### Example Cases of States of Resistance

#### Legal Implications of the Status of Persons in Resistance

#### Undergrounds in Insurgent, Revolutionary, and Resistance Warfare

#### Paths to Resolution

Resolution can be reached from any state, but some paths to resolution are unique to a state.

- Common from preliminary to institutionalization:
  - **Success**: failure (internal collapse), repression, decline into obscurity, or radicalization into a delegitimized fringe group
  - **Incipience**: co-optation (buying resistance leaders), establishment with the mainstream, isolation (failure to leverage networks), alienating other leaders and groups, adopting ideas that lack widespread support, and highly publicized failures
  - **Abeyance**: inward focus on development and avoiding confrontation, aka avoiding the crisis state
  - **Crisis**: exhaustion, decline (government concedes small demands but maintains status quo)
  - **Institutionalization**: moderating to approaches that do not challenge the state’s legitimacy (e.g., advocacy, lobbying, becoming a political party)

#### Defining the Threshold of Violence

**Equivalent Response Model**

**Intensity of violence**

- Too much violence—support lost
- Too weak—support lost
- Appropriate response

**Time**

- Initial response
- Time
- Decline
- Decision to escalate

**Terrorism**

- Guerrilla warfare
- Conventional war

**Appropriate response**

- High, reliable intelligence
- Low, unreliable intelligence

**Crisis state**

- Provisional Irish Republican Army (IRA) January–July 1972

- “No-go” and “free” zones give IRA appearance of authority
- Attacks on government and bombings across Northern Ireland after government killed civilians on Bloody Sunday
- Bloody Friday: IRA set off bombs across Belfast also killing civilians

**Incipient failure states**

- Demobilization
- Radicalization
- Facilitation
- Repression
- Success
- Failure

**Co-optation**

- Establishement with the mainstream

**Institutionalization state**

- Resistance has survived crisis (confrontation), supporting opponents and needs to consolidate gains. Viewed more equally by opposition and government (staying power). Resistance organization establishes its role in society.

**Preliminary State: Solidarity 1956–1976**

- Disparate groups: students, workers, intellectuals
- Separate nonviolent actions: workers strikes, student protests, government reform efforts
- Polish identity fostered: anti-historic Russian oppression and current Soviet regime
- Local leadership emerged within each group

**Incipient State: Orange Revolution 1999–2004**

- Disparate groups join in election campaigns and peaceful protests
- Collective action taken in “Ukraine without Kuchma”
- Leadership formed from ousted govt. officials
- Mass protests of election fraud begin transition to crisis state

**Institutionalization State: Hizbollah July 1993–Present**

- Seen as legitimate representative of Shi’a population and provisional authority
- Participation and success in elections
- Controlled media outlets
- International recognition of political wing

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Legal Status and Resistance Task Pyramid

This side of the tactical pocket reference features two concepts. First, an explanation details how the law applies to personnel in resistance, both resistance members and government forces. Second, a resistance organization task pyramid provides example tasks that different components of a resistance perform.

Legal Status of Personnel in Resistance

The figure below characterizes resistance categories, the legal status of participants and applicable status of third parties under international law. What laws apply depends on the intensity of the interactions and organization of the resistance movement. The spectrum in the next column summarizes implications of legal status and provides examples.

Low intensity, legal methods = domestic + human rights + peacetime international law apply MEANS participants are law-abiding civilians.

Civil Rights Movement (US): The movement used nonviolent legal methods, such as permitted protests, court cases, and boycotts, and illegal nonviolent methods, such as sit-ins, protests without permits, and civil disobedience.

Low intensity interactions through illegal methods = domestic + human rights + peacetime international law apply MEANS participants are criminals subject to arrest and prosecution.

Low intensity, violent interactions + limited/lower org. = domestic + human rights + peacetime international law apply MEANS participants are criminals subject to arrest and prosecution but not targetable.

Tuaireg Rebellion in Mali 2006-2009: Several years long, but remained below insurgency and non-international armed conflict (NIAC) because events were not coordinated into a campaign. Isolated raids were crimes under Malian law. More organization and consistent intense violence would make it an insurgency/NIAC.

Higher intensity, violent interactions + moderate org. = domestic + human rights + limited international humanitarian law for non-international armed conflicts apply MEANS participants are domestic criminals, targetable only when directly participating in hostilities and owed protections from H/L if captured.

Kosovo Liberation Army 1999: KLA exhibited the organization, and intense violence the Tuairegs lacked in hierarchical command and control, formal governance structure, force on force battles, and representation abroad.

Highest intensity + high organization = the law of armed conflict because the confrontation between the resistance and the government resembles an international armed conflict apply MEANS participants are combatants and owed protections under the IHL of international armed conflicts.

American Civil War: The civil conflict resembled a war between States via its violent intensity and the Confederacy’s high degree of organization, but the Confederacy lacked legal recognition as a State.

Resistance Movement on the Continent

Resistance Organization Task Pyramid

Resistance movements do their work in overt and clandestine arenas. Groups are composed of four elements: (1) a public component, (2) an armed component, (3) an underground, and (4) an auxiliary (not represented). The public component provides governance and services that the organized face in strategic communications. It represents resistance interests in overt and clandestine negotiations. The armed component is the primary actor in military and paramilitary actions but does not typically have a clandestine role. The activities of the underground, however, are exclusively clandestine. The underground operates in areas denied to the armed or public components or conduct operations not suitable for the armed or public components. The auxiliary are supporters who do not openly express sympathy with the resistance but offer occasional support.

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