

SUSTAINABILITY AND PEACE-BUILDING: A KEY CHALLENGE

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Abstract

The overarching challenge facing the growing number of peace-building interventions undertaken by the international community is that of sustainability. This paper illustrates this proposition through a brief investigation of the situation in East Timor as the UN mission withdraws at the five-year state-building mark, and in Haiti as a ninth UN mission is established.

The paper then seeks to formulate elements of a strategy that would better attain sustainability. Adopting the view that participatory democratic governance will best ensure long-term peace, it maintains that sustainable peace-building requires a triumvirate of transformation: Transformation of the society from one that resorts to violence to one that resorts to political means to resolve conflict, requiring elite negotiation, widespread societal dialogue and reconciliation; Reform of the governance framework to ensure that as far as possible a negotiated governance arrangement between parties prevents future conflict, and the adoption of basic democratic governance; And the associated creation of meaningful institutions that will be sustainable after the mission leaves. These institutions cannot be mere shells imposed from outside, but must be bodies that are able and committed to performing their core function.

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Introduction

Peace-building represents an emerging consensus that one of the weaknesses of many of the past peace-keeping missions has been an inadequate focus on the stabilization of a state after conflict to prevent its collapse or return to conflict. Many of those missions were not able to create sustainable peace, with a high proportion of states returning to conflict when the peacekeepers withdrew, or emerging as very weak and unstable states. The current focus in the policy community is on one aspect of peace-building, namely state-building, which in this paper is taken to be a focus on the need to build or rebuild the institutions of the state.

Despite initial optimism over the potential of the state-building approach, especially following Timor-Leste's admission into the United Nations as a new democracy in 2002, there is growing recognition that this that while there needs to be a focus on creating legitimate and sustainable state institutions, strategies to achieve this have not yet been fully developed. As is evident from a brief overview of the peace-building missions in the last decade, which have to a greater or lesser extent incorporated state-building elements, the overarching challenge that these missions continue to face is sustainability of the peace once the mission withdraws.

In February last year, Haiti slipped back into chaos and despair, turning ten years of international and Haitian state-building efforts to dust. Liberia is in its second round of international intervention, after it returned to conflict last year following UN supervised elections in 1997. There is daily violence in Iraq, and ongoing instability in Afghanistan. Kosovo remains under UN administration, with uncertain future, and ongoing undercurrents of conflict as seen in March 2004 with the outbreak of violence.

This paper illustrates the fundamental challenge of sustainability through a brief review of two contrasting cases: that of Timor-Leste, generally considered a success as the UN mission withdraws at the five-year state-building mark, and that of Haiti, which has undergone extensive state-building and yet has recently required the creation of a ninth UN mission.

The paper then seeks to formulate elements for a strategy that would better attain sustainability. Ultimately, it maintains that sustainable democratization requires a triumvirate of transformation: political transformation, reform of the design of the governance framework, and the associated building of sustainable institutions through capacity transfer.

The case of Timor-Leste

Feted in May 2002 as the world's newest democracy and the UN state-building success story, Timor-Leste is already exhibiting disturbing weaknesses.¹ The UN mission in Timor-Leste is one of the most ambitious UN state-building endeavors undertaken, both in terms of the extent of sovereign authority adopted by the UN transitional authority and the scope of the state-building attempted.

Timor-Leste has progressed significantly from where it stood when the UN mission arrived in 1999. At the end of 1999, East Timor's economic, political, governance and physical structures had been largely destroyed after centuries of colonization, a decade of

occupation and struggle for independence, and the systematic destruction and violence in response to the self-determination vote on 30 August 1999. Since then, violence free elections have been held, a parliament, government and a President elected, a number of ministries and courts have been created, some reconstruction has been undertaken, a new constitution has been drafted, and the UN has slowly handed over sovereign authority to the local government.² Moreover, Timor-Leste is at present largely stable and peaceful.

However, as the UN pulls out it appears that some of these gains may be more superficial than was hoped. Recent indications raise concerns about the sustainability and effectiveness of the governance framework and institutions created. There are signs of weakness in the institutions, instances of autocratic behavior within the government, and early failures in the checks and balance mechanisms.

The rule of law is weak. At the time of independence there was practically no local legal capacity, and the judicial system in general remains severely under-developed. As Ashraf Ghani, one of the key members of the Afghanistan transitional government, recently pointed out, the indicator of a culture of rule of law “is not that the citizen is provided with access to rule of law. It is whether the rulers are subject to law.” Although the existence of extensive human rights provisions in the Constitution is one positive indication, the weakness of the courts and the fact that the government ignored the recent Court of Appeal decision determining a bill to be unconstitutional, are strong indications of a weak rule of law.

This is reinforced by the fact that key institutions required to check power (parliament, the Supreme Court, the ombudsman, the accounts court) are weak, under funded, or non-existent and they have so far not proved able to regulate executive power. As in most post-conflict environments, the effectiveness of the newly formed parliament is undermined by the parliamentarian’s relative lack of experience in drafting and debating legislation, and one party’s strong dominance in parliament. In addition, few parliamentarians read or speak Portuguese, the language in which the laws are drafted.

An additional area of concern is the clear dominance of the political arena by one political party, which undermines the nature of the democracy by removing any realistic political competition. This is exacerbated by the exclusionary instincts evidenced by the dominant party. An example of opposition intimidation occurred recently, for instance, when civil servants and police officers that attended an opposition rally were immediately called up for investigation and disciplinary action by the government. The rally took place on Saturday 6 March 2004 in Suai.

On average, thirty nine percent of states emerging from conflict return to conflict in the first five years, thirty two percent return to conflict in the following five years (Collier and Hoeffler, 2004). Thus, while the UN successfully stabilized the security situation and ensured five years of peace by its presence in East Timor, cessation of conflict in the longer term is an equally important issue. However, as discussed further below, the question of democratization is inherently linked to that of state-building and peace-building. Despite the fact that transitions to democracy have been shown to be conflict prone and destabilizing, there are currently no internationally accepted alternatives to democratic governance, and most consider that striving to become an established democracy is the best option for states emerging from conflict.. The quality of the

democracy is thus also an important aspect of any assessment of the outcome of a state-building mission, as a partial democracy has been shown to be highly unstable and seven times more likely to fail than full democracies or autocracies according to the State Failure Task Force (Goldstone et al., 2000).

According to Diamond and Morlino, the quality of a democracy turns on the strength of the rule of law, the level of political participation, the nature of the political competition, the extent of horizontal and vertical accountability, respect for civil and political freedoms, progressive implementation of greater political equality, and responsiveness to citizens (Diamond and Morlino, 2004). The review evidences that while substantial progress has been made in Timor-Leste, the sustainability of the peace-building remains in question, as democratic institutions that are fundamental to its long-term stability have not so far been created.

The case of Haiti

The last decade in Haiti has been marked by extensive international assistance and intervention, through bilateral assistance, NGOs and a multitude of UN missions. Since Aristide's return to power in 1994, the UN has participated in 8 missions with various mandates and a host of bilateral programs.³

From the first, in Haiti, the purpose of the intervention was to uphold democracy, reinstating the democratically elected president, and undertaking a program of election support and institution strengthening. Particular focus was placed on the provision of technical assistance, the reform of the police and legal system, and the disbanding of the army. The mission faced difficulties, including an insufficient long-term and well focused strategy, the lack of coordination between projects and not enough collaboration with national actors and thus weak local ownership (Hagman, 2002, Maguire et al., 1996).

On the one hand, some of the institution-building processes were successful. The efforts to create a new police force and promote human rights achieved some success, particularly through the joint UN-OAS MICIVIH mission, which started out as a human rights observer mission and evolved to include police training, human rights promotion, civic education and election monitoring. In addition, the army was disbanded, although there was little focus on reintegration.

On the other hand, however, there were key failings. The governance framework was not reformed, and the underlying divisions in society remained. The 1987 Constitution, which was adopted after the fall of the Duvalier regime, is an idealistic document, emphasizing human rights and grand plans for a participatory democracy with many regional and national elected bodies, but it bears little resemblance to the way power is exercised. Despite the attachment by Haitian people to this document as a symbol of hope, it has in fact played, and continues to play, a damaging role in the creation of sustainable peace. First, it adopts a simple majoritarian structure, both in its executive and electoral structure, which, in societies with deep divisions and little experience with democratic government, tends to lead to the tyranny of the majority (Carnegie Commission on Preventing Deadly Conflict, 1997: 100). This has in fact been the

experience in Haiti. Haiti has a long history of a winner-takes-all political culture, rapacious political elites, and a deeply divided society, and these factors continue to undermine peace and democracy. Practically every political change in Haiti has been accompanied by violence, and followed by political purges, and the political class remains largely disconnected from the general populace.

Moreover, there remains a dramatic divergence between the reality of who holds power – including local power structures, and informal institutions – and the formal institutions created both through the Constitution and the internationally assisted state-building process. As a result, the formal governance framework and institutions have been unable to mediate the grievances, divisions, and damaging political culture, and the peaceful transfer of power.

Uncertainty in the constitutional provisions on elections has also provided a flash point for violence following the 2000 elections, the results of which were contested by the opposition. In addition, the dissolution of the army was never ratified through constitutional amendment and thus former members of the military continue to argue that they have been dismissed illegitimately which contributes to the ongoing instability.

In February 2004, instability in Haiti became unmanageable and the state re-descended into violence with a massive breakdown of law and order. President Aristide resigned on 29 February 2004 and Haiti can once again be considered a failing state. The police force disintegrated, most prisoners were released and most of the structural improvements undertaken by the international community since 1994 were destroyed during the insurgency.⁴ The former military is currently in control of various regions, and is seeking its reinstatement.

Therefore, despite some success with technical state building in Haiti, with a focus on elections, institutional and capacity building, the state collapse and return to violence earlier last year reversed any advances achieved. Key underlying causes for conflict in the society were not addressed. This undermined the ability to implement the state-building changes envisioned (for example obstruction by Aristide when changes were not in line with his interest, and inability to establish a culture of rule of law), and ultimately destroyed any progress. Moreover, the failure to reform the governance framework contributed to the instability. Ultimately, the experience in Haiti suggests that unless the political environment and governance framework are addressed, even successful capacity building of institutions will have limited sustainability.

Facing the challenge of sustainability

It is evident that state-building is an extremely complex and time consuming task, and the challenges it faces have been reviewed by a number of researchers and policy experts. See eg (Fukuyama, 2004) (Samuels and Einsiedel, 2004), (Paris, 2004), (The Commission on Post-Conflict Reconstruction, 2003), (Collier, 2003), (Dahrendorf, 2003). Common critiques include inadequate strategy and a lack of coordination, staffing weaknesses, and that funding is insufficient or poorly timed. Moreover, it is increasingly recognized that many of the tasks sought to be achieved are extremely complex and there is little clarity on how to best proceed. For instance, it is extremely difficult to provide security in a conflictual environment, or to disarm, demobilize and reintegrate armies successfully. It remains practically impossible to address vast unemployment in states

where the economy is destroyed and there is high illiteracy, or to strengthen the rule of law in a society where it has collapsed. Moreover, the unintended negative consequences of international aid are more and more evident. These range from distortion of the economy to skewing relationship of accountability by the political elite towards internationals rather than domestic population.

Even in those instances where security has been established, state-building has generally not successfully created sustainable institutions and largely has resulted in cosmetic political change. There is pressure to rapidly hold elections, declare successes, and withdraw. However, experience in various countries shows that the combative nature of multi-party democratic elections following too closely on the end of conflict can entrench the divisions that led to violence in the first place. Moreover, in immature democracies, the institutions required to hold governments accountable are frequently too weak to play a meaningful role, thus jeopardizing long-term stability.

In my view, to be sustainable, post-conflict peace-building requires a triumvirate of transformation: Transformation of the society from one that resorts to violence to one that resorts to political means to resolve conflict, requiring elite negotiation, widespread societal dialogue and reconciliation; Reform of the governance framework to ensure that as far as possible a negotiated governance arrangement between parties prevents future conflict, and democratic governance is adopted; And the creation of institutions that will be sustainable after the mission leaves. These institutions cannot be mere shells imposed from outside, but must be bodies that are able and committed to performing their core function.

1. Addressing the underlying reasons for conflict in society and initiating fundamental political change

Conflict cessation without modification of the political environment, even where state-building is undertaken through a technical focus on elections, institution or capacity building seems doomed to failure. As Amos Sawyer, former President of Liberia, recently commented about the process in Liberia: “The state we produced turned out to be a criminal state, legitimized by elections”. The kind of state created through the process is of key importance. Recreation of a predatory or shadow state will ultimately lead to a return to conflict. At the same time, there must be a sustained effort to address underlying grievances.

Transformation of the society from one that resorts to violence to one that resorts to political means to resolve conflict is a key requirement, which turns on elite negotiation, and widespread societal dialogue and reconciliation.

Ultimately, changes to the political culture and society must come from within, but the international community can encourage and initiate such changes, through strategies which allow a greater inclusivity and openness in the political dialogue, and greater representation of different interests and points of view in the decision making process. The international actors should therefore facilitate multi-constituency dialogues and encourage participatory processes, as well as providing options and expertise.

2. Governance reform

However, political transformation without the reform of the governance framework will not suffice either. While an appropriate governance framework may not always result in stable peaceful states, a poor governance framework generally does undermine the sustainability of the peace. They can exacerbate fault lines in society and divisions and tensions, entrench conflict generating electoral or governance models, or provide a basis for contest of the government, as seen in Haiti in relation to the dissolution of the army.

This paper takes as its starting point the view that democracy is the most appropriate governance model to resolve civil conflict and prevent its recurrence. Despite the increased instability and vulnerability to conflict during transitions to democracy (Snyder, 2000), democracy remains the best option for long-term conflict cessation. Democracies are more stable than autocracies in the long term (Hegre et al., 2001) and democratic institutions provide greater opportunity for non-violent resolution of conflict. Democratic institutions are considered to promote open and fair competition for power on the basis of popular vote, promote the accountability of governments, and provide a forum for rational discussion of political problems and settlement of conflicting social interests (Bastian and Luckham, 2003), (Gurr and United States Institute of Peace., 2000).

In addition, the quality of the democracy is also a key aspect of the sustainability of the peace, as the findings of the State Failure Task Force establish that partial democracies are seven times more likely to fail than full democracies or autocracies (Goldstone et al., 2000).

Thus, reform of the governance framework must ensure that as far as possible a negotiated governance arrangement between parties addresses or overcomes the grievances that led to war in the first place to minimize the chances of a return to conflict, and that basic democratic governance is entrenched. Governance institutions and political rules of the game that are consistent with a democratic state, and minimize the potential for conflict must be developed.

The electoral and governance framework of the state should be reviewed and amended to address deep-seated divisions and access to resources or other reasons for conflict. The new framework must encourage a more cooperative power-sharing governmental model, with genuine checks and balances on abuse of power. Particular care should be paid to the incentives to follow these arrangements and strategies to encourage compliance and enforcement.

The process adopted in undertaking the reform will impact both on the sustainability and legitimacy of the governance framework and institutions created. The aim must be to encourage national dialogue and public participation in seeking solutions to the underlying divisions, and shaping the mandate and policy framework for the future governance of the state. This can help to ensure that the choices benefit the public more widely and are a part of an overall transformation of the root causes of the conflict.

Finally, it is important to avoid a climate of unregulated executive power, which will ultimately undermine the stability and legitimacy of the new state. The role of the international community after a domestic government is elected is a delicate matter. It is clear that the new government is the legitimate representative of the people and must have the freedom to make political and policy decisions. However, at the same time, the

dominance of the executive during the early years of such a transition over any of the checks and balances and accountability mechanisms are a cause for concern.

Ashraf Ghani recently argued that the best way to conceptualize the situation is that of a double compact: “A compact between rulers and their people and a compact between the government and the international community. And this must be framed in a context of a series of achievable benchmarks”.

In terms of the compact between the government and the international community, one of the benchmarks could be the expectation that domestic government will abide by the Constitution negotiated as part of the transition. Accordingly, the international community could be expected to take a more proactive approach to ensuring that any new government acts in accordance with its constitutional obligations. This is particularly important given the inherent weaknesses of new institutions during a state-building transition, which can substantially undermine the quality of the democracy that emerges.

International monitoring of elections is already widely accepted. The international community can also play a role in enforcement through the placing of international judges on the benches of constitutional courts. In Bosnia Herzegovina, for instance, the Court includes three international judges appointed by the President of the European Court of Human Rights to avoid ethnic deadlock.⁵ Other influences can derive from the requirements for joining economic organizations, fiduciary type conditionalities built into multi-donor trust funds. In Europe, EU pressure and joining standards is considered to have played an important role in shaping the post-communist eastern European states and encouraging the adoption of human rights standards (Ottaway, 1994), (Papagianni, 2003).

3. Capacity building and the creation of sustainable institutions

In addition to reform of the governance framework, particular care must be paid to the creation or strengthening of the associated institutions. These institutions cannot be mere shells imposed from outside, but must be bodies that are able and committed to performing their core function. This has proved to be a difficult challenge and one that requires a multi-faced long-term strategy.

In many of the cases where institutions have been built based on outside models and international assistance, the institutions are weak or even mere facades. The challenge is how to encourage and assist the growth of institutions that are able to perform the key functions considered critical to ensure legitimate and peaceful states, and are appropriate to the conditions without being unrealistically ambitious.

Institutions that are sustainable and sufficiently robust to deal with the vicissitudes of human nature and political activity – be it struggles for power, criminal behavior, corruption, violence, or merely lack of experience – cannot be built rapidly. This is no surprise. It takes fifteen years to train a senior judge, and at least as long to anchor new institutional or political cultures – especially following a legacy of oppression, or damaging institutional culture.

Thus, it may be necessary to maintain international expertise and assistance in key institutions until local capacity can be developed. The mission should plan to run a minimal core set of functions (security, basic law and order and justice, and the financial system) until there is appropriate local capacity. During this transition, the focus should

be on developing a longer term and more coherent strategy for the building of state institutions. This strategy must be appropriate to the level of development of the state, and it would be useful to involve experts from non-conflict states at similar levels of development to determine what is realistic. Moreover, it is essential that the institution building strategy be developed in a collaborative fashion with the local community in order to develop solutions that are better adapted to the local conditions and ensure sustainability.

Finally, the institutions must be staffed with competent individuals. Building capacity is a difficult task. A recent report of the civilian training conducted in Timor-Leste concluded that it is “not realistic to accomplish capacity development in a civil society program within a four to five year period.” (Gallagher, 2004) Thus, careful planning of how capacity building will be achieved, including setting out the steps and benchmarks for the creation of such institutions and the training of their personnel, is required. Moreover, the expert advisors and trainers must be better trained themselves; since it is increasingly evident that being an expert in a field does not necessarily provide the skills required to transfer that expertise.

Notes

¹ This assessment arises from field research in Timor-Leste and many interviews conducted in Timor-Leste, Sydney, Canberra, Washington and New York in April 2004.

² The United Nations Transitional Administration in East Timor (UNTAET) was established on 25 October 1999 with an explicit state-building mandate. UNTAET handed over control of the territory to the government of an independent Democratic Republic of Timor-Leste on 20 May 2002, and Timor-Leste was accepted into the United Nations on 27 September 2002. The United Nations Mission of Support in East Timor (UNMISSET) replaced UNTAET on 20 May 2002. Its mandate was to assist key state-building and provide interim law enforcement and public security. This phase of UNMISSET lasted until 20 May 2004, when all policing and external security was handed over to the government. The final phase of the mission was constituted of a substantially reduced UNMISSET mission with no executive authority. This mission will end on 20 May 2005.

³ MICIVIH (Human rights monitoring) UNMIIH (Security and Military training), UNMIIH (Peacekeeping, state-building and elections) UNSMIIH (Training, technical assistance), UNTMIIH (Training, technical assistance), MIPONUH (police mission training and technical assistance), MICAH (Training, technical assistance), MINUSTAH (Peacekeeping and State-building, elections).

⁴ See for instance the report by Gerard Pierre-Charles presented at ISPOS conference: *Crise de L'état et Intervention Internationale en Haiti*. The Group of 184 claims that the OAS mission has spent 18 months and over 6 million dollars without obviously advancing democracy. See letter from Mr Barbier, Executive Secretary, Group 184 to Ambassador Luigi Enaudi, Assistant Secretary General, OAS on December 2 2003, Port au Prince. In 1995, an Emergency Economic Recovery Program was presented and 1.2 Billion was pledged to support it. 83 Million in debt to the IFIs had already been forgiven: Maguire, R., Balutansky, E., Fomerand, J., Minear, L., O'Neil, W., Weiss, T. and Zaidi, S. (1996) *Haiti Held Hostage: International Responses to the Quest for Nationhood*, Brown University, Providence. at 72.

⁵ In Bosnia the nine member court has four members who are selected by Federation House of Representatives and two members selected by the Republika Srpska National Assembly. To prevent ethnic deadlock in adjudication, the remaining three members of the court must be non-citizens, are selected by the President of the European Court of Human Rights 'after consultation with the Presidency' and cannot be citizens of any neighboring country. Two international judges sit on the East Timor Court of Appeal.

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