).

<sup>12</sup> On the economics of civil wars in Africa and elsewhere, see Berdal and Malone (2000), Chabal and Daloz (1999, 93-138), and Reno (1998, 183-216).

<sup>13</sup> See also Human Rights Watch (1999b, Part III).

<sup>14</sup> See also Vivanco (2001; 2002) and Chernick (2001).

<sup>15</sup> Its pattern of human rights violations indicates that a broad range of people is targeted, with large numbers killed (Human Rights Watch 1999b). This stands in sharp contrast to the LTTE's more precisely-targeted operations.

<sup>16</sup> Although, as indicated earlier, it is unlikely that non-state groups operate with high levels of external monitoring.

<sup>17</sup> The argument here is not that this is the most serious internal conflict inside the FARC. We know of other serious conflicts inside the organization, particularly over the pros and cons of relying on illicit money (such as drugs or kidnappings) to finance its operations (Chernick 2001; Rabassa and Chalk 2001). Rather, the argument is simply that policymakers should consider the organizational tradeoffs. In some cases these are likely to matter more than in others, but in all cases better policies will result by more serious consideration of the factors presented in this article.

<sup>18</sup> In the aftermath of September 11 there is an increased political willingness in the West to crack down on organizations in Europe and North America that support armed groups. Given the LTTE's reliance on such organizations, this crackdown is likely to seriously alter its calculation of costs and benefits. Although we can only speculate for the moment, there is likely a connection between the crackdown on LTTE funding in the West, and its recent increased willingness to negotiate with the new Colombo administration.

<sup>19</sup> In describing the organizational conditions in which the Thirty Years War was fought, Wedgwood notes that "The routine of government was ill-organised; politicians worked with inadequate help; honesty, efficiency and loyalty were comparatively rare, and the average statesman seems to have worked on the assumption that a perpetual leakage of funds and information was inevitable." There was also "no adequate

connection between the legislative and executive powers, nor any clear conception of the uses of public money. ... The idea of taxation for public services had hardly been born. ... Rulers recklessly anticipated their revenue, sold Crown lands, mortgaged their royal privileges, and thus progressively weakened the central government” (Wedgewood 1999, 2-3).

<sup>20</sup> See also International Council on Human Rights Policy (2001).

<sup>21</sup> There is some variation, however, among different sectors within the human rights community. Human Rights Watch experts on South America, where comparatively strong have been traditionally the largest perpetrators of human rights violations, reported more conflicts in dealing with non-state armed groups than experts on Africa, with weaker states and a greater number of non-state groups.

<sup>22</sup> I am thankful to Ram Manikkalingam for suggesting this distinction.

<sup>23</sup> For example, Argentine President Juan Peron, and especially his wife Evita, would routinely hold audiences where the people lined up to speak with them directly.