

Organised Crime Groups, Criminal Agendas, Violence and Conflict: Implications for Engagement, Negotiations and Peace Processes¹

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Summary

Organised criminal groups have perpetrated violence in some contexts to a scale resembling experiences of war. Linkages between serious organised crime (SOC), politics, and violent conflict are well established. Negotiating with organised crime groups and addressing criminal agendas in peace processes has become a reality. Yet, there is little guidance on when negotiation may be preferable; on how to negotiate or mediate with actors benefiting from illicit economies; and on factors that influence the outcomes of these processes and the implementation of agreements. A siloed approach to research and practice has contributed in large part to this deficiency. Peace and conflict studies have focused on political violence, with limited examination of criminal violence.³ Political science literature tends to exclude the study of organised crime, often viewed as disconnected from politics.⁴ This briefing note summarises an evidence review paper that seeks to address this gap on addressing SOC and negotiating with criminal actors during peace processes, adopting a cross-disciplinary approach.

Negotiation can be a necessary approach when criminal groups have strong territorial control, serving as de facto authorities. Organised crime groups that have strong internal cohesion and hierarchical leadership are also more likely to be considered potential partners in negotiation. At the same time, negotiators and mediators need to mitigate the risks of moral hazard and the strengthening of criminal groups through negotiation. The evidence review reveals the constant delicate balance required in addressing organised crime and negotiating with SOC actors in peace processes. Seeking guidance and garnering lessons from prior experiences and other disciplines is essential – a key aim of this research.

- 1 For the full research paper see Haider, H. (2023). *Organised Crime Groups, Criminal Agendas, Violence and Conflict: Implications for Engagement, Negotiation, and Peace Processes*. SOC ACE Research Paper No. XX. Birmingham, UK: University of Birmingham.
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- 3 Ferreira, M. A., & Richmond, O. P. (2021). Blockages to Peace Formation in Latin America: The Role of Criminal Governance. *Journal of Intervention and Statebuilding*, 15(2), 161-180. <https://doi.org/10.1080/17502977.2021.1878337>; Freeman, M., & Felbab-Brown, V. (2021). *Negotiating with violent criminal groups: Lessons and guidelines from global practices*. Institute for Integrated Transitions. <https://ifit-transitions.org/publications/negotiating-with-violent-criminal-groups/>; Rahman, E., & Vuković, S. (2019). Sympathy for the Devil: When and How to Negotiate with Criminal Gangs – Case of El Salvador. *Studies in Conflict & Terrorism*, 42(11), 935-952. <https://doi.org/10.1080/1057610X.2018.1430654>
- 4 Barnes, N. (2017). Criminal Politics: An Integrated Approach to the Study of Organized Crime, Politics, and Violence. *Perspectives on Politics*, 15(5), 967-980. <https://doi.org/10.1017/S1537592717002110>

Background

There is growing recognition that peace processes need to recognise and deal with organised criminality as a driver of conflict and possible spoiler in peacemaking.⁵ The frequent presence of linkages between organised crime and political violence (the crime-conflict nexus), if unaddressed, could entrench organised criminal structures in the post-war state, subverting longer-term stability and democratic development.⁶ Combinations of SOC, illicit wealth and political power are especially complex to address. Law-and-order approaches have failed to resolve the problem of organised crime, particularly when actors involved in such criminality oversee policymaking or play integral roles in security and justice institutions. Repressive tactics have also been counterproductive at times, escalating violence. Out of options, state actors have turned to peace negotiations with criminal actors in situations of urban violence and in civil wars. International peace operations have also begun to recognise the need to address organised crime and

criminal agendas at the negotiating table and in stabilisation and peacebuilding missions.

There is little guidance, however, from existing research or practice on when negotiation may be preferable; on the intricacies of the process; and on factors that can contribute to the success or failure of the process and implementation of agreements. This shortfall exists in practice, with limited discussion of SOC in the guidelines and independent mission statements of peace operations, and in analytical and empirical research. The evidence review paper this briefing is based on seeks to address these gaps. It draws on a mix of scholarly and practitioner literature on organised crime in situations of urban violence and conflict – and on dialogue with organised crime actors and negotiated deals. It adopts an inter-disciplinary approach, pooling together analysis and evidence across multiple disciplines – including political science, criminology, peace and conflict studies, terrorism, non-state armed groups (NSAGs), disarmament, demobilisation and reintegration (DDR), transitional justice, and international law.

5 van der Lijn, J. (2018). *Multilateral peace operations and the challenges of organised crime*. SIPRI Background paper. https://www.sipri.org/sites/default/files/2018-02/multilateral_peace_operations_and_the_challenges_of_organized_crime.pdf; Steenkamp, C. (2022). Post-accord Crime and Violence. In Mac Ginty, R. & Wanis-St. John, R. (Eds.) *Contemporary Peacemaking* (pp. 533-562). Palgrave Macmillan, Cham. https://link.springer.com/chapter/10.1007/978-3-030-82962-9_25; Banfield, J. (2014). *Crime and conflict: the new challenge for peacebuilding*. International Alert. <https://www.international-alert.org/wp-content/uploads/2021/08/CVI-Crime-Conflict-EN-2014.pdf>

6 Pinson, L. (2022). *Addressing the linkages between illicit arms, organized crime and armed conflict*. UNIDIR. https://www.unodc.org/documents/firearms-protocol/2022/UNIDIR-UNODC_Adressing_the_linkages_between_illicit_arms_organized_crime_and_armed_conflict.pdf;

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Key findings

The three key approaches to addressing SOC and criminal actors in conflict environments and urban settings discussed most often in the literature are confrontation, accommodation (or negotiation), and transformation.

- Confrontation seeks to suppress criminals through law enforcement and militarised responses.
- Accommodation strategies aim to broker agreements with criminal groups to ensure some form of socio-political stability.
- Transformation processes seek to integrate the criminal group into the legal social order and to address socio-economic development.⁷

There is much evidence that points to the ineffectiveness of confrontation approaches in contexts of conflict and urban violence. This research reveals the importance of creating a framework for engaging with criminality and organised crime groups that extends beyond confrontation –allowing for accommodation and incorporating a wider societal change

agenda through transformation. An important insight derived from the literature is that the way in which armed groups are labelled, and the narrative created about them, can influence the approach adopted. Armed groups that are seen as political actors and as having political motivations are more likely to be considered as potential partners for peace, whereas labelling actors solely as ‘criminals’ and/or ‘terrorists’ can dictate a confrontation approach.⁸ Key findings in relation to accommodation/negotiation processes include:

Finding 1: The degree of territorial control and internal cohesion of criminal groups influences whether to negotiate.

Organised crime groups are more likely to be considered potential partners in negotiation when they have significant control over local territories and populations – filling governance and livelihood gaps and serving as *de facto* authorities with legitimacy.⁹ Criminal groups with strong internal cohesion and hierarchical leadership are also more likely to achieve control over the ‘rank and file’, such that members abide by the terms of agreements.¹⁰

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- 7 Wennmann, A. (2014). Negotiated Exits from Organised Crime Building Peace in Conflict and Crime affected Contexts. *Negotiation Journal*, 30(3), 255-273. <https://doi.org/10.1111/nejo.12060>
- 8 Matesan, I. E. (2022). Ripeness in Negotiating with Proscribed Terrorist Groups. *Ethnopolitics*, 21(2), 178-189. <https://doi.org/10.1080/17449057.2022.2004778>; van der Lijn, J. (2018). *Multilateral peace operations and the challenges of organised crime*. SIPRI Background paper. https://www.sipri.org/sites/default/files/2018-02/multilateral_peace_operations_and_the_challenges_of_organized_crime.pdf; Cruz, J. M., & Durán-Martínez, A. (2016). Hiding violence to deal with the state: Criminal pacts in El Salvador and Medellín. *Journal of Peace Research*, 53(2), 197-210. <https://doi.org/10.1177/0022343315626239>; Cockayne, J. (2013). Chasing shadows: strategic responses to organised crime in conflict-affected situations. *The RUSI Journal*, 158(2), 10-24. <https://doi.org/10.1080/03071847.2013.787729>
- 9 Ferreira, M. A., & Richmond, O. P. (2021). Blockages to Peace Formation in Latin America: The Role of Criminal Governance. *Journal of Intervention and Statebuilding*, 15(2), 161-180. <https://doi.org/10.1080/17502977.2021.1878337>; Felbab-Brown, V. (2020). *Bargaining with the Devil to Avoid Hell. A Discussion Paper on Negotiations with Criminal Groups in Latin America and the Caribbean*. Institute for Integrated Transitions. <https://ifit-transitions.org/wp-content/uploads/2021/02/Negotiations-with-criminal-groups-in-Latin-America-and-the-Caribbean.pdf>; Cockayne, J., de Boer, J., & Bosetti, L. (2017). Going Straight: Criminal Spoilers, Gang Truces and Negotiated Transitions to Lawful Order. United Nations University (UNU). https://collections.unu.edu/eserv/UNU:6426/Going_straight.pdf; Kemp, W. A., & Shaw, M. (2014). *From the margins to the mainstream: Toward an integrated multilateral response to organized crime*. Washington, DC: International Peace Institute. https://ciaotest.cc.columbia.edu/wps/ipi/0032296/f_0032296_26288.pdf
- 10 Freeman, M., & Felbab-Brown, V. (2021). *Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practices*. Institute for Integrated Transitions. <https://ifit-transitions.org/publications/negotiating-with-violent-criminal-groups/>; Felbab-Brown, V. (2020). *Bargaining with the Devil to Avoid Hell. A Discussion Paper on Negotiations with Criminal Groups in Latin America and the Caribbean*. Institute for Integrated Transitions. <https://ifit-transitions.org/wp-content/uploads/2021/02/Negotiations-with-criminal-groups-in-Latin-America-and-the-Caribbean.pdf>; Rahman, E., & Vuković, S. (2019). Sympathy for the Devil: When and How to Negotiate with Criminal Gangs – Case of El Salvador. *Studies in Conflict & Terrorism*, 42(11), 935-952. <https://doi.org/10.1080/1057610X.2018.1430654>; Cockayne, J., de Boer, J., & Bosetti, L. (2017). Going Straight: Criminal Spoilers, Gang Truces and Negotiated Transitions to Lawful Order. United Nations University (UNU). https://collections.unu.edu/eserv/UNU:6426/Going_straight.pdf; Cruz, J. M., & Durán-Martínez, A. (2016). Hiding violence to deal with the state: Criminal pacts in El Salvador and Medellín. *Journal of Peace Research*, 53(2), 197-210. <https://doi.org/10.1177/0022343315626239>
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Finding 2: Internal cohesion and the long-term commitment of government can be an important factor in negotiation outcomes.

Cohesion within government signals the credible commitment of state actors to the peace process, which can encourage criminal actors to engage.¹¹ Various case studies indicate that positive outcomes of negotiation processes are constrained in the absence of political will (which can result from political fragmentation); failure of the government to deliver on socio-economic support; and lack of longer-term planning to address root causes of criminality. This may frustrate members of the criminal group, and result in their defection from the deal.¹²

Finding 3: Effective incentives and inducements are critical in influencing whether SOC actors are spoilers or supporters of peace.¹³

Incentives and inducements can promote trust among parties and confidence in the peace process and potential outcomes.¹⁴ They can include security guarantees, socio-economic and financial incentives, and legal leniency (for example, amnesty, reduced sentencing, or improved prison conditions). The

demands made on criminal actors can shape the extent of their demands and the degree to which governments may need to make larger concessions in negotiation.¹⁵ Incentives and inducements should be closely related to what criminal groups might expect to attain in the negotiation itself. As such, a key initial step should be to determine the interests and objectives that criminal groups hold and how these can be translated into a negotiating position.¹⁶

Finding 4: Transitional justice – its concepts, mechanisms, and experience – can provide useful guidance for addressing SOC and engaging with criminal actors.

Key issues integral to transitional justice, such as the role of legal leniency and the need to balance victim and perpetrator interests, are also important in negotiation with organised criminal groups. A criminal group's demands for legal leniency tend to be higher when they are expected to demobilise and disarm.¹⁷ The risk of public backlash for legal leniency has resulted in the drawing of 'red lines' (for instance, no amnesty for particular crimes) and efforts to attach conditionalities that serve the needs of victims (such as a requirement for truth-telling, apology or material reparation).¹⁸

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- 11 Cruz, J. M., & Durán-Martínez, A. (2016). Hiding violence to deal with the state: Criminal pacts in El Salvador and Medellín. *Journal of Peace Research*, 53(2), 197-210. <https://doi.org/10.1177/0022343315626239>
- 12 Freeman, M., & Felbab-Brown, V. (2021). *Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practices*. Institute for Integrated Transitions. <https://ifit-transitions.org/publications/negotiating-with-violent-criminal-groups/>; Felbab-Brown, V. (2020). *Bargaining with the Devil to Avoid Hell. A Discussion Paper on Negotiations with Criminal Groups in Latin America and the Caribbean*. Institute for Integrated Transitions. <https://ifit-transitions.org/wp-content/uploads/2021/02/Negotiations-with-criminal-groups-in-Latin-America-and-the-Caribbean.pdf>
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- 14 Matesan, I. E. (2022). Ripeness in Negotiating with Proscribed Terrorist Groups. *Ethnopolitics*, 21(2), 178-189. <https://doi.org/10.1080/17449057.2022.2004778>
- 15 Freeman, M., & Felbab-Brown, V. (2021). *Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practices*. Institute for Integrated Transitions. <https://ifit-transitions.org/publications/negotiating-with-violent-criminal-groups/>
- 16 Freeman, M., & Peña, M. C. (2022). Negotiating with organized crime groups: Questions of law, policy and imagination. *International Review of the Red Cross*, 1-14. <https://doi.org/10.1017/S1816383122000649>; Rahman, E., & Vuković, S. (2019). Sympathy for the Devil: When and How to Negotiate with Criminal Gangs – Case of El Salvador. *Studies in Conflict & Terrorism*, 42(11), 935-952. <https://doi.org/10.1080/1057610X.2018.1430654>
- 17 Freeman, M., & Felbab-Brown, V. (2021). *Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practices*. Institute for Integrated Transitions. <https://ifit-transitions.org/publications/negotiating-with-violent-criminal-groups/>
- 18 Espindola, J. (2021). Bargaining for the disappeared? Rewarding perpetrators in transitional justice contexts. *Journal of Social Philosophy*, 53(2), 273-288. <https://doi.org/10.1111/josp.12400>; Felbab-Brown, V. (2020). *Bargaining with the Devil to Avoid Hell. A Discussion Paper on Negotiations with Criminal Groups in Latin America and the Caribbean*. Institute for Integrated Transitions. <https://ifit-transitions.org/wp-content/uploads/2021/02/Negotiations-with-criminal-groups-in-Latin-America-and-the-Caribbean.pdf>; Slye, R. C. (2020). *Transitional justice and violent extremism: An original policy framework*. Institute for Integrated Transitions. <https://ifit-transitions.org/wp-content/uploads/2021/03/Transitional-Justice-and-Violent-Extremism-An-Original-Policy-Framework.pdf>; Tellez, J. F. (2019). Peace agreement design and public support for peace: Evidence from Colombia. *Journal of Peace Research*, 56(6), 827-844. <https://doi.org/10.1177/0022343319853603>

Finding 5: Negotiators and mediators need to recognise and mitigate the risks of strengthening criminal groups, moral hazard, and public backlash.

Negotiation with organised criminal groups risks giving (political) legitimacy to them or emboldening them and others to engage in criminal activities and/or to ramp up violence, or the threat of violence, to obtain concessions (moral hazard).¹⁹ A lack of broad public support for negotiating with criminal groups, noted in much of the literature, can undermine and destroy such processes. Many negotiations thus tend to occur in secret, which can lessen the risk of destabilising public backlash and allow for a protected space for trust and confidence-building among parties. A key risk with secret talks, however, is that they can exclude important actors. In addition, the lack of transparency can fuel conspiracy theories about state collusion with criminal actors and undermine the legitimacy of the process and public support.²⁰ In some cases, truces were initially negotiated in secret with plans to bring in the public and promote accountability at a later stage.

Implications

This review of the evidence aims to offer useful guidance, and prompts for continued discussion, on addressing criminal agendas and negotiating with SOC groups in peace processes. Key considerations for policymakers and practitioners in navigating the delicate balance required include:

Observation 1: The need for conflict sensitivity, preparation, and planning.

The research demonstrates that addressing criminal agendas is highly controversial and political. Policymakers and practitioners need to apply conflict sensitivity and be cognisant of all the potential effects, including harmful ones. Further, negotiations with criminal groups are unlikely to result in complete resolution of the criminal agenda.²¹ While pacts with criminal groups promote violence reduction, they may not address the reduction or elimination of all criminal activity – resulting in the rise of other crimes, such as extortion; the displacement of violence; or the emergence of new criminal

- 19 Katz, C. M., Harriott, A., & Hedberg, E. C. (2022). Mediating Violence in Jamaica Through a Gang Truce. *International Criminal Justice Review*, 32(2), 129-150. <https://doi.org/10.1177/1057567720975631>; Martínez-Reyes, A., & Navarro-Pérez, J. J. (2021). The effects of the gang truce on Salvadoran communities and development agents. *International Social Work*, 64(6), 959-974. <https://doi.org/10.1177/0020872820901765>; Felbab-Brown, V. (2020). *Bargaining with the Devil to Avoid Hell*. A Discussion Paper on Negotiations with Criminal Groups in Latin America and the Caribbean. <https://ifit-transitions.org/wp-content/uploads/2021/02/Negotiations-with-criminal-groups-in-Latin-America-and-the-Caribbean.pdf>; Slye, R. C. (2020). *Transitional justice and violent extremism: An original policy framework*. Institute for Integrated Transitions. <https://ifit-transitions.org/wp-content/uploads/2021/03/Transitional-Justice-and-Violent-Extremism-An-Original-Policy-Framework.pdf>; van der Borgh, C., & Savenije, W. (2016). *The truce between the Mara Salvatrucha and 18th street gang in El Salvador: From opportunity to failure*. Working paper. Utrecht University. <https://doi.org/10.13140/RG.2.2.14868.50563>; Kemp, W. A., & Shaw, M. (2014). *From the margins to the mainstream: Toward an integrated multilateral response to organized crime*. Washington, DC: International Peace Institute. https://ciaotest.cc.columbia.edu/wps/jpi/0032296/f_0032296_26288.pdf; Wennmann, A. (2014). Negotiated Exits from Organised Crime Building Peace in Conflict and Crime affected Contexts, *Negotiation Journal*, 30(3), 255-273. <https://doi.org/10.1111/nej.12060>
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- 21 Arratia Sandoval, E., & Garrido Quiroz, A. (2019). Taboo or Pragmatism? Lopez Obrador's Dilemma over Drug Trafficking. *Revista de Relaciones Internacionales, Estrategia y Seguridad*, 14(1), 73-85. https://www.researchgate.net/publication/339896700_Taboo_or_Pragmatism_Lopez_Obrador%27s_Dilemma_over_Drug_Trafficking; Radovanović, N. (2018). Organised Crime as a Challenge to Transitional Justice. In *Transitional Justice in Troubled Societies* (Eds. A. Fatić et al.), Rowman & Littlefield Publishers / Rowman & Littlefield International, 101. <https://rowman.com/ISBN/9781786605887/Transitional-Justice-in-Troubled-Societies>; Cockayne, J. (2013). Chasing shadows: strategic responses to organised crime in conflict-affected situations. *The RUSI Journal*, 158(2), 10-24. <https://doi.org/10.1080/03071847.2013.787729>

actors.²² There is little evidence, however, of the kind of preparation and contingency planning common in other peace negotiation processes.²³ Proper planning to address these challenges and to advance peace processes with SOC actors toward transformative goals that address more comprehensive forms of criminality is essential.

Observation 2: The need to provide alternatives to the functionality of SOC.

Policymakers and practitioners seeking to counter organised crime need to recognise the functionality that criminality can serve – to SOC group members and the communities in which they operate. In so doing, it is important to provide incentives, inducements and general programming which fill the gaps that can be created by the transformation of SOC groups and the abandonment of criminal activity. This includes the provision of credible economic and financial opportunities, and alternative ways to fulfil a sense of identity and belonging. Such incentives

should not be seen as a question of identifying a criminal group's 'price' for peace, however, as this risks generating moral hazard. A strategy to avoid this is to construct an agenda that frames government concessions as fulfilling its obligation to develop marginalised neighbourhoods.²⁴

Observation 3: The need to address victims and alter perceptions of criminal groups.

Unless deals with criminal groups are complemented by support to victims, victims as a core constituency and the general public are unlikely to support legal leniency for SOC actors, the deal itself, or negotiation, more generally. There is also a strong need to counter public perceptions and attitudes against negotiations through strategic messaging and the promotion of alternative discourses about criminal groups. These efforts should begin early on, when discussions may be secret, such that the public is sufficiently prepared by the time dialogue is made public.²⁵

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- 22 Waugh, L. & Yousef, Z. (2022). *Organised crime and conflict: Implications for peacebuilding*. London: Saferworld. <https://www.saferworld.org.uk/resources/publications/1392-organised-crime-and-conflict-implications-for-peacebuilding->; Freeman, M., & Felbab-Brown, V. (2021). *Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practices*. Institute for Integrated Transitions. <https://ifit-transitions.org/publications/negotiating-with-violent-criminal-groups/>; Rahman, E., & Vuković, S. (2019). Sympathy for the Devil: When and How to Negotiate with Criminal Gangs – Case of El Salvador. *Studies in Conflict & Terrorism*, 42(11), 935-952. <https://doi.org/10.1080/1057610X.2018.1430654>; Cruz, J. M., & Durán-Martínez, A. (2016). Hiding violence to deal with the state: Criminal pacts in El Salvador and Medellín. *Journal of Peace Research*, 53(2), 197-210. <https://doi.org/10.1177/0022343315626239>
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- 24 Rahman, E., & Vuković, S. (2019). Sympathy for the Devil: When and How to Negotiate with Criminal Gangs – Case of El Salvador. *Studies in Conflict & Terrorism*, 42(11), 935-952. <https://doi.org/10.1080/1057610X.2018.1430654>; Bosetti, L., Cockayne, J., & de Boer, J. (2016). *Crime-proofing conflict prevention, management, and peacebuilding: A review of emerging good practice*. Occasional Paper 6, United Nations University Centre for Policy Research. https://collections.unu.edu/eserv/UNU:5850/OC_06_Crime_proofing_Conflict.pdf
- 25 Freeman, M., & Felbab-Brown, V. (2021). *Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practices*. Institute for Integrated Transitions. <https://ifit-transitions.org/publications/negotiating-with-violent-criminal-groups/>; Felbab-Brown, V. (2020). *Bargaining with the Devil to Avoid Hell*. A Discussion Paper on Negotiations with Criminal Groups in Latin America and the Caribbean. <https://ifit-transitions.org/wp-content/uploads/2021/02/Negotiations-with-criminal-groups-in-Latin-America-and-the-Caribbean.pdf>; Rahman, E., & Vuković, S. (2019). Sympathy for the Devil: When and How to Negotiate with Criminal Gangs – Case of El Salvador. *Studies in Conflict & Terrorism*, 42(11), 935-952. <https://doi.org/10.1080/1057610X.2018.1430654>; Santamaría, G. (2016). From War-Making to Peacebuilding? Opportunities and Pitfalls of an Integral Approach to Armed Social Violence in Mexico. In Unger, B., Dudouet, V., Dressler, M. & Austin, B. (Eds.) *“Undeclared Wars” – Exploring a Peacebuilding Approach to Armed Social Violence*. *Berghof Handbook Dialogue Series*, (12), 51-59. Berghof Handbook Dialogue Series No. 12-comment. https://berghof-foundation.org/files/publications/dialogue12_armedsocialviolence_complete.pdf - page=69

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