
Insurgent governance in the Democratic Republic of the Congo

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1. Introduction

Many contemporary insurgencies¹ from across the ideological spectrum take over large territories for extended periods of time, establishing complex systems to regulate the social, political and economic life of civilians. Insurgent organizations regularly engage in a variety of governance activities including – but not limited to – providing security from violence; developing educational and health facilities; establishing a system of food production and distribution; allocating land and other resources to provide opportunities for civilians to engage in livelihood activities (agriculture, small business, etc.); providing shelter to the displaced; regulating market transactions; taxation of civilians and commercial actors; resolving civil disputes; and addressing other social problems that commonly accompany situations of internal war, such as theft, drug use and prostitution. In this chapter, I examine the development of governance systems by rebels in the Democratic Republic of the Congo (hereafter Congo). I first provide a general description of insurgent governance focusing on the negotiations of rebel leaders with a variety of actors that shape the governance outcomes observed. I outline a series of relevant propositions drawing on the framework developed in my 2011 book on rebel governance² and assess how well it accounts for the behaviour of several Congolese insurgencies with a particular focus on the Rassemblement Congolais pour la Démocratie (RCD) and its offshoots.

¹ I use the terms rebels and insurgents interchangeably. Rebels and insurgents are armed factions that use violence to challenge the state. I distinguish these from ‘militia’, which includes groups that work alongside government forces.

² Z. Mampilly, *Rebel Rulers: Insurgent Governance and Civilian Life During War* (New York: Cornell University Press, 2011).

2. Insurgent governance

At a basic level, governance can be characterized as a decision issued by one actor that a second is expected to obey.³ As such, governance is not the sole province of recognized State governments. When speaking of an armed group, governance refers to the ability of an insurgency to both regulate life within a territory and provide public goods to a captive population through the establishment of a governance system, including formal and informal structures as well as practices of rule. As Kasfir explains,⁴ rebel governance is ‘the range of possibilities for organization, authority, and responsiveness created between guerrillas and civilians’, which can range from ‘elaborately patterned relationships as well as the absence of any patterned activity’.

Why do some rebels establish sophisticated systems of governance that provide extensive public goods to civilians under their control, while others do little, if anything, for their publics? I argue that insurgent governance systems are both a product of the initial preferences of the rebel command and a reflection of the opportunities and constraints that emerge through interactions between the rebellion and other political actors during the war. Therefore, a convincing explanation of governance variation must address initial conditions as well as the war-driven dynamics. Specifically, two conditions present at the onset of the rebellion – first, the type of pre-conflict relations between State and society and second, the strategic agenda of the group – are important initial indicators of insurgent interest in developing a governance system. But insurgent governance performance is not path dependent. Instead, it evolves over the life of the war due to interactions between rebels and various categories of political actors operating behind rebel lines.

All insurgencies face a similar dilemma, that is, how should they interact with the local populations that they come into contact with? Some groups seek to do away with the question of civilian governance by depopulating territory under their control. Others are content to rely solely on violence. Both types of armed groups often face the reality that, even when successful militarily, they may never transform into legitimate political actors.

³ M. Kahler and D. A. Lake, ‘Governance in a Global Economy: Political Authority in Transition’ (2004) 37 *PS: Political Science and Politics* 409, at 409.

⁴ N. Kasfir, ‘Dilemmas of Popular Support in Guerilla War: The National Resistance Army in Uganda, 1981–1986’ (paper presented to the Laboratory in Comparative Ethnic Processes 6, University of California, Los Angeles, 2002), at 4.

Many other insurgent leaders seek to control territory and establish governance systems in pursuit of their broader organizational agenda. Controlling territory can signal the relative strength of a rebellion to rivals and can increase their access to the local population – an essential source of support if sufficient inducements are provided. Failing to win over the local population can lead to defections or other direct challenges of the armed group's control. Thus, in order to ensure their viability, insurgencies often cannot rely on coercion alone, but work to gain a degree of consent from the civilian population. The question is: Why do some rebels decide to engage civilians in their political project? And relatedly, how do they go about doing so? Extrapolating from this formulation, it is by providing public goods and engaging in other ruling practices that an insurgency may be able to legitimize its political authority and receive support from the local population.

To better understand insurgent governance practices, I travelled to areas of rebel-control in the Congo, Sudan and Sri Lanka between 2004 and 2010. Three central concerns drove the field research process: (1) Under what conditions are insurgent leaders likely to take seriously the task of governing civilians? (2) Why do insurgents adopt certain ruling practices and how do they design their civil administrations?⁵ (3) How do civilians and other actors perceive and respond to governance efforts by insurgents? Based on this research, I outline a framework for explaining the underlying factors that shape the differing ways rebel leaders interact with local populations through some sort of governance system. The next section draws on this framework.

3. A framework for assessing insurgent governance provision

An insurgent organization is a collection of men and women joining together at great risk to pursue a common agenda, with little chance of success. Most organizations tend to be top-down entities, with tremendous power invested in the command. All commands must decide when and how to divert resources away from the military battle and redirect them towards civilian governance. These resources not only are financial but also include the insurgent personnel who leave the battlefield to oversee the civil administration. Hence, the decision by a rebel command to devote resources to civilian governance is rarely made lightly.

⁵ The formal structures of rebel governance systems are commonly referred to as 'civil administrations' or some variation thereof.

Throughout the following discussion, the rebel command is treated as the primary agent shaping the nature of the organization's governance efforts. However, a central assumption is that the command operates in a highly constrained political environment. Indeed, different commands respond to similar pressures from various actors that can determine the effectiveness of the civilian governance system they develop. As a result of these processes, many organizations develop complex relationships with local societies that go far beyond mere extraction. My intention is not to proclaim any laws of rebel behaviour, but rather to explore this political environment while also highlighting its exceedingly dynamic nature. The concern is to comprehend under what conditions insurgent organizations are more likely to take civilian governance seriously.

My approach diverges from foundational analyses by rebel theorists that assume the unconstrained agency of the command on questions of governance.⁶ In this view, leaders develop governance systems in line with their ideological beliefs, a position that overemphasizes the capacities of the insurgent command. I also diverge from the political economy approach that ties insurgent behaviour directly to their particular resources base. According to this approach, resource endowments remain static over the course of the conflict. As such, they cannot account for rebel governance, which often exhibits considerable variation both temporally during different phases of the fighting and spatially based on the degree of territorial control.⁷

Governance provision in rebel-controlled areas often involves more than the formal structures of the insurgent civil administration. Since insurgents often interact with, or attempt to co-opt, other non-State actors engaging in service provision, it is essential to examine the whole set of relationships that shape the provision of public goods within a rebel zone of control. Thus, beyond the effectiveness of insurgent structures for distributing public goods, I am also concerned with the role of other political actors and their intersection with insurgent governance systems. These relationships may not always be formalized, thus requiring us to

⁶ E. Guevara, *Guerrilla Warfare* (New York: Vintage Books, 1969); Z. Mao, *On Guerilla Warfare* (New York: Praeger, 1961).

⁷ For example, J. Weinstein, *Inside Rebellion: The Politics of Insurgent Violence* (Cambridge: Cambridge University Press, 2007), at 26–27. It is also doubtful that the resource base is as fixed as this approach assumes as rebels frequently show considerable dexterity in shifting between various sources of funding. Critiques have been leveled by F. Sanín, 'Telling the Difference: Guerrillas and Paramilitaries in the Colombian War' (2008) 36 *Politics & Society* 3.

examine the complex practices of rule that create the bargaining context between insurgents, other political actors operating in conflict zones and civilians.⁸

The effectiveness of a rebel governance system can be assessed by examining several sectors that illustrate its ability to govern a civilian population: first, a police force and judicial mechanism; second, other public goods such as health and education; and third, the development of legislative bodies or other feedback mechanisms.⁹ These sectors correspond with what are generally agreed upon as the three core functions of modern government – namely, security, welfare and representation.¹⁰

Despite a desire to demonstrate long-term horizons, rebel leaders engage in governance strategies that evince an instrumental understanding of the shifting terrain of the battlefield – and they adapt their efforts accordingly. Indeed, governance is rarely an immediate concern, because organizations only come into control of territory after the initial phases of the fighting. Generally, a sufficient period of relatively stable territorial control is a precondition for any insurgency attempting to construct a civilian governance system, though, as the National Transitional Council in Libya demonstrated, the window for establishing a system of civilian governance is increasingly smaller, particularly in the glare of international media.¹¹ Still, public welfare provision beyond security is rarely an immediate imperative for a rebel command.¹²

The establishment of a force capable of policing the population, followed by a broader judicial mechanism to regulate disputes, is often the primary concern for insurgencies upon taking control of territory. Regulating the means of violence is an essential precondition for the development of a broader system of governance. The establishment of security structures allows an insurgency to demonstrate its relative power to civilians, in addition to laying claim to a key component of Weberian sovereignty – the monopoly over the use of violence. Without a

⁸ Kahler and Lake, 'Governance in a Global Economy', above note 3, at 412.

⁹ T. Wickham-Crowley, 'The Rise (and Sometimes Fall) of Guerrilla Governments in Latin America' (1987) 2 *Sociological Forum* 473.

¹⁰ Insurgents frequently levy taxes on the civilian population, an important component of governance. But data on most rebel taxation remain low quality, which makes it difficult to offer any substantive claims on its impact on rebel governance.

¹¹ This is why the universe of rebel governance cases is only a fraction of the total number of insurgencies: many groups either fail to take and hold territory for a sufficient period of time or choose to operate in a roving fashion.

¹² Wickham-Crowley, 'The Rise of Guerrilla Governments', above note 9, at 486.

functioning security system, it is difficult for rebels to gain the credibility from being recognized as the dominant force and to initiate a process of providing additional collective goods.¹³ Furthermore, since the insurgency already possesses effective instruments of coercion, a police force is not nearly as cumbersome to establish as other public goods, like social welfare programmes or legislative bodies.

The provision of public welfare items is often viewed as a secondary concern, yet rebels have proven remarkably adept at providing a wide variety of services. As with security, the delivery of services can be ad hoc (informal) or bureaucratic (formal). Fostering civilian participation in governance decisions is rarely a priority for rebel commands because most tend to have an autocratic predisposition, though it has been known to happen. For example, the African Party for the Independence of Guinea and Cape Verde (PAIGC), under guerrilla leader Amílcar Cabral, held semi-democratic elections for its leadership council. More commonly, rebels work to incorporate civilians into the provision of specific services. For example, in the early phases of the conflict in Sri Lanka, the Tamil Tigers relied on the assistance of civilian committees to provide basic services like education.

4. Explaining variation in insurgent governance systems

Rebel leaders vary widely in the degree to which they have considered questions of civilian governance prior to the conflict. But regardless of their initial preferences, the construction of governance systems is more commonly an iterative process whereby the adoption of specific practices and structures is responsive to the behaviour of a number of diverse political actors, each operating within a specific local and international context. From below, organizations face pressure from the denizens of the areas under their control. From within, organizations must take into consideration factions representing oppositional perspectives, whether based on cultural or ideological differences or just greed. From above, organizations interact with transnational actors, including international agencies, foreign organizations – both commercial and charitable, religious groups, diasporas as well as other governments. At each step of the conflict, leaders refine their governance strategy in response to these conflict-induced dynamics, adopting or rejecting approaches in an evolutionary fashion.

¹³ Weinstein, *Inside Rebellion*, above note 7, at 26–27.

5. From below: civilian demands affecting insurgent governance

Comparative analyses of rebel behaviour often treat populations as static, responsive solely to the behaviour of the rebels or other political actors, rather than constituting an active agent capable of influencing events. Thus, analyses of insurgent–civilian relations have emphasized such factors as resource endowments,¹⁴ organizational capacity¹⁵ and geographic surroundings.¹⁶ Each of these approaches views the population as generic, malleable by external forces and incapable of influencing the command.

However, civilians are rarely passive actors and can manipulate the tenor of governance efforts through the explicit demands they make.¹⁷ Civilians have a variety of ways of responding to rebel control, ranging from wholesale support, limited or coerced participation, public and private protest, disengagement (by fleeing rebel territory), covert and overt collaboration with the incumbent State and even violent rejection through the formation of local militias. An insurgency's most immediate tool for ensuring compliance is always its ability to deploy coercive tactics upon civilians. Still, civilians do not lack agency in their negotiations with insurgent leaders. Indeed, the decision by the population to either embrace or reject a specific organization is a strategic one that can affect the behaviour of insurgent leaders, who must design their governance systems to respond to civilian demands.

Another tendency is to separate the dynamics of civil wars from the social and historical conditions that precede the conflict. However, the pre-conflict relationship between the population and the incumbent government can affect the behaviour of rebel organizations, particularly as it pertains to questions of governance. Thus, it is problematic to treat civilians as cattle, responding herd-like to generic stimuli as pre-conflict patterns of behaviour often influence civilian responses to various insurgent initiatives.¹⁸ The task is to determine a way to distinguish between those populations likely to make claims upon the political authority and the types of claims they are likely to make.

¹⁴ Ibid. ¹⁵ Kasfir, 'Dilemmas of Popular Support in Guerilla War', above note 4.

¹⁶ J. Herbst, *States and Power in Africa: Comparative Lessons in Authority and Control* (Princeton: Princeton University Press, 2000); T. Mkandawire, 'The Terrible Toll of Post-colonial "Rebel Groups" in Africa: Towards an Explanation of the Violence against the Peasantry' (2002) 40 *Journal of Modern African Studies* 181.

¹⁷ S. Kalyvas, 'The Ontology of "Political Violence": Action and Identity in Civil Wars' (2003) 1 *Perspectives on Politics* 475, at 481.

¹⁸ N. Krieger, *Zimbabwe's Guerrilla War: Peasant Voices* (Cambridge: Cambridge University Press, 1991), at 147.

Variations in civilian preferences are shaped by the pre-conflict governance practices of the incumbent government. Among other differences, governments have the power to determine whether the population is habituated to paying taxes, whether it has a say in politics and whether it views ethnicity or cultural markers as ~~political~~ salient. I argue that the relationship between a government and the population has a determinative impact on the effectiveness of rebel governance systems as insurgent leaders respond to demands made by civilians conditioned in distinct ways by their relationship to the pre-conflict political authority.

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5.1. *Rentier versus merchant populations*

Scholars have shown how the past lingers in reconfigurations of political order.¹⁹ Prior interactions between State and society have important impacts on the development of new institutions and practices of rule triggered by the outbreak of violence.²⁰ Indeed, only by understanding the pre-conflict State–society relationship can we grasp the modalities that produce diverse insurgent governance systems across cases, as various civilian populations – politically habituated in differing ways – make distinct demands upon the rebel political authority. The history of the penetration of the State into society is one method for distinguishing between various categories of civilian behaviour that a rebel government is likely to encounter. Specifically, in order to understand the type of relationship a local community is likely to have with an insurgency, it is important to understand how and to what degree that community was integrated politically into the pre-conflict State through the expansion of the government bureaucracy.²¹

Leaders of many post-colonial States struggled to emulate the revenue-accumulation model based on taxation (hereafter referred to as *merchant States*) developed by their former colonial masters. Instead, they turned

¹⁹ J. Migdal, *Strong States and Weak Societies: State-Society Relations and State Capabilities in the Third World* (Princeton: Princeton University Press, 1988).

²⁰ Mkandawire, 'The Terrible Toll', above note 16; D. North, *Institutions, Institutional Change and Economic Performance* (New York: Cambridge University Press, 1991).

²¹ My usage of 'penetration' is meant to extend beyond the idea of 'governmental capacity', which is used to compare the relative capacity of governments in different states. Governmental capacity refers to the 'extent to which governmental agents control resources, activities, and populations within the government's territory', but does not take into consideration territorial variation in state capacity. C. Tilly, *The Politics of Collective Violence* (Cambridge: Cambridge University Press, 2003), 41; C. Tilly, *Coercion, Capital, and the European State, AD 990–1990* (Cambridge: Basil Blackwell, 1990).

to the quick financial rewards offered through the collection of rents from foreign investments in natural resources and from lucrative strategic political alliances. The rentier State emerged in response to a globalized world order that rewarded local political elites with large economic surpluses based on their control of native resources and their mutually profitable relationship with agents in more developed countries. These resources accrued to juridically empowered political elites, even if they lacked empirical control.²² Scholars have argued that State authorities who rely on rents possess greater autonomy from the will of the public as the government has little need to develop a broad tax base, preferring to either buy off non-cooperative citizens or build a coercive apparatus capable of keeping the population in line.²³

Two different political outlooks characterize popular attitudes about government based on the above discussion. In the rentier State, populations have no sense of ownership over decision-making as they are not required to fund the State through taxation.²⁴ Therefore, a disengaged government produces an apolitical population, disconnected from the local machinations of the often ineffective public bureaucracy. In contrast, in the merchant State, an active population is heavily invested in decision-making through its direct financial contributions. Citizens in these States aggressively seek to limit the behaviour of the political authority in a way that is beneficial for the well-being of the polity.

Put another way, civilians politically habituated by rentier State fiscal policies are unaware of their ability to influence the political authority, a condition that carries over to political formations that develop in the face of a conflict-produced State withdrawal. In merchant States where the bureaucratic structures penetrate deeply into the public psyche and are capable of both collecting taxes and providing public goods, civilians are habituated to having a say in political affairs. In both cases, it is up to a

²² Herbst, *States and Power in Africa*, above note 16; R. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990).

²³ Mkandawire, 'The Terrible Toll', above note 16; M. Moore, 'Revenues, State Formation, and the Quality of Governance in Developing Countries' (2004) 25 *International Political Science Review* 297.

²⁴ This is not to imply that no community within the State has dense relations with the State authority. Some communities are the favoured recipient of State largesse and enjoy considerable benefits from this relationship. However, without an underlying mechanism driving the state–society relationship, there is considerable variation between communities within these States, each of which may have distinct relationships with the central government.

rebel command to determine how to deal with the civilian population, and its ability to establish structures that respond to the demands articulated by the local community will determine the success or failure of its governance project. Failure to do so may open the group to internal challenges, both political and militaristic, from civilians.

State penetration also produces a secondary effect that shapes governance beyond civilian demands. To mitigate against civilian challenges, leaders often tap into and even co-opt pre-existing institutions and networks of power, which are themselves the direct product of the pre-conflict relationship between the incumbent State and political actors.²⁵ Merchant States are characterized by more effective social control resulting from the denser and hierarchically organized relations between the State and significant social groups that allow citizens to be more demanding in their interactions with the political authority. However, in the rentier State, the lack of a functional State bureaucracy opens up the path to alternate forms of governance by non-State actors often at odds with the formal government. Political and social order is likely to be provided by an ad hoc array of political actors including religious institutions, charitable organizations, private corporations, trade networks and traditional authorities.²⁶ Such a parcellized authority structure can create obstacles for rebel leaders as they seek to develop their own structures and practices of governance, forcing them to negotiate with many different actors in their efforts to build a governance system.²⁷ This compares with the legacy of a highly penetrated State, a situation in which rebels confront cohesive institutions and networks of power.

6. From within: internal dynamics affecting insurgent governance

6.1. *Secessionist versus reformist insurgents*

Elites seeking to mobilize a population often adopt ethnic claims, as compared to other societal cleavages such as class or gender.²⁸ Ethnic or nationalist appeals are considered to be more resonant than other

²⁵ J. Migdal, *Boundaries and Belonging: States and Societies in the Struggle to Shape Identities and Local Practices* (New York: Cambridge University Press, 2004).

²⁶ T. Bierschenk and J.-P. de Sardan, 'Local Powers and a Distant State in Rural Central African Republic' (1997) 35 *The Journal of Modern African Studies* 441.

²⁷ T. Raeymaekers, K. Menkhous and K. Vlassenroot, 'State and non-State Regulation in African Protracted Crises: Governance without Government?' (2008) 21 *Afrika Focus* 7.

²⁸ S. Tambiah, *Leveling Crowds: Ethnonationalist Conflicts and Collective Violence in South Asia* (Berkeley and Los Angeles: University of California Press, 1996).

types of claims and hence more useful as the basis for any collective enterprise. Historical factors have contributed to ethnic claims taking on even greater salience in the post-colonial world. As colonial authorities openly manipulated ethnic identity as a tool of political control, the post-colonial State bureaucracies of many countries remained ethnicized.²⁹ As a result, counter-claims to State power also came to emanate primarily from ethno-nationalist subgroups.³⁰

Through this process, ethnicity has taken on instrumental overtones. Access to political and civil rights, in addition to material benefits, continues to be determined by membership in the 'right' ethnic community. Since exclusion from political and economic opportunities is often ethnicized, appeals to ethnic solidarity often serve as the basis for insurgent collective action. But distinguishing a segment of the population from the rest of the society also generates its own expectations within an ethnic community. Unlike those who seek power at the national level, secessionists have a greater immediate need to prove their ability to improve the material welfare of their target populations. As Tambiah suggests, ethno-nationalism is the articulation of a desire by communities 'to achieve their own regional and local sociopolitical formations'.³¹

Insurgent organizations must frequently decide between various strategies in deciding how to interact with the different communities inhabiting their areas of control. All insurgencies that seek popular support treat some communities as potential collaborators requiring restraint and certain positive inducements, while other communities, for a variety of reasons, can be dealt with only with violence. Rebellions that seek to topple an established regime must seek to assuage, potentially, the entire population in order to avoid challenges to their authority once in power. In addition, reformist insurgents frequently have a longer time-horizon for improving civilian governance, frequently delaying expectations until after victory has been achieved.

In contrast, secessionist groups define the target audiences for their various actions (both violent and non-violent) more narrowly. As a result, leaders face a higher barrier as they draw from a more limited constituency for support. In addition, the targeted audience often expects improvements in their living conditions soon after the rebels take territory. Insurgent leaders must convince their ethnic kin of the

²⁹ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton: Princeton University Press, 1996).

³⁰ Tambiah, *Leveling Crowds*, above note 28. ³¹ *Ibid.* 17.

potential payoffs likely to accrue in the short term, rendering them more susceptible to criticisms and demands from within. The ethnic population targeted for mobilization is also likely to face harassment on the basis of their collective ascriptive identity – rather than individual political allegiances – thereby further raising the costs to the community if the insurgency is unable to provide a degree of stability.

Secessionist leaders may also be positively influenced by the international communities clear preference for nation-State-like actors. International humanitarian law has long privileged struggles for national liberation over other types of violent movements.³² This bias is echoed in the clear preference of transnational activist networks to throw their weight behind movements of cultural preservation that seek a degree of political autonomy³³ over the more messy ‘reformist’ insurgencies that seek to capture power at the centre. Thus, I argue that organizations with a secessionist or ethno-nationalist agenda have a vested interest in proving their ability to serve as de facto governments as their ability to garner support will be shaped by their governance performance.

As discussed earlier, many other factors that affect rebel behaviour around governance are endogenously driven by the conflict dynamics and emerging from a variety of locations only after the initiation of fighting. I turn to these now.

6.2. *Ideology*

The role of ideology and its relationship to governance provision has a commonly hypothesized positive correlation, that is, groups that espouse leftist political philosophies are more likely to evince greater concern for the well-being of the civilian population. However, the ideological agenda professed to an external audience is primarily rhetorical and has little direct influence on the behaviour of insurgents in their relations with civilian populations.

A more nuanced take recognizes that ideological influences do not solely find expression in outward articulations but can influence the internal organizational strategy adopted by the command. Leaders are

³² M. Sassòli, ‘Transnational Armed Groups and International Humanitarian Law’ (Occasional Paper No. 6, Program on Humanitarian Policy and Conflict Research, Harvard University, 2006).

³³ C. Bob, *The Marketing of Rebellion: Insurgents, Media and International Activism* (Cambridge: Cambridge University Press, 2006).

not bound to any particular organizational strategy, and they can and do switch over time based on strategic considerations. Thus, ideology is only salient for an insurgency when it shapes the internal organizational strategy adopted by the command. In particular, leaders who take seriously Maoist ideas – specifically, Mao’s emphasis on conventional warfare, disciplined cadre, a prolonged period of political mobilization and the development of broad-based civil administrative structures that function to incorporate the peasantry into the insurgent organization – must devote considerable resources to civilian governance. These organizational strategies are available to any group regardless of their public political position; hence, many ethno-nationalist groups have implemented a Maoist organizational strategy, and even right-wing groups like União Nacional para a Independência Total de Angola (UNITA) in Angola have done the same.

Insurgents who fight solely using hit-and-run tactics can only affect civilian livelihoods for the worse, as governance remains the preserve of the incumbent. In contrast, holding territory requires the development of a security force to demonstrate insurgent control, an elemental building block towards a broader system of governance. Ensuring troop discipline signals to the public that the organization has the ability to mediate the use of violence within its territory. And finally, devoting personnel to political mobilization is necessary to educate the public about the organization’s intentions so as not to ostracize its potential base of support. But it also requires the organization to develop structures for this purpose – structures that can be put to use for other governance concerns such as providing education, delivering public health messages, delivering medications and so on.

6.3. *Cleavages*

Another internal factor is related to the composition of the local community and the cleavages that exist prior to the outbreak of conflict. Though desirable, full hierarchical control within any organization is never possible; instead, some degree of tension between internal factions is inevitable.³⁴ Factions may compete as a result of differences over how to allocate material resources, the political agenda for the group, the real or imagined cultural or ethnic orientation of the organization or some

³⁴ M. Barnett and M. Finnemore, ‘The Politics, Power, and Pathologies of International Organizations’ (1999) 53 *International Organization* 699, at 724.

combination of all three. Such internal divisions can lead each faction to perceive the organization's overall mission in fundamentally different ways with significant effects on governance efforts.³⁵ In the worst-case scenario, these divisions may even lead to the fracturing of the broader movement and the emergence of multiple militant rivals to the original organization.

There are two questions to address in regards to the above. First, how and why are some insurgent organizations able to suppress internal cleavages and forge a unified command, while others are ripped apart by similar tensions? Internal dynamics often reflect relationships between local communities and the command in constitutive ways. And the ability of rebel leaders to incorporate representatives from constituent factions within their organization is a key determinant of the type of command – either unified or divided – a group will have.

Pre-conflict cleavages at the local level tend to persist and affect rebel behaviour once fighting begins, regardless of the stated cause of the war.³⁶ If the movement is multi-ethnic, multi-religious or multi-regional, tensions between component factions can bubble to the surface due to perceived dominance or mistreatment on either side.³⁷ Such local-level economic, racial, ethnic, religious and regional differences all impact the behaviour of leaders as they attempt to cajole or coerce a governance system upon a less than complacent population. Any attempts at consolidating their rule requires leaders to assess the nature of the population they seek to control and devise strategies to mitigate potential cleavages that could emerge. Indeed, pre-existing internal cleavages can have a wide variety of consequences for organizations, and the command must devote attention and resources to ensure that they do not undermine the ability of the organization to pursue its goals effectively.

Second, it is critical to understand how a divided or unified command affects the internal organization of an insurgency and the impact on its ability to develop a system of civilian governance. More dramatically, if the command actually splits into multiple rival factions, how does contested territorial control shape insurgent governance efforts? Rebel leaders able to establish a unified command that exerts its control throughout the entire organization and corresponding territory – despite internal

³⁵ E. Wood, 'Variation in Sexual Violence during War' (2006) 34 *Politics & Society* 307.

³⁶ Kalyvas, 'The Ontology', above note 17, at 478–80.

³⁷ M. Jok and S. Hutchinson, 'Sudan's Prolonged Second Civil War and the Militarization of Nuer and Dinka Ethnic Identities' (1999) 42 *African Studies Review* 125.

competition – are more capable of implementing a cohesive system of governance than an organization divided into competing factions.³⁸ If the leadership can establish an undisputed political authority over its territory, it strengthens its ability to offer protection to its chief supporters, extract more resources and wage war.³⁹

7. From above: transnational factors affecting insurgent governance

Civil wars are rarely contained within the territorial boundaries of a single State.⁴⁰ Despite reluctance from international organizations to legitimate non-State violent groups, the presence of different transnational actors within areas of rebel control serves to link such spaces to the formal world system. Thus, it is important to consider the impact of transnational actors on rebel behaviour as it pertains to civilian governance.

Transnational actors perform an array of essential functions in contemporary conflict zones, whether commercial, humanitarian or militaristic. Insurgent leaders are aware of the potential benefits and risks of aligning with transnational actors and often work to engage such actors in their political projects.⁴¹ As a result, different categories of transnational actors produce distinctive effects on insurgent behaviour regarding civilian governance.

However, despite recognizing the integral role that the international community plays in fomenting and fostering contemporary violent conflicts, attention has generally focused on the economic agendas driving international actors to intervene in rebel-controlled territories and the resulting configurations of power that result.⁴² Less attention has been devoted to the political interventions required on the ground to make such transactions possible. For insurgents, providing a modicum of political order on the ground both results from their interactions with

³⁸ E. Guevara, *The African Dream: The Diaries of the Revolutionary War in the Congo* (New York: Grove Press, 1999), at 79.

³⁹ Tilly, *Coercion, Capital, and the European State*, above note 21, at 181.

⁴⁰ T. Callaghy, R. Kassimir and R. Latham, (eds.), *Intervention and Transnationalism in Africa: Global Networks of Power* (Cambridge: Cambridge University Press, 2001); K. Gleditsch, 'Transnational Dimensions of Civil War' (2007) 44 *Journal of Peace Research* 293.

⁴¹ Bob, *The Marketing of Rebellion*, above note 33.

⁴² C. Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century* (Berkeley and Los Angeles: University of California Press, 2004); W. Reno, *Warlord Politics and African States* (Boulder: Lynne Rienner, 1998).

transnational actors, as well as being an effort undertaken to woo such actors to their territory in the first place.

Rebel leaders react to resources and constraints produced by an increasingly transnational world, going as far as ‘marketing’ their rebellion to actors in the international community.⁴³ However, analyses of rebel organizations’ relationships with transnational actors fail to delineate the precise effects of such interactions on the primary insurgent interface with the civilian population, that is, the rebel civil administration. As a result, they tend to assume only a negative impact on civilian governance, an assumption that ignores the nuances of such complicated interactions. Not every transnational interaction will have the same effect on governance. Indeed, different categories of transnational actors have their own views regarding civilian treatment formed prior to their engagement with various militant groups. These preferences can include deep concern, passive disinterest or outright hostility towards local residents affecting how transnational actors engage with a particular organization and the concomitant effects of the intervention on civilian governance. The question is: When do such transnational relationships negatively affect insurgent civilian governance efforts? And when are they likely to have a more positive impact? The various categories of transnational actors play two important roles – as supporters or competitors – that have different effects on the behaviour of rebel leaders.

7.1. *Supporters*

Transnational actors may function as supporters of rebel organizations by providing resources that impact their ability and desire to grapple with civilian governance concerns. Insurgencies with a limited resource base have a strong incentive to develop relations with transnational actors in order to generate financial resources and take advantage of the credibility imbued through such associations.⁴⁴ Insurgencies are commonly assumed to draw such support from two types of transnational actors: private corporations and other States. Both types of actors are explicit about their self-interested engagement with rebel groups, offering leaders direct financial payments and other material support in exchange for

⁴³ Bob, *The Marketing of Rebellion*, above note 33.

⁴⁴ M.-J. Zahar, ‘Protégés, Clients, Cannon Fodder: Civil-Militia Relations in Internal Conflicts’ (2001) in S. Chesterman, ed., *Civilians in War* (Boulder: Lynne Rienner Publishers, 2001), at 43–65.

assistance in pursuit of material or strategic gains. In the early phases of a rebellion when such resources are essential, the effect is often to undermine civilian agency on governance by reducing the need for the organization to mobilize popular support.⁴⁵

The source of funding, however, is not the sole determinant of governance outcomes. Variation in financing strategies over time is an important constraint on its impact. These can be caused by a shift in political alliances between States or by the collapse of a commodities market; and insurgencies must adjust their fiscal strategies to adapt to changing conditions, or risk collapse. When faced with a shift in their funding source, many groups do succumb, of course. But many others prove more durable, shifting between a mix of available funding strategies. Whether patronage from an external State, the sale of natural resources or more illicit goods or the extortion, smuggling and taxation of civilians and commercial or charitable organizations, insurgencies have a variety of strategies for raising funds, often combining a mix of approaches over their existence.

Equally important, States and commercial actors are not the only transnational actors that provide support to organizations. Many other transnational actors engage in conflict zones for ostensibly humanitarian purposes. The manner by which rebels can benefit from these relationships has been discussed, most prominently in the notion of a substitution effect that allows insurgent leaders to neglect civilian welfare in favour of more military concerns.⁴⁶ However, organizations concerned with civilian welfare issues, including foreign non-governmental organizations (NGOs), international agencies, diasporic organizations and religious institutions, may also have a positive impact on rebel governance, if an effective coordinating mechanism can be established by the insurgency. Incorporating humanitarian actors can stimulate the development of the governance system by providing resources, services and expertise that can supplement the organization's own capacity to meet civilian needs. For rebels, such collaborations may provide an effective way to address civilian welfare without diverting limited financial resources or personnel. For humanitarian organizations, working with insurgents can ease their access to populations affected by the fighting. Rebels may also

⁴⁵ Weinstein, *Inside Rebellion*, above note 7.

⁴⁶ M. Anderson, *Reflection on the Practice of Outside Assistance: Can We Know What Good We Do* (Berghoff Research Center, 2001); A. de Waal, *Famine Crimes: Politics and the Disaster Relief Industry in Africa* (Oxford: James Currey, 1997).

provide security for development and relief projects and offer their own local expertise to supplement these efforts.

For example, insurgents have successfully incorporated NGOs into their governance project. By forcing these organizations to work within a contractual framework that delineates the specific activities they will be allowed to engage in, the areas in which they can operate and any other requirements regarding the hiring of personnel or the payment of duty to the political authority, insurgents have inserted themselves between the aid organization and the population they seek to serve.⁴⁷

7.2. Competitors

If the organization fails to co-opt transnational actors into its governance system, however, it may come to view such organizations and networks as competitors in the battle for the 'hearts and minds' of civilians. This can occur in one of three ways. First, governance provision can be negatively affected in situations in which insurgents fail to synchronize their actions with the needs of local trading networks and foreign corporations with commercial interests in rebel-controlled territory. Whether through the hiring of private security firms or shoring up government military forces, private actors have repeatedly shown their willingness to challenge insurgent control over territory, often to the detriment of the civilian population caught within. Second, by providing basic services to a receptive population, aid organizations that refuse to fall in line with the insurgent programme can undercut the revolutionary promises made by rebel leaders, offering immediate rewards instead of weak promises for a better future.⁴⁸ Third, human rights activists and journalists, both local and international, are tapped into transnational activists networks that can mobilize international public opinion against insurgencies that exploit civilians or that rely on excessive coercion to ensure civilian compliance. Similarly, religious institutions, with their transnational networks of believers, have proven effective in mobilizing public opinion against the behaviour of undisciplined violent groups.

⁴⁷ A. Branch and Z. Mampilly. 'Winning the War, but Losing the Peace? The Dilemma of SPLM/A Civil Administration and the Tasks Ahead' (2005) 43 *Journal of Modern African Studies* 1; de Waal, *Famine Crimes*, above note 46.

⁴⁸ In India, Naxalite insurgents expelled all charitable organizations operating in territories under their control out of fear that the NGOs were improving peasant welfare and hence reducing the salience of their violent appeals.

Though private competitors generally have a harmful effect on insurgent civilian governance efforts, the effect of non-commercial competitors is decidedly more mixed. In many cases, the activities of recalcitrant NGOs or critical human rights activists are likely to push the insurgent command to become defensive about their treatment of civilians. This can result in armed groups working to hide their abuses from the international community, to the detriment of affected communities. However, in certain cases, such pressure may push rebel leaders to take seriously the task of addressing civilian needs, particularly if they perceive that a change in behaviour will produce more positive coverage for the rebellion. The wording of this discussion is purposefully conditional as it relies on idiosyncratic factors that may push the organization to take governance more seriously. For example, positive coverage of a rival organization may pressure insurgents to devote more attention to civilian needs. In situations where insurgent control is complete, however, the same pressure from transnational actors may simply push the organization to imprison or expel any competitors in their midst. In the next section, I show how the framework can explain variation in insurgent governance systems by drawing on the case of Congo.

8. Insurgent governance in the Democratic Republic of the Congo

8.1. Overview

The conflict in the Congo has generated a bewildering array of armed groups across the country since 1996. More than forty rebel groups have existed with vastly different ethnic memberships, operational capacities, military strategies and political agendas – ranging from poorly equipped local community-based militias to large-scale conventional armies and everything in between.⁴⁹ As I discuss below, most of these organizations were largely incapable of meeting the challenge of civilian governance. But contrary to the received wisdom, this was not simply due to rebel leaders' lack of concern for civilian welfare. Several of the groups did make important efforts to develop civilian governance systems even if these efforts largely amounted to nothing. However, from their failure, we can learn much about the challenges of developing a suitable system of governance – particularly when conditions are not favourable. In

⁴⁹ L. E. Seay, 'The Advantage of State Failure? Why Congolese Armed Groups Don't Provide Health Care' (unpublished manuscript, 2011).

particular, groups like the RCD, the Mouvement de Libération du Congo (MLC) under Jean-Pierre Bemba, the Congrès National pour la Défense du Peuple (CNDP) of Laurent Nkunda and less well-known groups like the Forces Armées du Peuple Congolais (FAPC) under Commander Jérôme Kakwavu Bakonde and even segments of the Mai-Mai militias all attempted to develop civilian governance systems to varying degrees, drawing on distinct modalities of rule.

The framework offers important insights regarding both points of convergence and divergence between these Congolese insurgencies. Each of these groups faced several common challenges, which are necessary to take into consideration when examining the viability of insurgent governance systems in the Democratic Republic of the Congo. Most important, despite variation in motivation, structure and capacity, each group faced a similarly convoluted political environment in areas they came to control. During the reign of Mobutu Sese Seko, the State withdrew from vast portions of the country's territory, leaving behind a minimalist bureaucratic apparatus that interacted with local actors in complex and unique political arrangements. As the State withered away, Zaireans were forced to turn towards civil society and other non-State actors, such as aid organizations, traditional authorities, business associations and religious institutions, all of which negotiated with the remnants of the Mobutuist State to provide a semblance of social order to their highly localized constituencies.

As a result, prior to the war, eastern Zaire was characterized by a complex arrangement that established a degree of social and political order through interactions between active agents of a distant State and multiple categories of non-State political and economic actors. Central and regional offices of the government continued to be staffed by personnel who generated income through fees and other kickbacks charged to civilians. Working hand in hand with private companies and regional trading networks, State agents ensured a steady extraction of the region's extensive resources with few benefits for the surrounding communities. Little was provided to residents in the way of meaningful public services, whether health, education, infrastructure or even a consistent legal system. Instead, aid organizations and religious institutions, in conjunction with local chiefs, stepped in to provide some public goods and construct other developmental projects.⁵⁰

⁵⁰ C. Young, 'The Heart of the African Conflict Zone: Democratization, Ethnicity, Civil Conflict, and the Great Lakes Crisis' (2006) *9 Annual Review of Political Science* 301.

Thus, from the start of the first war in 1996, Congolese insurgents confronted a parcellized system of governance in which social order was provided by a complex constellation of actors negotiating with agents of the State or the remnants of the Congolese bureaucracy, the legacy of Mobutu's rentier politics. As a result, once in control of territory each group had to negotiate with a wide variety of local and transnational social and political actors, including traditional chiefs, religious authorities, business people and local and transnational NGOs, ultimately rendering effective civilian governance an elusive pursuit.

All five insurgencies struggled to provide even basic public goods, but they varied in the degree to which they were able to achieve some degree of legitimacy among a specific population. The three groups that espoused reformist agendas (RCD, MLC, CNDP) struggled to legitimize their rule among the population, while those that targeted narrow, ethnically defined constituencies (Mai-Mai, FAPC) were able to gain considerably more popular legitimacy. Other differences in their operational capabilities, their political agendas, the cultural milieu from which they emerged and the set of political actors they negotiated with also shaped the variation between the different insurgent governance systems.

For example, the MLC did establish a civilian governance system in Equateur province during the second war. The organization appointed a representative assortment of individuals to ministerial positions, and it even paid some administrators for their services. By and large, however, the MLC relied on pre-existing institutions and personnel to continue handling the responsibilities of governing, an ineffective mode of civilian governance that was common among reformist insurgencies in the Democratic Republic of the Congo.⁵¹ Still, despite his failure to provide effective governance, Bemba, the rebellion's leader, emerged as a popular civilian politician after the end of the war and was for a time the leading opposition figure, having transformed his organization into a political party.

The CNDP also established a parallel administration in areas of North Kivu under its control. The rebellion did get involved in aspects of civilian governance, establishing a system of taxation and interfering

⁵¹ International Crisis Group, 'The Kivus: The Forgotten Crucible of the Congo Conflict' (Africa Report 56, Nairobi/Brussels, 24 January 2003); T. Carayannis, 'The Complex Wars of the Congo: Towards a New Analytic Approach' (2003) 38 *Journal of Asian and African Studies* 232; Z. Mampilly, 'Stationary Bandits: Understanding Rebel Governance' (PhD thesis, University of California, 2007).

in the structure of the education system,⁵² though without offering much in the way of public goods. Under Nkunda, a Congolese Tutsi, the movement faced questions about its agenda from the local communities who have long been suspicious of the Tutsi community over its national allegiances.⁵³ In order to combat this perception, the CNDP government waded deeply into the fraught realm of nationalist symbology in Congo. What is striking about the CNDP was its success in improving perceptions of its political authority despite providing few public goods. By deploying a symbolic repertoire that included a new anthem to proclaim the movement's nationalist goals and a new flag that simply recoloured the Mobutu era version, the organization was able to overcome considerable suspicion among local Kivutiens. As a result, the CNDP was able to generate higher degrees of identification and compliance with its rule among a wide assortment of Kivutiens despite its upper echelon's being controlled by the Congolese Tutsi community.⁵⁴

Similarly, a segment of the Mai-Mai under Commander Padiri used cultural appeals to legitimate its rule over a population in areas under its control in the Kivus.⁵⁵ This was an especially important strategy for the Mai-Mai, a diverse set of ethnic militias that sometimes aligned with the Kinshasa government but frequently operated autonomously, often holding territory and governing various 'indigenous' populations against what they perceived as foreign invasions. Padiri's group, the largest Mai-Mai faction in eastern Congo, established an administration, the *administration des forêts*, that attempted to provide a degree of public services as an inducement for greater civilian participation. Like the other groups discussed, Padiri's group did not attempt to develop an alternate bureaucratic arrangement to replace the State administration, preferring instead to retain the administrative practices and infrastructure that evolved in the Congo under Mobutu. Civilian administrators were put in place to continue managing certain public goods including education, policing and judicial functions, though under the surveillance of intelligence agents.

⁵² Seay, 'The Advantage of State Failure', above note 49.

⁵³ J. Stearns, 'Laurent Nkunda and the National Congress for the Defence of the People (CNDP)', in S. Marysse, F. Reyntjens and S. Vandeginste (eds.), *L'Afrique des grandes lacs. Annuaire 2007–2008* (Paris: L'Harmattan, 2008), at 245.

⁵⁴ Ibid.; Z. Mampilly, 'Performing the Nation-State: Rebel Groups and Symbolic Processes', in A. Arjona, N. Kasfir and Z. Mampilly (eds.), *Rebel Governance* (New York: Cambridge University Press, forthcoming).

⁵⁵ This paragraph is largely drawn from K. Hoffmann, 'Myths Set in Motion: The Governance Practices of General Padiri's Mai-Mai Militia' in *ibid.*

Reflective of their indigenous appeals, the organization sought to legitimize its governance system by positioning Padiri as a mythico-religious figure and emphasizing its position as the defender of certain cosmological beliefs and practices. The effect of this positioning, according to Hoffmann, served 'to legitimize the group and induce civilians to comply with its orders'.⁵⁶

One of the more interesting cases in the Democratic Republic of the Congo was that of the FAPC.⁵⁷ Based out of the northeastern towns of Aru and Ariwara along the Ugandan border, the organization seemingly controlled an ideal area for generating resources through smuggling and control of lucrative customs points. Instead of operating as a racketeering organization as a political-economy approach might predict, the group worked closely with non-State actors including powerful local trading networks to establish a semblance of social order within areas under its control. Titeca points out that this was necessary for a variety of reasons, including the reality that insurgent groups rarely have the expertise necessary to monetize natural resources without civilian cooperation. Tellingly, the FAPC territory even became a magnet for internally displaced civilians fleeing violence in neighbouring areas.

8.2. *The RCD's governance system*

In order to illustrate these dynamics more closely, the final section discusses⁵⁸ the behaviour of the RCD, the longest lasting of the many Congolese insurgencies, which controlled the largest population and territory during the war. As a reformist insurgency with a weak political wing plagued by multiple and often brutal internecine conflicts and operating within a rentier State characterized by multiple and competing nodes of power, the RCD was not particularly well suited to develop an effective governance system. Still, there is value in closely examining this case as it sheds light on the diverse factors that shape civilian governance outcomes.

The RCD emerged as one of several militant groups occupying vast portions of eastern Congo in the late 1990s. The organization attempted

⁵⁶ Ibid.

⁵⁷ K. Titeca, 'Access to Resources and Predictability in Armed Rebellion: The FAPC's Short-lived "Monaco" in Eastern Congo' (2011) 46 *Africa Spectrum* 2.

⁵⁸ This section is drawn from the chapter on the Democratic Republic of the Congo published in Mampilly, *Rebel Rulers*, above note 2.

to fight a conventional war with Kinshasa, building up a large army and holding a huge territorial enclave along the eastern border of the country in the Kivu provinces. During its reign, the organization failed to maintain security or provide public welfare goods to the civilian population. However, it is not true, as is often claimed, that the RCD cared little about civilian governance. Rather, multiple efforts to develop a system of governance consistently came up short, and the organization suffered a deep crisis of legitimacy as a result.

Most commentators tend to view the RCD and its offshoots harshly for their oppressive and frequent use of force against civilians under their control. But to characterize the behaviour of the rebels as driven solely by the engine of violence ignores their sustained attempts to address the extraordinarily complex political situation within the large territory they controlled. Focused on the capital Kinshasa but forced to confront a tangled political environment in the eastern provinces, the RCD made discernible efforts to forge a political hierarchy using a variety of strategies. These attempts may all be judged failures, but in their failure, they shed light on the strategies available to reformist insurgencies operating in conditions where the political authority is unclear, the population is non-supportive and even hostile, infrastructure is minimal, inter-ethnic tensions are high and involvement from the international community is either malicious, illicit or inconsequential.

In order to understand the trajectory of the RCD's civilian governance project, it must be situated within a broader narrative of neglect that characterized relations between the centre and the periphery since Mobutu. After the 1996 war first broke out, State retraction accelerated, leaving behind a multiplicity of diverse institutional arrangements that the RCD was forced to interact with – either by coercing these actors into submission or finding other ways to co-opt them. The failure of the rebellion's governance project resulted from the command's inability to negotiate with this alternate political and economic configuration. Instead, the insurgent organization too often resorted to coercion to subdue those who challenged its rule. I argue that three factors help explain this failure. First, the rebel leadership did not address concerns about the ethnic and national affiliation of the rebellion. Second, the command was unable to resolve internal tensions between different factions that undermined its ability to implement a coherent political agenda. And finally, focused on Kinshasa and reliant on foreign markets and governments for revenue, the leaders struggled to develop the local expertise required to achieve hegemony over territory far from the capital.

Two weeks after the start of the second Congo war in August 1998, the political wing of the RCD was formed in Goma.⁵⁹ Initially unified under Ernest Wamba dia Wamba, an exiled Congolese academic, at the helm, the RCD was really a collection of different factions.⁶⁰ Wamba dia Wamba was the most prominent member of a group of academics and exiles that became involved in the political wing, most with roots in other provinces outside of the Kivus. A second group comprised former cabinet ministers and army officers from the Mobutu regime who were anxious to return to power. Finally, a third group included leaders who participated in the first war, but had been marginalized by Laurent Kabila.

To accommodate the diversity of interests represented by its constituent factions and to prevent the emergence of a dominant figure, the new rebel command was organized with a consensus-based collective leadership. A complex political structure including a presidency, general assembly, political council and an executive council was established with close to 200 members split between the various branches. This arrangement led to internal disputes between the different structures and undermined Wamba dia Wamba's command over the RCD, eventually leading to the formation of multiple power centres.⁶¹ In addition, Uganda and Rwanda preferred to deal with different factions, leading to a split early in the life of the rebel command. The stalemate produced by the entry of Angola and Zimbabwe into the conflict brought these internal divisions to the fore.

The academically oriented faction did initially go to great lengths to tout its adherence to an extended programme of peasant mobilization. However, the weakness of the political wing within the command meant that the more militarist component quickly came to the fore. Structures to generate civilian participation were never developed, demonstrating the relative lack of concern for popular support. The command also had notoriously poor control over its troops, and reports of civilian abuse were widespread. The organization's initial struggles to establish a governance system reflect these inadequacies.

⁵⁹ O. Afoaku, 'Congo's Rebels: Their Origins, Motivations and Strategies', in J. F. Clark (ed.), *The African Stakes of the Congo War* (New York: Palgrave Macmillan, 2002), at 109–28.

⁶⁰ S. Kayunga, 'The Leadership Crisis within the Congolese Rally for Democracy (RCD) and Its Implications for the Peace Process in the Democratic Republic of Congo' (paper presented at the Conference on Conflict and Peace-Making in the Great Lakes Region, Entebbe, Uganda, July 10–12, 2000).

⁶¹ *Ibid.*

As the war dragged on, the RCD command faced severe internal challenges to its control that led to multiple splits, as well as challenges from other violent militant groups, including those led by former RCD leaders. Internal challenges undermined the ability of the organization to develop its civilian governance system, constantly concerned, as it was, with putting down these inner revolts. Internal divisions within the command also tended to percolate throughout the organization, reducing the ability of the dominant faction to implement a single political agenda and maintain organizational discipline. At the same time, external rivals sought to legitimate their existence by expressing empathy with civilian discontent. This led the RCD-Goma, the reconstituted entity, to devote more and more resources to its military wing for the purpose of suppressing such challenges.

From the outbreak of hostilities in 1998, the leaders of the insurgency were ill prepared to handle the demands of establishing a governance system over the areas they controlled. Aspirations to portray the rebel command as a government-in-waiting were hindered by their failure to comprehend the harsh political environment they confronted upon taking power. Instead, the ensuing stalemate forced insurgent leaders to reluctantly face up to the reality of being little more than a localized rebellion with limited territory and extremely difficult relationships with its own public. In the words of the RCD Vice President Arthur Zahidi Ngoma: 'We hadn't realized that we would have to set up what is more or less a government so fast, but it's an obligation now'.⁶² After the leadership split, these inadequacies became even more exposed, as those figures who had thought the most about civilian governance left the dominant faction, the RCD-Goma.

Perceptions and reality concerning the RCD-Goma diverge around the contentious subject of how the organization treated local residents of the Kivus during the conflict. Horrendous violence has come to typify the Congolese conflicts, and rough estimates for the number of war-related deaths ranges between 2 million and 6 million – a strikingly high number considering the short duration of the conflict, though it is impossible to place an exact number on the organization's share of the dead. Throughout the country, 2.3 million Congolese were internally displaced with the

⁶² BBC Monitoring 1998, cited in D. Tull, 'The Reconfiguration of Political Order in Post-colonial Africa: A Case Study from North Kivu (DR Congo)' (PhD thesis, University of Hamburg, 2004), at 133.

two provinces of North and South Kivu that the RCD-Goma controlled accounting for 1 million of these. Over 400,000 Congolese also found refuge in neighbouring countries.⁶³ Although a startling indictment of the violence, these figures also represent the culmination of a gradual process of decline and disorder that began much earlier. Rather than representing a fundamental disjuncture, rebel rule over the Kivus reflects a high degree of continuity between the degraded pre-conflict State institutions and forms of political order that emerged in the absence of the State.⁶⁴

The RCD sought to impose order over its territory through a variety of strategies, none of which succeeded. There were a number of reasons for this, largely related to the organization's reliance on international relationships. By providing the nascent insurgency easy access to weaponry and other military resources, Rwanda and Uganda undercut the need for a prolonged period of popular mobilization. Instead, pro-Rwandan forces in the leadership advocated for a quick military victory. It was assumed that challenges to insurgent rule could be contained through coercive means alone, a strategy whose weaknesses were demonstrated after the entry of foreign powers led to a military stalemate.

But reliance on Rwandan State patronage and intra-regional trade networks are not the sole reason for the failure of the RCD's governance project. Once the invasion stalled, a variety of actors operating from within rebel territory directly challenged the insurgents, driven by a xenophobic hostility to the organization's perceived Rwandan taint.⁶⁵ Even genuine efforts by the insurgents to develop governance structures ran into complications due to the complex political landscape the group was forced to navigate. Thus, viewing the insurgency's behaviour as warlordism is insufficient. Failure to implement political order is different than promoting disorder. And while the insurgents certainly contributed to the chaos, their minimalist approach to governance did comprise two discernible goals that were in line with the command's own agenda. First, they sought to limit violent challenges to their rule and reduce other sources of disorder within the territory they controlled. And second, they sought to co-opt pre-existing administrative structures, either by

⁶³ S. Autesserre, 'Local Violence, International Indifference? Post-Conflict "Settlement" in the Eastern D.R. Congo (2003–2005)' (PhD thesis, New York University, 2006), at 71.

⁶⁴ Tull, 'The Reconfiguration', above note 62, at 8.

⁶⁵ T. Longman, 'The Complex Reasons for Rwanda's Engagement in Congo', in Clark (ed.), *The African Stakes*, above note 59, at 129–44.

replacing local administrators with rebel sympathizers or inducing local actors to support their agenda, through coercion or material benefits.

The diminution of the State under Mobutu and the emergence of an alternate political order prior to the war required the rebel leadership to develop relationships with a constellation of distinct local political actors, including the remnants of the State, private trading networks and civil society actors like churches, traditional authorities, aid organizations and human rights activists. Initially, the RCD attempted to take charge of the pre-existing bureaucratic institutions still operating in the east. Higher-ranking positions including provincial governorships were generally given to rebel loyalists. Personnel were often drawn from members of the Congolese Tutsi community, hence reinforcing the perception that the insurgency was a foreign-backed proxy of the local Rwandophone community.⁶⁶ But more often, local administrative positions were left in the hands of the same bureaucrats who manned those positions prior to the outbreak of the conflict, as long as they did not challenge the insurgency's military agenda.⁶⁷ Personnel from foreign aid organizations who had worked with both the Mobutu regime and the rebel civil administration testified that in the initial months after the invasion, the insurgents sought to reinvigorate State institutions and use them as a basis for their own governance system, with some success.

Eventually, the command recognized that these former State structures were incapable of being resuscitated, serving only as sources of patronage for local elites. Resources generated through the trade in natural resources or from foreign patrons might have productively been directed towards reviving the civil administration. However, their purpose was never to improve civilian livelihoods, but rather to pay for military expenses or line the pockets of individuals within the rebel organization. Instead, as with the situation prior to the war, bureaucrats operating in the rebel-controlled Kivus were left to their own devices to raise revenue through extraction from the local population.

Recognising the inadequacy of relying on the defunct State bureaucracy, the command sought to expand its governance project by working to co-opt the real sources of political order in the region. In the Kivus, this meant reaching out to civil society actors, including the churches, NGOs

⁶⁶ G. Prunier, 'The Catholic Church and the Kivu Conflict' (2001) 31 *Journal of Religion in Africa* 139, at 157.

⁶⁷ Tull, 'The Reconfiguration', above note 62, at 134.

engaged in human rights and developmental work, traditional authorities and unions. As discussed earlier, Mobutu's rule had created opportunities for these non-State actors to emerge as significant players in the region's social, political and economic life. Their centrality to the daily functioning of civilian life in the provinces was further bolstered in 1994 following the Rwandan genocide when huge amounts of international money flowed into the region to alleviate the refugee crisis.⁶⁸

Following the outbreak of conflict, ethnicity came to play an increasingly important role in the realm of civil society. Civil society leaders tended to resist efforts by the rebels to support the insurgent political programme and openly challenged the group's control of the region. Community leaders that I spoke to in Bukavu openly condemned the rebels, portraying the RCD as a tool of Tutsi domination and expressing harsh, stereotypical views about the broader Tutsi community in the region.⁶⁹ The rebels fared better in Goma, the capital of North Kivu, as the Rwandophone community constituted a much higher percentage of the overall population than Bukavu. Indeed, this favourable population composition helped the RCD administrators to integrate their governance efforts with local civil society actors who were more sympathetic to the struggle of the Congolese Hutu and Tutsi communities. Below, I describe in greater detail rebel negotiations over civilian governance issues with a variety of societal actors, some of whom became supporters, though many others were competitors to the rebel government.

At the forefront of all civil society actors were various religious institutions, especially the Catholic Church. The Church's prominence in eastern Congo has roots in the colonial era when it was a favoured partner of the Belgian colonial regime. Under Mobutu, the relationship between Church leaders and the central government was often contentious. But the weakness of the Congolese State allowed the Church to emerge as a powerful social and economic force in many parts of the country. Often organized into an elaborate structure with multiple technical departments, churches filled in for the absence of State authority in providing public goods such as health, education and other developmental services.⁷⁰ Churches from all denominations were also the most

⁶⁸ H. Romkema, 'An Analysis of the Civil Society and Peace-Building Prospects in the North and South Kivu Provinces, Democratic Republic of Congo' (Bukavu DR Congo: Life & Peace Institute, 2001) 36.

⁶⁹ Longman, 'The Complex Reasons', above note 65.

⁷⁰ Prunier, 'The Catholic Church', above note 66, at 156.

important employers in the region with each provincial office often hiring hundreds or thousands of salaried employees.⁷¹

Recognising that the churches were a potential rival centre of power, the rebel command initially hoped to co-opt church leaders into its governance efforts.⁷² The fact that several prominent church leaders (Monsignors) in and around Goma were of Rwandophone descent gave the group some initial success and led many to question the loyalties of the churches.⁷³ However, the churches were also divided. And other Monsignors were more supportive of indigenous groups, including the powerful leaders of the Catholic Church in Bukavu, generally considered the 'most important site of resistance [to rebel rule] in South Kivu', in the words of one aid official who worked in the region at the time. In fact, the ethnic sympathies of Christian leaders often came to the fore when they discussed their opinion of the RCD-Goma, and several prominent church leaders, including the powerful Monsignor Monsengwo Pasinya of Kisangani, a leading figure of the anti-Mobutu opposition, openly attacked the insurgency in a variety of national and international forums.

The command's awkward attempts to pressure religious leaders into supporting the insurgency's governance project not only failed to co-opt these institutions but also exacerbated civilian resentment for what was rightly perceived as meddling by the insurgents. In response, the organization was forced to extricate itself from interference in the affairs of the churches, thereby returning them to the position they occupied prior to the conflict – that is, a source of social and economic stability with an antagonistic relationship to the local political authority – in this case, the RCD government.

The rebellion had more success with their attempts at co-opting 'tribal' authorities in the East. *Bami* (or traditional chiefs) were empowered throughout Congo's history by State authorities seeking to project their dominion across the country. *Bami* were thus habituated to accommodating a wide variety of political regimes that came to power in Kinshasa. Indeed, in regional capitals like Goma and Bukavu, *Bami* often found ways to manipulate the political authority to bring greater material benefits to their constituents. Insurgent leaders adopted the Mobutuist strategy of inducing cooperation among the traditional authorities through a mix

⁷¹ Tull, 'The Reconfiguration', above note 62, at 253.

⁷² Human Rights Watch, 'Eastern Congo Ravaged: Killing Civilians and Silencing Protest' 12 (3A) (New York: Human Rights Watch, May 2000).

⁷³ Romkema, 'An Analysis of the Civil Society', above note 68, at 44.

of coercion and material incentives. Bami served a number of functions for the rebel leadership, including raising material support and recruits for the rebels and helping the group extend its authority into remote rural areas. They also helped collect information on other armed groups operating in the Kivus.⁷⁴ Thus, claiming their support was an important strategy for the insurgent leaders. To this end, in September 2001, the organization held an Inter-Kivutien Dialogue with an agenda of forcing traditional leaders to recognize its authority. During this meeting, a number of Bami were forcibly recruited into the rebel group.⁷⁵

In cases where the Bami proved more recalcitrant, the insurgents would interfere in chiefly succession disputes with the intention of installing more sympathetic leaders. Unlike the Church, which could always call on transnational networks to publicize any harassment by the rebel army, traditional authorities had only two options for refusing the organization's overtures: they could either flee the area or resist violently. Many chose the latter option, especially those representing autochthonous groups, often forming alliances with the Mai-Mai militias in the region to challenge rebel rule, frequently with considerable success.⁷⁶

The insurgency's attempts to forcibly co-opt societal actors extended to the ethnicized realm of NGOs. The organization early on saw the value of winning over personnel from the Kivus's dynamic civil society sector, hoping to piggyback off their significant influence in the urban areas. In both North and South Kivu, the organization relied on a familiar mix of sticks and carrots to induce support, or, at the least, to limit the challenge such actors could pose. It is important to distinguish between two categories of NGOs operating in the Kivus. On the one hand, there were the local branches of international humanitarian organizations engaged in relief and development work, such as World Vision and Médecins Sans Frontières (MSF), the presence of which escalated significantly following the migration of Rwandan Hutus to the region in 1994.⁷⁷ On the other hand were human rights organizations such as the Pole Institute in Goma or Héritiers de la Justice and the Initiative Congolaise pour la Justice et

⁷⁴ Tull, 'The Reconfiguration', above note 62, at 145–47.

⁷⁵ P. Englebert, 'Why Congo Persists: Globalization, Sovereignty, and the Violent Reproduction of a Weak State' (Queen Elizabeth House Working Paper No. 95, Oxford University, 2003).

⁷⁶ S. Jackson, 'Sons of Which Soil? The Language and Politics of Autochthony in Eastern D.R. Congo' (2006) 49 *African Studies Review* 95.

⁷⁷ S. K. Lischer, *Dangerous Sanctuaries: Refugee Camps, Civil Wars, and the Dilemmas of Humanitarian Aid* (Ithaca: Cornell University Press, 2005).

la Paix in Bukavu, which worked alongside international organizations like Human Rights Watch and had engaged in peace and democracy work in the region prior to the outbreak of conflict. Mirroring their respective positions vis-à-vis the debate on political neutrality, organizations that engaged in relief and development work had a more congenial relationship with the rebels than groups advocating human rights, whose personnel were often targeted for harassment.

Staff from relief and development organizations described their relationship with the insurgent civil administration as cordial, though they were aware of the politicized nature of their interactions and were accustomed to bribing the rebels with cash or other material items.⁷⁸ The insurgent command recognized the benefits of attracting such NGOs to their territory. For example, in a 2001 interview, the RCD-Goma Minister for Territorial Administration, Joseph Mudumbi, proclaimed: 'In our area, humanitarian agencies have always been free to work... We are doing what we can to facilitate the agencies because our people need help'.⁷⁹ Such organizations were expected to provide details to the rebellion about the work they intended to do so that the civil administration could regulate their behaviour.⁸⁰

Informants related to me the ways in which the insurgents sought to channel aid to communities perceived as sympathetic to the insurgent cause, granting operating permission to NGOs only if they were willing to direct aid to these areas. Consistent with this logic, the rebel government did not hesitate to place restrictions on aid organizations operating in areas sympathetic to its perceived competitors, such as areas under the control of various Mai-Mai militias. However, in order to avoid accusations of favouritism and in order to maintain the façade that the civil administration was pro-development, the rebels would not restrict aid groups openly. Rather, they had a number of strategies to subvert their work. For example, noncompliant organizations would frequently be targeted with strategic checkpoints designed to impede mobility to certain areas. Or the rebels would simply refuse to provide security to areas perceived as non-supportive. More threateningly, the insurgency would

⁷⁸ UN, 'Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo' (New York: United Nations, 2002).

⁷⁹ D. Gough, 'Congo War Blamed for 2 1/2 Million Deaths', *San Francisco Chronicle*, 5 May 2001.

⁸⁰ Human Rights Watch, 'Eastern Congo Ravaged', above note 72.

engage in anonymous raids of aid resources that could not be traced back to a rebel cadre.

The relationship between human rights organizations and the rebellion exhibited considerably less congeniality. The leadership was acutely aware of the importance of these organizations in shaping opinions about the RCD-Goma in the international arena. Furthermore, many advocacy groups were actively tied into transnational human rights networks that sought to document the behaviour of the insurgency in ways that the command accurately assessed to be detrimental to its image.⁸¹ Therefore, within areas clearly under its control, the organization often sought to restrict the activities of human rights activists. The insurgent command put into place travel restrictions on personnel from local advocacy groups in order to limit their interaction with colleagues in the West. This limited the fundraising and advocacy activities of local activists, both locally and abroad.⁸² The insurgents also attempted to avoid perpetrating violence openly in urban areas under its control, preferring instead to use coercion away from the international spotlight, mostly in rural areas where human rights activists, both local and international, were less likely to go.

The NGO world was divided ethnically, and certain organizations did overtly align with the rebel leadership. This was more common in North Kivu where the demographic strength of the Rwandophone community meant that local Tutsis commonly played a role within various civil society organizations. In South Kivu, the demographic weakness of the Banyamulenge community allowed hostile civil society organizations to largely exclude the RCD-Goma from making inroads.

Considering the convoluted nature of the RCD-Goma's civilian governance efforts, it is hard to draw clear lines between the insurgency and the provision of even minimal services in the Kivus during the war. From the emergence of a second rebellion in 1998 to the official end of the war in 2002, when control of several non-strategic public services passed back to the central government in Kinshasa,⁸³ the organization did develop a civil administration divided between specific departments of education, health, social affairs and so on. Other departments such as taxation, security and immigration remained under rebel control even after the 2002 agreement. Ultimately, education and healthcare remained the preserve of religious and charitable institutions with little involvement from

⁸¹ Romkema, 'An Analysis of the Civil Society', above note 68.

⁸² Human Rights Watch, 'Eastern Congo Ravaged', above note 72.

⁸³ Autesserre, 'Local Violence', above note 63, at 123.

the insurgent government. More successfully, the insurgency did provide some degree of public order by working with traditional authorities and religious institutions to engage in a number of conflict reduction efforts.

9. Conclusion

How can international humanitarian law be leveraged to improve insurgent civilian governance efforts? Deeper engagement up to and including limited recognition of insurgent governance systems should be considered by those concerned with improving the welfare of populations trapped within contemporary conflict zones. However, as discussed in the framework, efforts to engage are particularly fraught as human rights interventions may have both positive and negative effects on civilian welfare. As challengers to the rebel claim of representing civilian interests, insurgencies may view international humanitarian law advocates as competitors in the war for hearts and minds and respond negatively. More positively, rebellions that make efforts to ensure civilian welfare by providing effective civilian governance appreciate and even solicit the attention of human rights actors for their initiatives. For example, encouraged by human rights advocates, the National Transitional Council in Libya publicly embraced the Geneva Conventions – an action that provided a mechanism by which to hold the organization accountable to international humanitarian law.

Not every or even most insurgencies warrant engagement or recognition. A deeper understanding of the civilian governance systems of rebel organizations is thus an important starting point for disaggregating those that deserve attention from those that are beyond the pale. In this context, the behaviour of Congolese insurgent groups regarding civilian governance is especially instructive due to the widespread vision of these groups as particularly heinous examples of warlordism. As the above discussion demonstrates, many of these groups did make sustained attempts to deal with governance issues, efforts that may have proved more effective with the right inducements from international actors.

Intervening effectively requires that human rights advocates adopt an independent position vis-à-vis non-State armed groups and enter into domestic conflicts with nuance and sophistication, conditions that have yet to be realized. The challenge is that while international humanitarian law is an evolving concern, it has yet to truly disconnect itself from the interests of States. And States are unlikely to appreciate the value (in terms of civilian welfare) of granting recognition to certain insurgents that meet

a minimum threshold of civilian governance. The reality is that States, concerned with empowering domestic rivals, are unlikely to support – and are likely to actively prevent – efforts to extend even minimal advantages to insurgent organizations. Formally engaging rebel governance systems as a mechanism for ensuring civilian welfare would grant them the opportunity to openly engage with international society in ways that State governments have been loath to do and may actively resist. Still, advocates of international humanitarian law should centre civilian welfare as their primary focus and motivating force, even if they may find themselves caught uncomfortably between resentful State governments and opportunistic rebellions seeking to leverage their international relationships as a result.