



**Geneva Centre for the Democratic Control of
Armed Forces (DCAF)**

Occasional Paper - № 10

**Good Governance Beyond Borders:
Creating a Multi-level Public Monopoly of Legitimate Force**

Herbert Wulf

Geneva, April 2006

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List of Acronyms

ASEAN	Association of South-East Asian Nations
AU	African Union
BICC	Bonn International Center for Conversion
BMS	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (Ministry for Economic Co-operation and Development)
DCAF	Geneva Centre for the Democratic Control of the Armed Forces
DDR	Demobilisation, demilitarisation, and reintegration of ex-combatants
DFID	Department for International Development
DRC	Democratic Republic of Congo
ECOWAS	Economic Community of West African States
EU	European Union
ICR	International Crisis Group
INTERFET	International Force East Timor
ISAF	International Security Assistance Force
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corp
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental Organisation
OAS	Organisation of American States
OAU	Organisation of African Unity
OECD	Organisation for Economic Co-operation and Development
OECD/DAC	OECD/Development Assistance Committee
OIC	Organisation of the Islamic Conference
OSCE	Organisation for Security and Co-operation Europe
PRT	Provincial Reconstruction Teams
PISG	Provisional Institutions of Self Government of Kosovo
SADC	Southern African Development Community
SIPRI	Stockholm International Peace Research Institute
UN	United Nations
UNAMET	United Nations Mission in East Timor
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNHLPT	United Nations High-level Panel on Threats, Challenges and Change

UNIASC	United Nations Inter-Agency Standing Committee Work Group
UNMIK	United Nations Interim Administration in Kosovo
UNMISET	United Nations Mission of Support in East Timor
UNSG	United Nations Secretary-General
UNTAET	United Nations Transitional Administration in East Timor
USAID	United States Agency for International Development

Good Governance Beyond Borders: Creating a Multi-level Public Monopoly of Legitimate Force

Herbert Wulf

1. INTRODUCTION

1.1. Premises and Propositions

Weak, collapsing and failed states pose an acute security risk. Fifteen years after the end of the Cold War there is a perception that our world is becoming less safe. While terrorism weighs on the minds of many people in the West as the most threatening security challenge, in actual fact, more people die in violent conflicts such as in the Democratic Republic of Congo, in Sudan, Afghanistan, Iraq and many other places around the world. The risk of violation of the most basic rights to life is heavily weighted against people living in the world's poorest countries. Almost all casualties directly attributable to conflict have happened in developing countries. In addition to the direct human cost, violent conflicts disrupt or prevent human development (UNDP 2005, p. 151). Weak countries lack strong and capable institutions to control or resolve open or simmering conflicts, thus they are almost universally deficient in the essential requirements for successful stabilisation, namely effective indigenous leadership; state institutions that are capable, legitimate, and credible; citizenry that actively participates in its own governance (Krasner and Pascual 2005, pp. 154-155). These countries lack the means to deal effectively with criminal groups, internal disorder, and they are incapable of guaranteeing security. The *first premise* in this paper is that the failure or inability of the state to ensure the state monopoly of legitimate force in an adequate manner is a central problem of conflict-prone societies and societies which have recently experienced wars and are engaging in reconstruction programmes.¹ In consequence, it is essential to create or restore a monopoly of force in order to open a path to peace in such societies.

The need for efficient state structures in post-conflict societies is obvious and both moral responsibilities and the self-interest of the international community in global or collective security would seem to be reason enough for international engagement. Violent conflict in developing countries demands the attention of the international society. Conversely, failure to address these challenges is risky and will make it difficult to achieve or guarantee peace. However, the path towards these goals is unclear and often contested. Looking at the efforts undertaken by major international programmes to reconstruct states and build democracies in all corners of the world, including such diverse countries as Bosnia and Herzegovina, Macedonia, Haiti, East Timor, Afghanistan, Mozambique, Liberia and Sierra Leone, the results are often failures, partly mixed and only occasionally positive. The international community either seems inadequately organised to deal with governance failures or – even more depressingly – such crises prove extremely difficult or even impossible to manage.

¹ Throughout the paper, the terms 'monopoly of violence' and 'monopoly of force' are used interchangeably; by definition these terms imply the legitimate use of force.

International interventions authorised by the UN have intensified since the end of the Cold War. Such interventions have increasingly been mandated with issues such as moral responsibility and humanitarian concerns about saving lives and preventing gross human rights violations being taken into account. The *second premise* of this paper is that the 'widened' and 'broadened' understanding of security, which includes concepts like human security and where the focus lies on the individual rather than traditional territorial defence, is the normative basis for humanitarian interventions. The international community feels the need to intervene in the sovereignty of states if the government fails to provide the most basic state functions and thus grossly violates human rights. At the same time, as argued in this paper, the international community does not only intervene for altruistic humanitarian reasons, but rather self-interested political and economic agendas are hidden behind the morally legitimised interventions.

International interventions and reconstruction programmes are geared to facilitate the creation or re-establishment of central state authorities. The initiators of these international activities often fail to devote enough attention to the strengths and weaknesses of local structures as well as the effects of globalisation. The experience of most internationally sponsored reconstruction programmes shows that the long-term engagement of an international-regional or international-global authority is required to establish or re-establish the monopoly of force. Given the results of the interventions and especially the reconstruction programmes in place after the end of periods of conflict, the *third premise* of this paper questions whether the focus on building primarily centric state structures is an adequate concept for all post-conflict societies and the only means to overcome crises. Throughout the world, the power shift away from the state (i.e. up, down and sideways) to supra-state, sub-state, and transnational or multilateral actors as part of the emergent world order also involves the rearrangement of authority (Matthews 1997). The experiences in nation-building of the last few years prove that nation-building is no shortcut for a quick success in overcoming violent structures. This paper argues that the process of establishing state centric structures is too narrow a focus and is an approach that overlooks cultural and historical conditions.

While the process of globalisation and localisation takes place in many sectors of society, it also has important implications for the state monopoly of force. The state monopoly of force of the Westphalian nation-state is in part increasingly delegated to the sub-state level, to private actors, and to the international level to multilateral regional and global organisations such as the European Union, the African Union and the UN. The effect(s) of this policy on the organisation of the armed forces and the role of private actors in war is very considerable indeed. The armed forces are faced with new, expanded missions; more often than not they are deployed in crisis prevention and post-conflict reconstruction programmes rather than in wartime. Most of these missions are carried out jointly by forces from several countries. Non-state actors² in war and conflicts, on the one hand, have clearly intensified their activities; they are often the cause for the failure of states. On the other hand, the role of private sector companies in supporting the military is important. As is the case in many other traditional public functions, private firms are also used in promoting security.

² Formally, private military companies are also non-state actors and are often also armed. In this paper the term is used to describe war lords and militia-type actors, whereas the term private military company is used for those private sector companies that are hired by governments to perform traditional military functions.

In this paper, a distinction is drawn between two forms of the internationalisation of the armed forces and, similarly, between two forms of privatising violence, as is illustrated schematically in table 1. The two forms of internationalisation are closely related: International military interventions like peacekeeping operations and peace enforcement (called *internationalisation I* in the table below) require internationally organised forces such as the ‘blue helmets’ (*internationalisation II*). Two distinctly different forms of privatisation of violence can be observed: ‘bottom-up privatisation’ (*privatisation I*); this privatisation occurs by default through the fighting of non-state actors at the sub-state level such as warlords, militias and organised crime. ‘Top-down outsourcing’ (*privatisation II*) is a planned process of governments to outsource typical police and military functions to private security and private military companies.³ These two forms of privatisation both undermine the state monopoly of violence (Singer 2003) and are not always easy to separate, since warlords, rebel groups and other armed non-state actors occasionally clash in fights with private military companies, particularly when besieged governments turn to the companies for protection or when governments deploy militias for their defence.

Figure 1: The internationalising of armed forces and privatising violence

	‘New Wars’	‘New Armed Forces’ ⁴
Internationalising	1) military missions (internationalisation I)	2) organisation of armed forces (internationalisation II)
	intervention, peacekeeping operations, peace enforcement	UN-troops (Blue Helmets), coalitions of the willing, supra-national armed forces
Privatising	3) violence market bottom-up (privatisation I)	4) outsourcing top-down (privatisation II)
	non-state actors: warlords, organised crime, gangs, terrorists, rebels, militias, child soldiers	private military companies, private security companies, mercenaries

Source: Wulf 2005, p. 2.

The *fourth premise* of this report is that the privatisation of violence – a trend which reverses the practice of disarming of citizens in the process of nation-building that dates back to several centuries ago – undermines and fundamentally challenges the legitimate monopoly of violence. Furthermore, both forms of internationalisation also have an effect on the monopoly of violence, since the decision-making on intervention and the use of force is positioned at the international level. Despite the fact that delegating the monopoly of legitimate violence (at least partially) to the private and/or the international sector is pursued consciously, the notion of the monopoly of violence itself, which rests first and foremost on the nation-state, is not, at present, systematically re-conceptualised. Given that both the trends towards intensified international intervention and towards privatisation of violence are here to stay – despite paradoxes of donor-driven democratisation and blunders in outsourcing sensitive security tasks to private companies

³ The terms ‘bottom-up’ and ‘top-down’ are used by Mandel (2001, p.137). The main focus in this paper is on privatization in the military, although reference is made to the issue of private security companies taking over policing functions in the following section of the report.

⁴ The term ‘new wars’ (Kaldor 1999), partly criticised in the literature, is indicative of the new types of conflicts that are mostly internally fought. Similarly, the term ‘new armed forces’ signals an overemphasis of the newness of this trend. Governments, of course, do not create completely new armed forces. Rather, this classification denotes that the traditional forces structure requires fundamental changes.

– the question of what the future of the state monopoly of force is going to be will need to be posed.

Due to the difficulties in re-establishing the *state* monopoly of force at the nation-state level this paper makes a central *proposition*: Global governance and the establishment and enforcement of international norms require a different, a *multi-level public monopoly of force* at the local, national, regional and global levels. Since the process of globalisation has already severely restricted the capacity of national governments to manage their economies, to guarantee the rule of law and to deliver security, a logical consequence of the weakening of the nation-state is the creation of multiplicity of authority over the monopoly of force.⁵ Such a new agenda breaks with conventional accounts of the monopoly of force concept in which the nation-state is viewed as the sole (or at least primary) appropriate agent. Since for centuries the concept of the monopoly of force has been directed towards the nation-state, the proposition for a multi-level public monopoly of force calls for a radical rethinking.

1.2. Theoretical Background

This proposition is grounded on an empirical-analytical observation and a normative-theoretical concept. The *empirical-analytical observation* addresses two issues: *First*, more and more social forces operate across, below, and above the nation-state. Globalisation and localisation, integration and fragmentation are key variables in the process encompassing the political, economic and cultural spheres. This process has transformed the conditions for the monopoly of violence. Can the nation-state effectively exercise the monopoly of force in such a changed environment? *Second*, it can be observed that many states blatantly fail to guarantee peace and security and are unable to stop or moderate violent conflict effectively. This is particularly, but not exclusively, the case in failed or failing states. At the same time, without principally questioning the concept of the monopoly of violence of the nation-state, new international norms have emerged which require the intervention of the international community. This most frequently takes place at the level of the United Nations, but regional bodies are also occasionally and increasingly engaged in interventions in the name of humanitarian concerns. This paper argues that while the nation-state is still an important actor in exercising the monopoly of force and while at the global level the UN increasingly assumes such a role, both the regional level (which forms the link between the national and global level) and the local level are not adequately equipped – both conceptually as well as in terms of implementing capacity – to perform a greater role in exercising the monopoly of force. What is called for is a conceptual rethinking and a capability reform, creating or buttressing a division of labour of the monopoly of violence at all relevant levels i.e. global, regional, national and local.

The *normative-theoretical* concept is grounded on cosmopolitanism (Held 1995, McGrew 2000). McGrew (2000) has classified the governance literature of recent years into three possible models for democratisation: *First*, the liberal-democratic internationalist agenda aims at the reform of international institutions and the establishment of liberal and pluralistic structures (Commission on Global Governance 1995). This model is based on growing interdependence and the abolition of power politics and war. *Second*, the radical

⁵ This proposal draws on and elaborates a concept presented by Wulf 2005, pp. 205-212.

communitarianist democratic agenda is, in broad terms, to build on new social movements and the establishment of alternative structures that offer transnational and participatory governance; such communities are functionally and not geographically orientated. The governing principles emerge from the life and conditions of particular communities, from local conditions. “Underlying the radical model of global democracy is an attachment to normative theories of direct democracy and participatory democracy” (McGrew 2000, p. 412). *Third*, the cosmopolitan democratic agenda aims to establish global governance that is based on democratic, elective principles and a cosmopolitan programme to overcome national sovereignty. At the core of this concept is a belief that the present patterns of global processes, of regionalisation and localisation are undermining existing national forms of governance.

What has been described in the literature as a challenge for the development of democracy can also be applied to the monopoly of force. Governance needs to be expanded across, between, beyond and below the nation-state level. The cosmopolitan concept is attractive since it envisions a step-by-step development and attempts to make use of proven democratic mechanisms. It is a process in which new representative bodies develop on several levels. It is a concept that cuts across spatially delimited locales and transcends the particular claims of the nation-state and extends to all in the “universal community” (Held 1995, p. 228). The cosmopolitan concept, despite being somewhat utopian in some of its facets, is a realistic notion since it comes close to existing views and new developments in international law, such as the universal application of human rights. It presupposes a powerful legal authority which allows the international community to interfere in the internal affairs of each state in order to prevent any gross violations of human rights. The cosmopolitan concept envisages a post-Westphalian global order; a system beyond the nation-state with overlapping authorities entitled to exercise the monopoly of violence.

When the concept of *state-building* is used in this paper, one should bear in mind that the idea of state- or *nation-building* has become commonplace as a solution to conflict areas. One should also remember that in the past state-building meant war and its preparation (Tilly 1990, p. 28). State-building was to a large extent a process of territorial arrangement and usually enlargement, coupled with the attempt to subordinate the inhabitants. Before the emergence of the individual countries which we are now so familiar with, sovereignty was enormously fragmented (Amoretti 2004, pp. 3-4) Nowadays, the notion of state-building, though not by definition but in practice, is often reduced to meaning the process of creating, strengthening or reforming central state institutions. Nation-building goes beyond state-building. It is a homogenisation effort and tries to integrate its citizens into a territorial unit. Nation-building has produced different outcomes in different parts of the world, outcomes that were not always successful. The notion of solving the problems of failed states and the erosion of state authority presupposes the necessity, practicability and functionality of structures of the nation-state – a term that implies the fusion of states and nations into a more or less homogeneous political organisation of a single people. Such state structures are weak in many regions or may never have even existed in others. The Western perception of nation-building with an integrated central state, democracy and of providing the public goods of security and welfare are often completely alien in conflict-prone societies.

The term post-war rebuilding goes back to the reconstruction of Europe and Japan in the aftermath of World War II; the notion of *peace-building* is relatively recent and was introduced in the *Agenda for Peace* by UN Secretary General Boutros-Ghali (1992). Hänggi (2005) makes a distinction between a ‘broad’ and a ‘narrow’ concept of peace-building. The Boutros-Ghali concept represented the narrow concept since it called for support for solidifying peace and avoiding any relapse into conflict and thus was synonymous with *post-conflict* peace building (after peace making had established the framework for a settlement and after peacekeeping had ensured a ceasefire). In the 1990s, this concept was broadened to combine prevention, conflict management and post-conflict reconstruction. Thus, fostering sustainable development, the eradication of poverty, transparent and accountable governance, the promotion of democracy, respect for human rights and the rule of law and the promotion of a culture of peace and non-violence, all these activities were included in the concept of peace-building.⁶ The term *peacekeeping* is used in this paper to describe the traditional role of the UN ‘blue helmets’ in keeping warring factions apart and monitoring armistices or peace treaties. The term peace-building is also used, as is common in the UN nowadays, to include the role of the UN in post-conflict reconstruction and rehabilitation.

1.3. Structure of this Paper

This paper explores in some detail the many ways in which nation- or state-building programmes have or are being implemented in post-conflict reconstruction and developing states by drawing on existing literature and referring to the present discourse. Starting in the next section by providing a brief account of the circumstances leading to the failure of states, the paper goes on to outlining the key problems and consequences of weak and failing states, especially with regard to the monopoly of violence. The changed security concepts that have emerged during the last 15 years, with human security as a focus, will only briefly be mentioned to underline the philosophical and legal basis for so-called humanitarian interventions. The paper then goes on to outline the ways in which the privatisation of violence is carried out and assess the impact on and consequences for the monopoly of violence. An additional aim of section II is to analyse the reactions of the international community and assess the inputs and shortfalls of many of the international sponsored programmes which focus on the nation-state structures. The simple logic of this trend is that the monopoly of violence which is geared to the nation-state has to be re-configured. Section 3 of this paper introduces the model of a multi-level public monopoly of legitimate force and discusses the challenges, barriers and implications of creating such a public monopoly of force beyond traditional national borders. Three case studies on peace building and reconstruction programmes in Kosovo, East Timor and Afghanistan, are presented to describe the experiences of establishing or re-creating legitimate state authorities and to evaluate the applicability of such a model of public monopoly of force. These cases, selected amid many other potential alternatives, have been chosen to include an entity which is not an independent state and whose future status is still strongly contested among the stakeholders (Kosovo), a country that has gained independence through international intervention (East Timor) and a second country that is characterised by a traditionally weak central state in which the international

⁶ For a discussion on the concept and a review of the relevant UN documents see Hänggi (2005, pp. 10 - 11).

efforts concentrate on strengthening that central state (Afghanistan). Finally, the paper concludes by summarising the results, by probing the premises presented, by drawing conclusions and articulating several important lessons from the case studies and making policy recommendations.

2. STATE FAILURE, INTERVENTION AND RECONSTRUCTION AND THE PRIVATISATION OF VIOLENCE

2.1. When States Fail to Deliver Security

Manifestations of failure

Ideally the state should be able to provide the following functions (Debiel 2005, p. 6, Jones *et al* 2005, p. 11):

1. *Security governance*: the guarantee of collective and individual security, especially through the control and accountability of the security sector.
2. *Political governance*: transparent political decision-making with the possibility for the political parties to participate in the political process and a functioning executive and legislature; free press, civil society and a constitutional framework for elections.
3. *Judicial governance*: functioning and independent judiciary with minimum standards of the rule of law.
4. *Administrative governance*: the provision of a functioning local and national administration capable of implementing government policy in the territory of the state and applying the rule of law and other legal regulatory frameworks.
5. *Social governance*: the provision of the basic services, especially in health and education, and infrastructure and distribution.
6. *Economic governance*: the creation of institutions to ensure a regulatory framework for a development-based economic process in which local and international commerce can resume, and to guarantee the collection of taxes and a stable currency.

One of the key characteristics in fragile states is the lack of governance or its poor quality. The security situation in many countries is extremely precarious and dozens of countries in the world have experienced political tensions, violent conflict and wars with disastrous effects. Weak, collapsing and failed states have usually been unable to provide the governance required for development. State institutions fail at multiple levels: political leadership, constitutional structures, judicial system, administration, macro and micro-economic management and civil-military internal operations of security institutions (Evans 2005). Often the state is run by the arbitrary rule of a few, who stay in power for life. While the ineffective state structures in authoritarian, transforming, war-torn or post-conflict states vary in form, three common characteristics and structural pitfalls are apparent which increase the risks of tensions and the outbreak of violent conflicts: the security gap, the capacity gap and the legitimacy gap (Commission on Weak States 2004, pp. 14-15, Ball 2002, pp. 74-75).

1. *The security gap*: The state's most basic function is ensuring security by exercising the monopoly of force. This entails the protection of human rights, from physical threats and violence within the state's territory. The security deficit offers opportunities for non-state actors to take political or financial advantage of the prevailing insecurity.

Often a large, corrupt, unaccountable and repressive security apparatus of police and armed forces on the one side and non-state actors such as paramilitary groups, militias, war lords and organised crime on the other both cooperate and fight with each other at the same time.

2. *The capacity gap*: State authorities must provide the most basic services such as health and education, and infrastructure in key areas such as railways, ports, airports, waterways, mass transit systems, water and sanitation. When governments are either unable or unwilling to do this the result is the exacerbation of most indicators of underdevelopment: illiteracy, epidemics, the waste of human resources, human suffering and the loss of public confidence. This gap bears the risk and potential for political upheaval. The problems are often amplified by excessive expenditures on the military, by disputes about access to land and resources and an extremely unequal distribution of wealth.
3. *The legitimacy gap*: The state must foster legitimacy and advance basic rights and freedoms, enforce laws and allow for the participation of citizens in the political process. Rivalry is part of the political process. When state institutions are dysfunctional and not accountable this legitimacy deficiency opens up opportunities for political disturbance and disorder. A high degree of centralisation, dominant cliques who appropriate and plunder the state's resources, weak or crushed opposition parties, authoritarian decision-making, a lack of public confidence in the government, blocked or slow democratisation and transformation processes and lacking consensus about national development strategies are all attributes of these states.

Outright state breakdown and collapse or the complete absence of governance has happened in a relatively small number of cases, the classic examples often quoted are Somalia and the former Zaire. However, instances of states under severe stress and in crisis, with creeping failure of state functions, can be the norm in conflict-prone and war-shattered parts of the world. Yet, the manifestation of weakness or failure does not necessarily imply that all state functions are either lacking, eroded or inadequate. Often states have not failed or collapsed completely but only partially. When failure creeps in, other, often informal institutions of political authority emerge during conflicts and even in the most severe and chaotic circumstances of state collapse such as in the Democratic Republic of Congo, there is seldom a total government void. In seemingly hopeless cases such as in Somalia, security functions and the provision of some basic services are carried out by a variety of non-state actors. No doubt, even in war-torn societies markets may thrive. Khadiagala (1995, p. 35) and Debiel (2002, p. 25) speak of the 'lame Leviathan'. On the one hand, state institutions and the elite dominating the state, might well be equipped with the instruments for repressive policies to control societal relations and to enrich themselves by plundering resources. A predominantly corrupt and clientele circle of strongmen might run the country in their own self-interest and apply an illegitimate and crude monopoly of violence. On the other hand, state institutions are over proportionally large or oversized and over-resourced, resulting in a waste of scarce resources, but might nevertheless be ineffective in providing welfare and security functions.

The legacies of conflicts and state failures have profound effects. As Luckham (2005, p. 21) concludes: "Most recent conflicts in the developing and post-communist worlds can

be viewed as state- and nation-building in reverse, as well as development in reverse. They have unravelled political authority, interrupted normal governance, fractured national societies, and often 'problematised' the state itself."

Addressing the institutional vacuum

State failure is not a product of a single root cause. Factors producing and reproducing the erosion or collapse of the state can be either a cause or a consequence of conflict, or both at the same time. One particular aspect of the problem solving concepts of today's international programmes which has also moved to the centre of academic argument and policy debate and practice is the notion of the need for institutions and the requirement to rebuild them to achieve good governance. The common denominator in international programmes is to rebuild effective state institutions. Good governance is perceived and valued as the key to an appropriate development performance (Goldstone and Ulfelder 2004-05, pp. 12-13). Concepts of state-building and nation-building have re-emerged again and gained prominence in recent years and an underlying cause of the malaise in many countries is defined as a lack of efficient state institutions and an unwillingness or inability to create or rebuild them.

It seems somewhat paradoxical to prioritise the creation or rebuilding of state authority and institutions during a period of history when globalisation reduces the room for decisions at the nation-state level. The process of globalisation is Janus-faced. Globalisation liberates powerful economic forces; it embraces most countries of the world but also excludes millions of people from the benefits of economic growth. It integrates and connects states and people and drives them apart at the same time. Globalisation is an extreme manifestation of the erosion of the nation-state with the profound effect of de-legitimisation (Kaldor 2000). Globalisation increasingly leads to a shift of the *loci* of authority away from the nation-state towards the global and the local level, leading to a diversity of authority relationships (Mason 2005, pp. 38-39). What does this mean for security and one of the central functions of the nation-state, the state monopoly of violence? The twin forces of globalisation and localisation, with an increase of global threats as well as intra-state violent conflicts and wars, make concepts of national security look outdated (Oberleitner 2005, p. 190). Security simply can no longer (if it ever could) be guaranteed by the nation-state.

In many societies, particularly in Africa, but also in many Asian countries, state functions have traditionally been shared among various authorities and have not necessarily been the privilege and responsibility of the central state. In other societies a central state has never existed and a monopoly of force according to the Westphalian model could thus never be established. The model of state monopoly of force, however, presupposes the existence of statehood.

Changed perception of the role of the state

The emphasis on the need for efficient and effective institutions in the developing world is not new. Nation-building, a concept which emphasises the creation of a functioning and homogenised state was one of the central concepts of decolonisation. Modernisation theory as it was understood especially in the Anglo-Saxon dominated development theory of the 1960s and 1970s, assumed that weak state institutions should be avoided since they

would create ideal conditions for communist exploitation. The modernisation theory predicted optimistically but incorrectly that economic development, once initiated, would naturally lead to a liberal market economy and stable politics resembling Western democracies (Paris 2004, p. 176). The pressure to building democratic institutions oriented at the Westminster model and military assistance to strengthen the armed forces in many developing countries, obviously failed to result in the predicted economic, political and social development. It was a largely false expectation and the numerous military coups at that time and the failure to build truly efficient and democratic structures, illustrate that this approach not only often failed to reform highly repressive and economically inefficient regimes, but conversely facilitated their existence.

At a later stage, during the 1980s, the state was predominantly perceived as inefficient, bureaucratic and over-sized. Systematic liberalisation and structural adjustment programmes, based on the so-called Washington Consensus, introduced conditionality into development policies. Fiscal austerity, privatisation and market liberalisation were promoted by the International Financial Institutions (i.e. The World Bank and the International Monetary Fund); political and economic interventions promoted and pressed for the lean state.

In recent years the emphasis has shifted yet again. There are basically two different groups of critics of the role of the state. First, the advocates of economic liberalisation conclude that the state meddles far too much in what should best be left to market actors. The second group, urges for good and global governance, including democratisation and liberalisation, and criticises the state's tendency to make war and trample on the rights of individuals (Putsel 2005, p. 7). The pendulum for the perception of state institutions has now swung in favour of good governance: effective state institutions and a functional and legitimised state are promoted by the international community (Debiel 2005). In 2002, the international leaders agreed in Monterey, Mexico, that good governance in developing countries should be rewarded with more resources. While the Washington Consensus of the 1980s threatened with more 'stick' the Monterey agreement offers more 'carrot'. However, this new emphasis is occasionally also criticised for the mission creep of international donors and the financial institutions by adding ever new tasks, also including reconstruction programmes (Einhorn 2001). Despite this criticism, the general trend in recent years has been an emphasis on international assistance in post-conflict situations and it seems that the presently dominant conception is that it was premature to proclaim an obituary of the state (Putsel 2005, p. 13).

Promoting democratisation and a liberal market economy has become the lynchpin of most peace-keeping and post-conflict reconstruction programmes. The basic assumption of the advocates of this notion is that democratisation and liberal market orientation foster peace. Nation-building is commonly viewed as a factor that strengthens and enhances liberal democracy and thus domestic peace. It is hoped that both 'self-sustaining' peace – as opposed to a peace that lasts only for as long as international peace builders remain in the host country – and 'self-sustaining' economic and social development will be initiated.

2.2. Privatising Force: Undermining the State Monopoly of Violence

Two types of privatising force (armed non-state actors and outsourcing of military functions to private military firms) have been described in the introduction. Both have profound effects on the implementation of the monopoly of violence. The armed non-state actors are one of the principle causes for violent conflict and often a barrier for peace-building. The response of the international community to violent conflicts and wars, like interventions in the form of peacekeeping, peace enforcement or peace building, the multi-lateralisation or internationalisation of war and peace and of the armed forces (described in the introduction as internationalisation I and II) are a reality in today's world.

Privatisation I, the violence of armed non-state actors, and privatisation II, the outsourcing to private military companies is part of, and a reaction to, what has become known as the 'new wars' (Kaldor 1999). The war lords, militia, organised crime and other non-state actors in war and conflicts have intensified their activities. At the same time several governments consider private sector companies to be an important support for the military. As in so many other traditional public functions, private firms are also used in promoting security. War lords, organised crime, militias, rebel groups, youth gangs and child soldiers spread violence and contribute to the failure of states; though child soldiers are of course more a victim than a cause of this insecurity. Many governments are no longer capable of guaranteeing law and order. Their police and military forces are too weak, too corrupt or unwilling to exercise the rule of law and the state monopoly of violence. This type of bottom-up privatisation of violence offers attractive economic gains. It is usual for these actors to operate without the authorisation of state authorities or even against their explicit wishes, though occasionally representatives of the state system are also accomplices. These non-state actors, who can also be classified as violence entrepreneurs, such as militias, warlords, organised criminals, rebels, insurgents, secessionist movements and gangs, create a situation of insidious insecurity. The rationale of the engagement of internationally sponsored interventions is directed at getting these armed non-state actors under control and establishing the legitimate monopoly of violence.

While the detrimental role of armed non-state actors for the security of societies and the implementation of the monopoly of force is obvious and has been touched upon in the previous section, the consequences of the outsourcing to private companies are less evident. The consequences of this are addressed in this section. The intentional privatisation of military and security services by governments embraces a wide variety of different concepts and developments. Privatisation, occasionally also called commercialisation or outsourcing, includes – willingly or unwillingly – giving up state authority in exercising the monopoly of violence. This second type of top-down privatisation is purposely planned and implemented by governments. Companies offer a wide range of services: they work for armed forces not only in war, but also for non-state institutions such as international agencies and humanitarian organisations in post-conflict societies, for governments in their fight against rebels or insurgents, as well as for multinational companies.

The present discussion about the activities of these private military firms, for example in the conflicts in Africa or the Middle East, sometimes creates the impression that this is an

entirely new phenomenon – rather than a trend that has developed with ups and downs over centuries. The state monopoly of violence however, as it is ideally defined in theory, has never been fully accomplished, and governments have long entrusted companies or other private actors with diverse military tasks.

Today, some defence ministries privatise not only logistical services, training or military planning but increasingly sectors of the infrastructure of the armed forces as well. Companies have been entrusted with the management of military installations, especially military bases, including the servicing of living quarters for soldiers and their families, the management of their fleet of cars, the purchase and stocking of uniforms, the running of canteens, and so on. This type of outsourcing is mainly the result of economic reasoning: according to the dominant economic theory the market is better qualified to handle these functions more efficiently than the armed forces themselves. Yet this privatisation policy is controversial within the military and contested by soldiers. In addition, the private sector still needs to produce the empirical evidence that it can contribute to solving some of the budgetary difficulties of the defence sector. The anecdotal evidence puts a damper on the enthusiasm over the efficiency gains of privatisation (Markusen 2003, Wulf 2005).

Causes and motives

The causes and motives that lead to the demand for services from private military companies are manifold and sometimes overlapping. The following section attempts to summarise the main reasons. At least eight military, economic, political and ideological reasons for commercialisation or privatisation can be identified:

First: over-capacities of the armed forces: On the supply side, there are vast quantities of highly qualified military experts who are no longer used in the armed forces. Many countries cut their military budgets and demobilised soldiers after the end of the Cold War. The number of soldiers worldwide declined from 29 to 20 million between 1988 and 2002 (BICC 1996 and 2005). Disarmament during the first half of the 1990s not only produced a surplus of weapons but one of ex-combatants too. These ex-combatants are now looking for new jobs and often finding them in private military companies.

Second: over-burdened armed forces: The other side of today's reduced personnel levels is the fact that some armed forces are over-burdened by the increasing number of military interventions abroad. Outsourcing of military missions is a reaction to bottlenecks in the availability of specialised troops. Many armed forces, for example, no longer procure trainer aircraft but have their pilots trained by private companies who have such equipment at their disposal.

Third: changes in war fighting: Armed forces tend to use ever more modern equipment. The armed forces themselves, however, are no longer in a position to use and maintain all the systems of this modern equipment; they depend on various companies to provide logistical and other back-up services. This is not an entirely new development; but the trend has become omnipresent. An 'army' of engineers and technicians, IT and logistical specialists, pilots and trainers, care for the functioning of the complex weapons systems.

Fourth: demand by weak or besieged governments: Several governments, such as those in Papua New Guinea, Sierra Leone and Zaire, hired private military firms with fighting capabilities when they feared being overrun by rebels. Such war and fighting services, similar to

mercenary activities, were offered and mainly carried out in African countries (Musah and Fayemi 2000, Lilly and von Tangen Page 2002). Instead of the deployment of the state armed forces to defend the country or the government, governments contracted private specialised companies either because the military was not capable of carrying out the mission or the because government did not trust them. It is in these circumstances that the two types of privatised violence actors (the armed non-state actors and the private military companies) often clash and do battle with each other. Some companies have established themselves as a serious alternative to insufficiently trained or equipped, or untrustworthy, state armed forces (Mair 2004).

Fifth: the intensified demand for international interventions and emergency aid: The United Nations considers it a moral obligation to intervene because of the increasing number of war refugees, ethnic cleansing and genocide. The demand for UN peace missions was always larger than the offer of member states to make their troops and other resources available. This situation strengthened the demand for the services of private security and military companies to support or even replace the state troops. Today it has become the common practice of emergency aid organisations to hire such companies for protection. They are engaged in building or protecting refugee camps and speeding up the logistical support for the UN blue helmets.

Sixth: the intensified demand for armed forces in the 'war against terror': Threat perceptions have completely changed since 9/11. This has affected the armed forces as they are tasked with new and additional missions. Increasingly the armed forces seem over-stretched. On the one hand more money is going into the military budget for these different battlefields, and more and more reservists are being called upon. On the other hand, however, the troop's strength has not been substantially increased. In 2005, about 25,000 contract personnel served as employees of private military and security companies in Iraq.

Seventh: public opinion: Political leaders who recognise the importance of civil society and the unacceptability of human suffering have had an impact on military thinking. There is an increasing readiness to use military means to stop violence and end wars. For some governments it is more attractive to task military firms with this job rather than the armed forces. Public awareness and the criticism have an effect on government decision-making when 'body bags' return home. It is less eye-catching to send contractors than uniformed soldiers.

Eighth: the concept of 'lean state': The relatively new and quickly growing market for privately supplied security has developed into a subset of a systematic scheme of the privatisation of state functions. The concept of a lean state is central to this development. Many state functions – civilian as well as military – are outsourced in order to find market solutions that are, allegedly, more cost effective. The neo-liberal concept of the lean state is dominant and hardly contested. It is propagated globally as the cure-all remedy. Thus, privatisation has not stopped at the gates of military bases and even sensitive military functions are privatised – not only telecommunications, railways and utilities. The deployment of private military companies is seen as an effective free market method of meeting the military demands of governments and international agencies. Outsourcing and public-private-partnership are no longer alien terms in the military.

In summary, privately organised security can contribute to avoiding anarchy or chaos or other local security problems (Mandel 2001). They are seen as an alternative for maintaining public order if the state has insufficient security forces at its disposal. In addition, private actors are attractive to the government since they are only paid for the services they deliver; a standing regular army always costs resources that might be scarce. But to ensure that the monopoly of force is maintained a better regulation and their democratic control must be strengthened.

Types of private military companies and other armed non-state actors

Privatisation in the armed forces or the police is not a clearly defined term. It is often used with an unclear notion of what it really means. The services offered cover the protection of personal property as well as factories or mines of globally operating companies; management of military bases or airports; air, sea and land transport for UN peace missions; armed and unarmed protection of convoys of humanitarian organisations; as well as the recruitment and training of soldiers in specialised street fighting or intelligence gathering, logistics or combat. The services include technically complex as well as 'dirty' tasks such as the defence of privileged and corrupt elites. The customers that purchase such services from the private military vary widely too. NATO, the EU, the UN, the AU and the OSCE are among them. Their main customer, however, is the US armed forces, who demand a wide variety of different services.

The order books of the companies are full and still growing now that military budgets are increasing and many international interventions have resulted in serious personnel bottlenecks in the armed forces. Private contractors are booming as a consequence of the Iraq War and its aftermath. Many of them face serious recruiting problems today. This affects the quality and training of contract personnel. To profit from the growing market, companies regularly hire personnel who are not up to the task or who have a dubious service history, such as officers from Augusto Pinochet's Chilean army, the South African Apartheid forces or the French Foreign Legion. Ex-soldiers of the former Soviet army work as contractors next to the regular Russian forces in Chechnya, Azerbaijan, Armenia and Kazakhstan. Russians and Ukrainians were deployed in the war between Ethiopia and Eritrea. The government of Sri Lanka hired pilots from private companies to fly fighter helicopters, and in Brunei there are Nepalese Ghurkhas – former members of the British forces – fighting in the defence of the country. Specialists from Levdan, an Israeli company, assisted the President of Congo-Brazzaville in establishing a new armed force to enable him to dissolve troops who still appeared to be loyal to the former President (Schreier and Caparini 2005, p. 19 and p. 64).

Based on data from press and company reports it can be assessed that the strongest growth in private military company activities is presently in the areas of technical services and in training, while most companies refrain from engaging directly in combat. Indeed, only a few companies have done so: Executive Outcomes from South Africa, Sandline International from the UK and Levdan from Israel have carried out fighting operations through offering their know-how to besieged governments. Participation in combat does not just mean having 'a finger at the trigger'. Often technical services for combat are more decisive than the soldier with the machine gun in his hands. A computer expert who, for example, transfers data on troop movements to his commanders' computer plays a central role on the 'automatic battlefield'. The categories of combatant and non-combatant are

increasingly blurred. Looking at the type of services being offered and with regard to their relevance to the state monopoly of violence, the following types of companies and other private actors can be identified (Wulf 2005):

Private security companies offering such services as the provision of security, law and order in subways and other public places that are outsourced from state authorities. High levels of violence and crime, combined with distrust in the public police force have resulted in an expansion of private security companies (Gill 2006). This development is taking place in many countries around the world, developed and underdeveloped, countries at peace as well as countries in a conflict or post-conflict situation. This form of outsourcing is most advanced in the US where security company employees outnumber the police by three to one (Eppler 2002). Some 2,000 private security companies currently operate in Kenya and large sections of the population rely on them (Abrahamsen and Williams 2005c). Similarly, it is estimated that security companies in Nigeria employ in excess of 100,000 people; these services have become a major part of the economy as they protect residential and commercial areas and especially the oil industry (Abrahamsen and Williams 2005b). In Sierra Leone private security provision is closely related to a long history of military intervention in politics as well as the extensive international presence in the post-war provision of security and reconstruction (Abrahamsen and Williams 2005a). With regard to the role of private security companies, cities like Los Angeles are no different to Manila, Nairobi, Johannesburg or Sao Paulo. A characteristic of the industry in many countries that there is little or no formal cooperation with the police and that this sector is often unregulated. Some of these business activities take place in a legal grey zone – for example the contracting of armed security guards for the protection of companies in crises areas. The recruitment practices of companies are not always transparent and the background of employees might be dubious. Often personnel are not properly trained for the job, although many former police are also hired and these companies have themselves become a source of insecurity.

Service providers which manage contracts outsourced by defence ministries such as running of military bases or living quarters, the provision of uniforms, financing procurement and leasing of major weapons systems to the armed forces. Such programmes are operated under the assumption that the private sector can deliver these services more cost effectively than the armed forces themselves.

Private military companies which offer ever more services that were traditionally considered to be typically military in nature. It is a result of the 2003 Iraq War and its aftermath that both the contract volumes as well as the number of such companies have grown considerably. The companies are working for the armed forces on pre-war, war and post-war jobs. Instead of tasking the state forces, governments choose to contract these specialised firms. Combat operations, however, are usually not contracted and most companies refuse to be directly involved in fighting. The legal basis of the different types of jobs is not always clear since international norms are almost completely absent. Often the contracting governments provide weapons for the contractors. In exceptional cases, such as the contract signed by Sandline International with the government of Papua New Guinea, the company agreed to supply weapons, ammunition and equipment, including helicopters and aircraft (Singer 2003, p. 247). The distinction from mercenaries is hazy in such cases.

Non-statutory forces are the groups of militias, rebels, insurgents, warlords, organised criminals and similar groupings, which – for their own political or economic gain – exert violence, engage in civil wars, topple governments or create an atmosphere of insecurity for large parts of the population. They are one of the main causes of the emergence of severe crises and inner-state war. These groups, with the exception of organised crime, are usually structured as paramilitary units.

Mercenaries are ex-soldiers who are usually hired by governments or rebel groups to fight. This classical category of fighter, known throughout history, still exists. They are contracted, as individuals or in groups, purely against payment. They do not engage in combat to defend their ‘fatherland’ or for ‘honour’ but for those who are willing to pay them the most. They are recruited in former war zones, where many ex-soldiers with fighting experience are demobilised and find it difficult or impossible to reintegrate into civilian life again.

Although private military companies also have their roots in wars they are distinct from mercenaries in their typical hierarchical company structure. In this sense they are more akin to defence producers and security companies, for indeed defence producers and private military companies too do not operate as individuals or in small ad-hoc groups but rather as enterprises. Private military companies openly recruit their specialists; they offer a wide range of services and products and usually work for several governments or institutions at the same time. They compete for contracts in the world market and, contrary to mercenaries; they do not try to hide their existence, as the former prefer to do.

Private military companies are often called modern mercenaries (Musah and Fayemi 2000, p. 1, Vines 2000), but the companies hate this comparison. In contrast to mercenaries most of them are properly registered as companies, they pay taxes and have no intention of violating international law. Furthermore, and crucially for how they view themselves: They claim their service can contribute to conflict resolution, and, indeed, the experience noted from some company engagements has been that they contributed to bringing about the end of violent conflicts. This, however, is contested, as for example in Sierra Leone in the mid 1990s where private military deployment of companies like Executive Outcomes and Sandline International was not seen in such a positive a light by observers as the companies claimed it was (Musah and Kayode 2000).

The concept pursued by several governments emphasises their desire and political will to outsource military services to private military companies; usually the selected companies work with a government licence. But such a licence does not necessarily constitute the legality of the companies’ practices according to international law and norms. They operate in a grey zone, and, although they are different from mercenaries, some companies even take on illegal jobs. Since the definition of their activities is neither clear nor uniform and since the international norms against mercenary activities do not apply to formally registered and government-licensed companies, their operations are largely unregulated according to international standards. Even the distinction between combatants who are deployed by governments and contract personnel of companies is distorted. The law of the market reigns. Companies offer their services to everybody – states, multinational companies, UN-agencies, humanitarian organisations, rebels or drug barons. International norms are so far only of relevance to these activities when companies violate the right of the sovereignty of states enshrined in the UN Charter (that

is, if they are involved in the internal matters of a state) or if they are directly caught up in conflict. Only a limited number of countries have passed laws to prohibit or have introduced license systems to regulate military companies (UK Government 2003. Annex B, pp. 39-43).

Companies on the battlefield

Privatisation is controversial among soldiers. A good number of them are concerned about their future role with regard to the privatisation of military functions. In contrast, others promote this trend and stress that – thanks to the support of contract personnel – the armed forces can concentrate on their core tasks, namely fighting and winning wars. Besides the economic benefits of saving resources the following advantages of outsourcing from a military perspective are mentioned: an enhanced deployment capability of the forces by making contract support available within a theatre; offsets and gains in operational tempo; the possibility of maintaining high-tech; increasing combat power in force constrained circumstances – for example when a host nation is limiting the presence of state uniformed strength; a focus on combat operations; and the provision of capabilities that the armed forces do not have (Schreier and Caparini 2005, p. 45).

However, the privatisation process also bears some inherent risks. The professional journal of the US logistics forces lists– on the basis of substantial experience with contract firms in the Balkans, Afghanistan and Iraq – the following bottlenecks in 2004: (1) a significant gap in operational doctrine on who is responsible for the lines of communication; (2) loss of visibility of assets on the battlefield; (3) loss of control of contracted personnel and equipment; (4) increased responsibility of the armed forces in ensuring the contractors security; (5) need for additional manpower, materiel, and funding resources to support contractor personnel; (6) concern about the availability of commercial supplies in a hostile environment; and (7) gaps in logistic support if commercial supply lines become disrupted (McPeak and Ellis 2004, p. 7).

There are a few fundamental differences between private companies and the armed forces. The military is geared to defence, war, armed conflict, questions of life and death and winning wars, whereas the private companies are on the battlefield purely for economic gain. Private companies want to make a profit and try to economise on personnel and other inputs. They will deliver only what is explicitly set out in the contract. Like other businesses and enterprises they deliver their services on the just-in-time method, and hence typically prefer a minimal stock of material. The military in contrast plans for the worst-case and typically tries to plan for maximum requirements. This is the primary reason why the logisticians of the armed forces have doubts concerning the reliability of private firms in critical situations (Orsini and Bublits 1999).

The economic motives of private companies can negatively affect military flexibility in crucial situations. Although increased flexibility is one of the main reasons for contracting companies in the first place – because the military should be able to profit from the private sector's flexibility – the concrete result on the battlefield might be just the opposite since the companies try to minimise their inputs and may create bottlenecks. The commander on the battlefield lacks a complete overview of his resources and has no command over the contractors; the different lines of command increase the risk for both the military and the contractors in dangerous situations.

Will companies be there when the military needs them? The exclusively financial motivation of companies and their personnel and their inflexibility raise the question as to whether companies will behave dependably according to the armed forces' requirements. Can the company management really guarantee that their staff will move close to the frontline when the battle begins and when it gets dangerous? Employees cannot be commanded and always have the option of leaving their job by simply terminating their contract.

A small number of large enterprises have been contracted by the US government with multi billion dollar agreements. The work is implemented in a large part by newly hired employees, but also through a lot of subcontractors. The subcontractors have sub-subcontracted jobs. Thus, a long line of contracts has been created which is no longer neither transparent to the Pentagon in Washington and the commander in the war theatre and nor is it clear how dependable and responsible the different contractors are. The contractors are not part of the military line of communication. Difficulties are amplified by the fact that the commander is responsible for the security of the contract personnel in his geographical region.

The more services are bought by the military from the private sector, the less practical training the soldiers will have in that particular area. Private companies have increasingly become the principal supplier of certain critical services and logistics. The typical military support functions are no longer carried out by the military themselves. Contract firms keep their stocks until the military calls for them. The military is about to lose, and in fact to a certain extent has already lost, important know-how and competencies within just a brief period of time; they will become dependent on private suppliers, a dependence which cannot easily be reversed (Avant 2000).

Increasing the privatisation and delegation of public missions to the private sector has certainly been of great economic benefit in a number of areas. Examples and empirical proof have been plentifully presented in published literature. The economic success of privatisation depends on at least three minimum conditions (Markusen 2003, pp. 472-478): The service to be contracted by the public sector must be open to true and sustained competition. Real competition is essential to prevent companies from maximising their profit-seeking strategies. Furthermore, the client himself must have a clear understanding of what kind of services are expected and he must be able to articulate his demand. Finally, the client must be in a position to control and verify the services delivered. The empirical results show, that in general the savings potentials are overestimated when companies are contracted. Applying the three criteria for successful privatisation as a yardstick the results of privatisation in the US military sector are by no means as positive as the government likes to claim (Markusen 2003, pp. 480-483, Wulf 2005, pp. 186-191).

The public good 'security' and the democratic control of the monopoly of violence

The policy of outsourcing military functions is an effort to create more efficient armed forces. But this notion also has an inherent danger since a central function of the state, the monopoly of violence, could be damaged or endangered. Privatisation is not by definition a total renunciation of state functions or their controls, but rather the delegation of public services to non-state organisations. Despite the fact that the concept

of this norm is not principally questioned in practice, in reality it is still being restricted or undermined.

The key to public security is the focus on the question of who exercises force in practice and who should be entrusted with the legitimate authority over the control of this force (Mandel 2001, p. 135). At the global level the monopoly of violence is a completely open question. A generally accepted, globally practiced monopoly of violence does not exist and the weakness and impotence of the UN Security Council in the case of the 2003 Iraq invasion is demoralising evidence of this fact. Security and peace are public goods; this fact is not contested. However, supplying the public goods of peace and security by the state efficiently is not so easy.

The deployment of private military companies is not without tension, because pursuing two at least partially competing principal concepts creates friction; namely the concept of delegating the state's guarantee of security to contractors versus the contractors prime motive of economic gain of their company. The public good 'security' and the private good 'economic gain' can be in competition with each other or even be contradictory. As a result of this, privatising public goods has certain limitations that need to be observed. Private military firms are specialised and offer professional services that are used in wars and violent conflicts – be it to prevent them or to fight them. Yet, companies might be reluctant to engage in providing security or preventing war by military means if too high a risk exists of losing the companies' assets in such conflicts, although the opposite may also be the case. These services are the companies' business; they might not thus be interested in a quick and efficient settlement of conflicts since that might reduce their turnover and profit.

The deployment of private companies has a profound impact on how the state monopoly of violence is exercised and controlled. An important consideration must be that these companies are presently not accountable to parliament or the public. While the government is held accountable by parliament, private companies are responsible only to the shareholder and client. This is precisely the reason why some governments want to make use of private companies.

Governments in developing countries who hire privately organised combat troops when they are weak or beleaguered are often, at the same time, the kind of governments that are short of resources. To find the funds to pay such private companies' troops they might have to mortgage their own economic and political future. Companies or supporting troops have been paid for their military services by receiving mining rights for oil or diamonds, tropical wood and so on. This results in mutual dependencies between client and contractor, and conflicts might be extended in the bilateral interest of such contracts. In such a situation it is not clear which state tasks can be implemented, who decides upon them, and if decisions are taken as to the way in which the monopoly of violence (that strictly speaking is no longer a monopoly) is carried out. The contractors seem to create their own demand or at least have an influence on the demand for security services, if security is purchased commercially.

The following figure summarises the arguments both for and against the privatisation of military tasks presented in research and the media and by the companies themselves.

Figure 2: Arguments pro and contra the deployment of private military companies

Area	Pro	Contra
Economics	Companies work more cost effectively	Evidence for their cost effectiveness is rather weak Business practices of the companies are not very transparent Real cost of military missions are blurred through outsourcing
Military	Troops can concentrate on their core missions Companies are more flexible and are quicker to deploy people Synergies between companies and the armed forces are created	Dependency of the military on firms Companies are unreliable on the battlefield The <i>just-in-time</i> method is not suitable for wars Additional tasks of the military to protect contractors
Peacekeeping and humanitarian intervention	Quick reactions of companies in crises Quality of UN-missions increases Protection of humanitarians Cautiousness of deploying national troops	Responsibility of the international community for protection is delegated Dubious firms are legitimised by the UN
International crises	Stabilisation of collapsing states Engaging the private sector in post-conflict reconstruction	Continuation of conflict in the interest of companies Companies might damage the foreign policy of their home country Distinction between civilians and military disappears Companies act as proxies of their government
Technology	Better know-how of companies	Technology is not available in critical situations
Policy	Governments can reduce the presence of their forces by hiring companies	No democratic control of companies States should have to guarantee security Complicated civil-military balance is disturbed
Law	Companies operate under government licence Codes of conduct regulate business practices	Lacking legal regulation of company deployment Hard to prosecute companies and employees for criminal acts or violations of human rights Geneva Convention (combatants/non-combatants) is undermined

Source: Wulf 2005, pp. 63-64.

2.3. Intervention and Reconstruction

Paradigm shifts in security and interventions

The international scene has experienced two closely related paradigm shifts toward prioritising concepts of political stabilisation of the developing world: a shift in the concept of security from military-based territorial defence towards the emphasis of human security and a shift from non-intervention towards intervention based on humanitarian concerns. The notion of security has undergone both a ‘broadening’ and a ‘deepening’, or a horizontal and vertical expansion: The broadening of the concept of the security, immediately after the breakdown of the Soviet Union and its military alliances, aimed at considering new threats. These perceptions of ‘extended’, ‘comprehensive’ or ‘global’ security were geared towards new actors (like the development community), new threats and new scopes of security (such as environmental degradation, energy shortages, population growth, transnationally organised crime etc.) (Busan 1991, Weaver *et al* 1993). A central driving force behind this broadening was to find new rationales for the military in East and West which had lost its focus with the end of the East-West antagonism.

The deepening of security occurred with the introduction of the concept of human security. During the last twelve years the focus has shifted towards the individual or the people – their freedom, well-being, safety, and dignity – rather than providing security for the state or the nation. Although national and human security need not be differentiated, the emphasis has shifted markedly from territorial defence to protection of the individual. With the publication of several reports on human security the traditional goal of ‘national security’ as the defence of the state from external threats has given way – conceptually – to a focus of the protection of individuals (UNDP 1994, International Commission 2001, Ogata and Sen 2003, UNHLP 2004, Human Security Center 2005; for a critique of this concept see Paris 2001). The changing concepts of security, the broadening and deepening (with the narrow and the wide concept) are summarised in figure 3.

Figure 3: The changed concept of security

Focus of attention/means	Military means	Military and non-military means
States	National security: protection against external aggressions	Broadened security with new actors: including environment, oil supplies, population growth, transnational crime etc.
Communities and individuals	Intrastate security: civil war, ethnic conflict, genocide, organised crime, terrorism	Deepened security: human security ‘narrow’ concept: protection from violence and fear ‘wide’ concept: protection from want

The philosophical and moral underpinning of the policy to intervene is the emphasis of human security which is often portrayed as a result of a growing concern about human rights. But the change in policy is not constrained to the use of the armed forces to intervene. A gradual but decisive shift toward more interventionist theories and practice has also taken place in development assistance. It occurred from simply funding development policies and programmes to influencing aid recipient countries’ policy frameworks under stabilisation and structural adjustment programmes with conditionality

imposed by the donors; to directly transforming political and administrative institutions under the rubric of good governance, so as to ensure a supportive institutional framework for market-based development. The trend of considering humanitarian concerns has also led to an interest of the development (and relief) community in security, with the widely accepted notion that there will be no development without security. This is most graphically documented in the promotion of the concept of security sector reform, an idea that has been foremost facilitated in the political sphere by the development community. From this it has been a fairly short and logical step to the idea that the development community could and should concern itself with reconstructing governance in war-torn states and societies after conflict (Luckham 2005, pp. 15-17). The previous taboo of the development donors towards engaging in military matters has changed into a developmentalisation of security. The underlying rationale of this approach is the simple logic that no sustainable development can prevail without adequate security provisions. This is, for example, most clearly demonstrated in the UK's Department for International Development (DfID) engagement in Sierra Leone, which includes a strong element of security sector reform.

Intervention signifies an intrusion into the inner dealings of a nation. This is done with the intention to change or retain the political power structures in that nation. There exists a potential tension between the principles of state sovereignty and equality among nations expressed in the UN Charter on the one hand and the special protection of individual and collective human rights on the other. The prevailing opinion was based on the assumption that the consensus gained through the Peace of Westphalia in 1648 concerning the absolute sovereignty and equality of states served as the basis for international order. Dissolution of this consensus, it was believed, would have resulted in anarchic power struggles.

However, already during the Cold War, and much more so after its end, the tendency to acknowledge the status of human rights as an international rather than an inner-societal topic gained force. Implicitly this led to the querying of the absoluteness traditionally accepted under the principle of non-interference (MacFarlane 2002, p. 34). Western governments, having promoted democratisation and human rights protection as official goals of their foreign policies, were hesitant to reject interventions when tabled in the name of democracy and human rights. The high number of deaths inflicted by wars coupled with an increasing number of refugees as well as changes in the nature of warfare and its consequences, led to the promotion of humanitarian aspects including requests for 'humanitarian intervention'. The justification from both a political and international law perspective is that human rights violations and humanitarian crises threaten the peace and stability in neighbouring countries and the wider region. Therefore, it is seen as a duty of the Security Council to attend to these problems and possibly to resort to the deployment of military force.

Although humanitarian principles have been twisted in a number of cases to legitimise interventions that serve power politics, accepting new legally binding international norms can, at least partly, be explained by newly emerging global trends, namely the acceptance of a need for global governance. International law experts identify a trend that states are increasingly recognising international law as having universal applicability and are binding for all states regardless of whether they are party to a specific treaty or agreement – even if political practice diverts from this rule. A second trend has contributed to the widely

accepted responsibility of the international community for the protection of people. The enlargement of international institutions into universal or near universal membership organisations has led to the domination of multilateralism as the legitimate institution form for cooperation (Cronin 2005), despite the fact that there are also tendencies for intensified unilateralism in the United States.

Figure 4 summarises the basis (moral, legal, institutional, political, socio-economic and military) for the increasing readiness to intervene in crises situations. It lists the causes and trends for this development, all of which are also criticised.

Figure 4: Interrelated causes for the increasing readiness to intervene

Areas	Causes and trends	Critique
philosophical-moral	humanitarian concerns: the responsibility to protect, promoting democratisation and a liberal public space	hidden political and economic agendas
legal	acceptance of international norms and universal applicability of international law	conflicting norms of state sovereignty and responsibility to protect people in need
institutional	wide acceptance of the need for global governance and multilateralism	unilateral actions by powerful nations
political	no development without security: developmentalisation of security	expansive and open-ended notion of security
socio-economic	globalisation and localisation with an increase of global threats as well as intra-state wars and conflict; providing security locally, regionally and globally	export of neo-liberal economic model; outdated concept of national security
military	humanitarian intervention; no security without development: securitisation of development	wrong means for right purpose; trend to early military intervention

The concept of territorial defence and national interest – and with it the Westphalia type nation-state – is fundamentally challenged through these paradigm shifts in the notions of security and interventions, without however implementing a consistent and totally convincing new political model. The gradual but broad acceptance by the international community that human security should take precedence over state security is an assault on the Westphalian nation-state system (Oberleitner 2005, p. 190). It also fundamentally questions the nation-state-based concept of the legitimate monopoly of force. It is logical that the orientation of state sovereignty needs to be supplemented by broader concept of authority; thus the focus of the *state* monopoly of force needs to be widened.

Challenges and dilemmas for intervention and reconstruction

Ignoring the collapse or the erosion of states or the inadequacy of the state monopoly of force or failure to implement this central role of the state is a risky affair. From the UN *Agenda for Peace* of 1992 to the UN report *A More Secure World: Our Shared Responsibility* of 2004 a series of UN documents argued that not only the conflicts must be addressed but that the underlying economic, social, cultural and humanitarian concerns must be tackled in order to lay the foundation for a liberal democratic state capable of delivering the goods and services to meet the basic needs of the population (United Nations 1992, UNHLPT 2004). To put this *Erkenntnis* into practice, however, is the fundamental

challenge of post-conflict rehabilitation. The types of international interventions in conflicts and post-conflicts differ significantly: relief, aid, peacekeeping, peace enforcement, peace building, joint civil-military and exclusively military interventions.

The settlement of a conflict is considered a 'golden hour' to coming forward with assistance for fundamental changes (Jones *et al* 2005, XI). Peace settlements are seen as moments of great opportunity but also great vulnerability (UNDP 2005, p. 175). But it seems easier to end wars than to transform conflict into sustainable peace; often the military victory is the easiest part of the struggle, as the war in Iraq has proved. According to UN Secretary-General Kofi Annan, "roughly half of all countries that emerge from war lapse back into violence within five years" (United Nations 2005, p. 1). Hence, the international community has increasingly tried to seize the opportunities that peace creates by assisting in providing security and supporting political, social and economic recovery in order to prevent a relapse into crises. There seems to be a widely accepted premise that security is an immediate priority; unless the state and/or the international community manages to exercise the monopoly of violence, at least in a rudimentary form, the prospects for stabilisation of the society remain tenuous. In numerous post-conflict cases, the reform of the security sector (primarily the military and police, but also the judiciary) has been externally sponsored, among them Afghanistan, Azerbaijan, Bosnia and Herzegovina, Georgia, Haiti, Iraq, Kosovo, Liberia, Macedonia, Mozambique, Tajikistan and East Timor.

'Security first' is considered a precondition for human development, but it is equally important to move beyond security to the next phase of reconstruction through a long-term national strategy for economic recovery and the development of accountable institutions. Creating an effective umbrella for the development of human security is, according to UNDP (2005, p. 175) the first step on the road to reconstruction – a step that requires financial commitment by international donors. Vast amounts of financial resources have been made available by international donors and multilateral organisations for such programmes in Cambodia, in the Stabilisation Pact in the Balkans, Afghanistan and several countries in West Africa. The experience with military interventions and the post-conflict and reconstruction programmes since the early 1990s seems to be based on the expectation of "a sequence from pre-conflict to conflict to post-conflict; from relief and humanitarian aid during conflict to reconstruction and development aid after it; from collapsed or failed to functioning states; from ethnic violence to national reconciliation; from the rule of the gun to the settlement of conflicts through democratic processes" (Luckham, 2005, p. 21). The standard peace-building concept normally involves the ending of war, holding elections and launching a full range of market-oriented economic reforms, followed by a declaration of peace building 'success' and the termination of the operation usually within two or three years of its creation (Paris 2004, p. 175). Real life is far more complicated and not all programmes have had the desired positive results, or they have taken much more time than anticipated.

The broad aims of the reconstruction programmes reflect the inadequacies or the failures of the states to meet the above mentioned six governance concerns. The idea is to create or recreate the state itself with legitimate state institutions, to make it into a homogenised and democratic nation and to build a state which facilitates development. Given the normally dire state of affairs during conflict and the poor initial conditions after conflict, the challenge for the international community is what to do: either promote the

sovereignty of states, despite the challenges posed through globalisation or limit the state sovereignty, entrust the international community with typical state functions and promote global governance. These concepts have to be seen in the light that the failure of the state was the root cause of the violence. The type of intervention has implications for the future of the programme. Often, implementing governmental power under international auspices, especially the control over the instruments of force, seems to be without an alternative, if non-state actors wage war, if the state structure has been wiped out or was seriously damaged during conflict and if the previously belligerent parties are still distrustful of each other. Given the legacies of conflicts it is difficult to build peace.

Different answers have been given in different cases. While transitional administrations or protectorates led or authorised by the United Nations are not the rule yet, it seems that there is a tendency to engage in peace building operations which include exercising governmental powers.⁷ The cases of Bosnia and Herzegovina, Kosovo, East Timor and Iraq clearly point towards that direction; they are or were politico-military protectorates or semi-sovereign states with limited powers of the state governments (Brzoska and Heinemann 2004, p. 132).

Nation-building programmes and re-creation of state institutions are faced with a number of serious problems. A fundamental problem is that the international programmes tend to take the existence of central states as given. Furthermore, there are obviously limits to what international donors and other agencies can meaningfully do if there is no robust national leadership in place or if leaders do not respond to international initiatives. This point of lack of local capacity is described with regard to Sierra Leone by Albrecht (2005, p. 2). There a number of problems are of systemic nature, some of them found within the international community engaging in such interventions.

First: The legitimacy of interventions and the shaky basis to introduce democratic structures. Reconstruction programmes are not always desired nor accepted by the people of the intervened country. While Americans today discuss the nightmare in Iraq and how to exit the war-shattered country the relevant question was already posed in 1920: “How much longer are valuable lives to be sacrificed in the vain endeavour to impose upon the Arab population an elaborate and expensive administration which they never asked for”.⁸ The problem apparently is not new and Lawrence of Arabia already urged to tone down the rhetoric and thus the expectations when embarking on post-war state-building efforts (Hulsman 2005). Legitimacy is the key to stabilising a society and to building peace and creating the conditions for development. However, all external interventions have to cope with the dilemma of a fundamental democracy deficit (Brzoska and Heinemann 2004, p. 131). Even if interventions and reconstruction programmes are authorised by the United Nations, the decision to intervene is not based on a democratic decision. The UN is a hybrid system (Woodhouse and Ramsbotham 2005, p. 141). The organisation is the creation of sovereign states and the organising principle is the universal membership of states, many of them not democratic and some more powerful than others, prepared to use force even without UN authorisation. But who controls the executor of sanctions implemented to counter security threats (Senghaas 2004, p. 59)? The second strand of the

⁷ A table of post-conflict peace building operations exercising governmental powers, presented in the Human Development Report 2005 (UNDP 2005, 176, table 5.3) lists only two such operations (Congo and West Papua) before the 1990s, whereas afterwards 14 cases - in some cases including several operations in one country - are listed. See also Figure 5 below.

⁸ The London Times, 7 August 1920 quoted by Nicholas D. Kristof, Leaving Iraq. In International Herald Tribune, 16 November 2005.

UN, however, is its function as ‘international community’ with its norms and values to protect human rights and the responsibilities for safeguarding peace and security. This dilemma of a Janus-faced organisation cannot be solved as long as the UN and especially the Security Council is characterised by power politics and a democracy deficit. While creating democratic institutions and a liberal public space are desirable in themselves, the means by which this concept is implemented is in parts questionable. How can democratic institutions be created and good governance practiced on the basis of non-democratic, often arbitrary and selective decisions with interventions in some crises areas but abstaining in others? In addition, democratisation has been discredited by the democracy promotion effort of the Western powers and international agencies, not least by the recent violation of democratic norms and ignorance of international law by the United States Government in its anti-terrorism campaign.

Another fundamental dilemma of democratisation comes to bear in conflict-prone societies: Democracy encourages conflict and competition; democracy actually thrives on multi-party elections and a competitive political process. This is the paradox of democracy: Democracy “relies on political competition as a means of limiting the intensity of this competition” (Paris 2004, p. 157). Empirical cases illustrate that democratisation, although a cherished value has often coincided with new forms of militarism, violent conflict and insecurity. This is probably no accident. One reason is that democratisation raises the level of political and economic expectations. It is, however, resisted, often forcibly, by those whose power and privileges are questioned (Cawthra and Luckham 2003). It is doubtful that war-shattered societies can easily and quickly overcome the competitive violent structures at the end of war and direct those tensions constructively into a competitive democratic, yet peaceful process. After all, the fact that the state was ill-equipped to legitimately exercise the state monopoly of force was the reason for the violent conflict.

Second: The hidden agendas of interventions and reconstruction. The widely accepted wisdom in academic and political debate is that the key to maintaining stability appears to lie in the development of democratic institutions and a liberal market economy which ensures economic and social development (Goldstone and Ulfelder 2004/05, p. 10). Veiled behind the humanitarian concern to prevent or end conflict, provide peace and enable development through the actions of the UN there is not only the normative goal to create a global order based on good governance but also the ambition of some powerful members to exert political influence and press for their own economic interests.

The intervention in Iraq with the declared aim to restore democracy and prevent the proliferation of weapons of mass destruction is but the most obvious recent example of hidden agendas of intervening powers. Had the UN Security Council as well as the international donors been more aware of the consequences of their actions or non-actions and more willing to engage in conflict prevention rather than curative involvement, fewer interventions would have occurred and it is possible that they could have pre-empted many conflicts. The philosophy of these interventions is humanitarian concerns – to stop genocide, to end war to deliver assistance for people in need. However, these interventions are not undertaken for altruistic reasons only. Human rights have become part of the discourse of war and peace. Governments in Western countries want to show and need to prove to their public at home that they are responding. While it often sounds like the West is ‘managing the global chaos’, peace-building, humanitarian action aid and

reconstruction programmes have actually become a mechanism for transmitting Western values and institutions, serving a specific model of globalisation and liberal market orientation, giving rise to accusations of neo-colonialism.

Nation-building with post-conflict rehabilitation, humanitarian action, and aid and development cooperation becomes a government strategy for political containment and problem solving. But it also serves as a vehicle for a particular type of globalisation and humanitarian organisations have become embedded in this strategy. Humanitarian organisations engaged in post-conflict relief might not only lose their impartiality, neutrality and independence but de facto are they often used as a fig-leaf of government policy (Mills 2005). Many international organisations have put aside their proposed ideological neutrality – especially in post-conflict situations – to adopt an overt neo-liberal programme. The free market economy, a liberal public sphere and democracy is believed to be the precondition for a sustainable transition from war to peace (Duffield 2005). It is questionable however if this concept delivers what it promises. What has been diagnosed as a paradox of democratisation in war-torn societies also applies to the economic liberalisation projects. Market orientation has the potential to stimulate higher levels of societal competition immediately following the conflict when states are least equipped to contain such tensions within peaceful means. Problems can be traced back to tensions in the logic of market itself. Paris (2004, pp. 179-211) has forcefully argued that the faith in rapid democratisation and ‘marketisation’ as means for consolidating peace in post-conflict societies is an inappropriate approach. He suggests instead that first efficient state institutions should be built without rushing the democratisation and the liberal market shock therapy. In other words, the introduction of democratic and market-oriented reforms should be delayed until a rudimentary network of domestic institutions has been established – institutions which are capable of managing the strain of liberalisation.

However, this approach has its problematic facets too. Often the concept of directing most of the attention to strengthening the authority of the central state institutions occurs at the expense of lower levels of authority. (See section III. for the prospects and dilemmas of regionalism and federalism). The aim of establishing a functioning state apparatus and a strong centralised state might actually exacerbate rather than alleviate or prevent social and political conflict (Atack 2003/04, p. 28). The interventions’ core goal – from Bosnia to Iraq, from Afghanistan to East Timor, from Haiti to the DRC – is the establishment of a central government, intended to create domestic and regional stability, but also to get rid of a ‘rogue’ government and to achieve stability at the same time.

Third: The often unclear mandate of externally sponsored intervention and reconstruction programmes and the notorious coordination problems of donors. The so-called Brahimi Report of 2000 on the reform of UN peace operations clearly states that missions with unclear mandates and inadequate resources should not be created at all (UN General Assembly 2000). Nevertheless, unrealistic or unclear mandates, usually the outcome of a political compromise of countervailing political forces in the UN Security Council, are what the implementation agencies in the field have to live with. Coordination problems, even competition, arise when several agencies try to implement what they consider their first priority. This relates not only to the potential competition between separate civil and military command structures, but is of relevance for coordination problems and duplications in the civil area too. The larger proportioned the reconstruction programmes, the more numerous are usually the external actors. The efficiency suffers when a wide

variety of the different agencies acts without proper coordination (Ball 2002, p. 92). The division of labour is often agreed upon *ad hoc* with the countries that are most engaged in financial terms claiming a responsibility to be in the driver's seat. The urgency of the intervention, the complicated political process, the complex nature of the intervention (peace enforcement, peace building, reconstruction, relief, aid etc.), the delays in decision making, the competition and turf battles between different agencies can undermine the good intentions significantly.

The legitimacy dilemma is exacerbated in crises areas with large externally sponsored reconstruction programmes through the behaviour of the international personnel with regard to security. The first and prime challenge is ensuring the physical security of civilians. Any international or regional intervention must ensure the safety and security of the people. However, an empirical study on Afghanistan, Kosovo and Sierra Leone, concludes that the international organisations have a specific understanding of security: "Neither international military nor aid personnel put local perception and priorities regarding security at the top of their respective agendas. Both were concerned first and foremost with their own security. In the case of the military, 'force protection' was the controlling reality, amplified to a degree by the applicable rules of engagement of the respective military missions. For the aid agencies, the prevailing security concern involved the safety of staff and operations, although aid groups seemed somewhat more attuned than their military counterparts to the expressed needs of communities for human security in the form of jobs, electricity, education, and other essentials." (Miner and Donini 2005, p. 2).

Fourth: The lack of local ownership. It is usually the case, almost by definition in situations requiring reconstruction under international auspices, that the local structures are too weak or unable to find a solution to end a conflict. The emphasis of the need for local ownership in the process of transformation of conflict, in development programmes and in nation-building is – conceptually – uncontested (Caparini 2005). But what when theory meets reality? How often do international donors, both governments and NGOs, violate this iron rule of local ownership? One of the reasons for this is the self-interest of many of these organisations. There is some hubris that international organisations or donors are the decisive factors in most reconstruction programmes. But more importantly, it is typical for war-shattered and conflict-endemic societies that the groups capable of taking the local ownership of a transformation process are limited or difficult to find by the international donors. The international community tends to go ahead with their programmes in such situations, usually with good intentions, but regardless of the potentially detrimental effects on the indigenous structures. How much local ownership is pushed aside by pressing ahead with the internationally sponsored programmes?

Paradoxically, international programmes experience a shortage of personnel and finances and at the same time the recipient side is overwhelmed by the comparatively enormous inflow of foreign personnel equipment and finance. The absorptive local capacities are usually too small to partner with the foreign sponsors. In many reconstruction programmes the implementing agencies complain about the lack of resources. A study of the RAND Corporation, for example, concludes that generous provision of resources are necessary for successfully reconstruction and claims that the "U.S.-led efforts in Iraq and Afghanistan have not met most of these minimum resource levels" (Jones *et al* 2005, pp. XII). The deployment of international military forces, peace builders and relief and aid

workers has in many instances spurred an explosion of the service economy which can subvert the infant state (Bhatia 2005, p. 206). The import of foreign personnel and currency has aggravated crises in the sense that such crimes as corruption and prostitution have been initiated or intensified. The UN and other international agencies cannot deliver sustainable outcomes without utilising the knowledge and experience of local and regional actors, but at the same time the creation of local ownership is a time consuming, frustrating and often even impossible task. If the capacity for local ownership is absent, the international donors implement their programmes anyway.

Fifth: The short duration of programmes. International donors often treat peace-threatening crises as short-term problems which have to be solved as soon as possible. While this is understandable considering the humanitarian consequences of inaction, the experience in many post-conflict societies have proved that the conflicts have deep rooted-causes which do not disappear instantly with the commencement of an intervention. Yet, the international community's relief and peace operations seem to follow a high-noon syndrome: They are expected to offer a quick and final solution to the conflicts. Short-term relief or humanitarian programmes can be of value in stopping or reducing the violence while the creation of sustainable peace and development is a long-term project. Crash programmes of peace operations with elections following immediately in countries just emerging from civil wars and the introduction of 'quick and dirty' economic market reforms ignore the fact that conflicts are usually protracted, often going back several centuries. There are several reasons for such short-term, often single-projects aid and a quick-impact orientation: the desire to stop violence instantly; the shortage of the necessary financial, personnel and material resources and the reluctance of the governments of the intervening countries to commit themselves for decades rather than years.

Experiences and outcomes

Looking at the experiences and outcomes of the major reconstruction programmes since the beginning of the 1990s, especially those peace building operations which included exercising governmental powers, there have been a few successful programmes, while the majority of the cases are either mixed or unsuccessful. The results depend to a large extent on the initial conditions. According to research results, and plausibly too, democracy and nation-building is a difficult process: the highest risk for political crisis lies not in autocracies and in fully developed democracies, since both usually are fairly stable societies – the former by repression, the latter by majority decision making. “The crisis lies in the middle ground, in autocracies with some political competition and in nominal democracies with factional competition and/or dominant chief executives. These types of regimes appear most vulnerable to the outbreak of large-scale violence, antidemocratic coups and state collapse” (Goldstone and Ulfelder 2004/05, p. 17).

The results of large-scale peace building programmes with a significant reconstruction component are summarised in figure 5. Of course, classifying these complex operations into the three categories “successful, mixed, or negative” is somewhat subjective. Some of these programmes are still in operation. Thus, the prospective nature of these judgements necessarily limits the ability to reach definitive conclusions about their effectiveness.

Three output indicators have been used to assess the success and failure of 16 such programmes: (1) are these countries at peace or has at least the violence been stopped;

(2) what is the development performance of these cases; and (3) how much democracy and political freedom do they enjoy? The methodologies applied for all three indicators are not as clear-cut as they may sound. Whether a country is at peace and its conflicts have been settled cannot always be clearly answered with a simple yes or no answer since conflicts often tend to linger on and countries relapse into war. In addition, both the Human Development Index of UNDP and the Freedom Index of Freedom House used here are not uncontested.⁹ Based on these criteria four of the 16 cases can be considered successful: Bosnia and Herzegovina, Croatia, Namibia and East Timor; four additional cases are classified as having had mixed results: Burundi, Liberia, Cambodia and Sierra Leone; while the remaining eight cases are presently not too successful (primarily because the conflict in these countries have not been settled): Afghanistan, DR Congo, Haiti, Iraq, Ivory Coast, Kosovo, Somalia, Sudan and Western Sahara.¹⁰ In addition to the continuation of violent conflicts, those cases included in the categories of mixed or negative results, rank low in their development (as far as information is available) and they have a poor democratic and freedom record.

The disengagement of belligerent factions after the end of conflict can be considered as an important, although seldom, condition for sustainable peace. This was the case in all of the four cases classified in figure 4 as successful. Paris (2004, p. 153) has pointed out that in the case of Namibia the South African Army left the country and in Croatia a large part of ethnic Serbian population fled the territory. A similar development has also taken place in East Timor where the pro-Indonesian militias and Indonesian armed forces left East Timor after independence. The disengagement of warring groups facilitates the task of reconciling the parties who remain in the state. These are unusual conditions among countries where peace keepers have intervened. In many of the countries included in figure 5, belligerents continue to share the same territory and often resume to fighting, occasionally even when the peace keepers are still there.

As a preliminary assessment, one can summarise that the success rate of peace building and reconstruction programmes is low; this might partly be the result of their relatively short duration. The conclusion therefore is that often the time horizon for external assistance is too limited. Long-term commitments are necessary. Regarding the implementation of such programmes there continues to be a gap between resolutions, good intention and the reality which is often characterised by donor fatigue.

A similar gap exists between the manifest goals of interventions, the underlying moral and political premises and the latent or hidden agendas. National security concerns are still a focus of the intervening powers, often to gain the necessary support at home, although the concept of national security seems rather outdated in times of globalisation and multilateralism. Peace building is more likely to succeed if the history of the conflict and the factors of the different and multiple levels of authority below the central state in many conflict zones are considered. However, peace building is normally intended to stabilise and protect the central state's structure. While it might be tempting to increase efficiency by imposing programmes from outside the inclusive concept of engaging the national and local stakeholders and making use of their experience seems more sustainable.

⁹ A more detailed assessment of three cases, Kosovo, East Timor and Afghanistan, is presented in section IV of this paper.

¹⁰ It should be emphasized that development data for a number of the countries in this last group is particularly scarce. The classification of Kosovo and Western Sahara in this group is based on the fact that the conflict in these regions has not been settled and the future status remains contested.

The experience in some countries (for example in Cambodia and at certain times both in Haiti and in Liberia) shows that democratisation imposed from outside can quickly be reverted to a system of de facto one-party rule or diverted by opportunistic local actors.

Figure 5: Success and failure of major reconstruction programmes

Peace building operations	Date	At peace/ conflict settled ^{c)}	Development ^{d)}			Democratic/ freedom ^{e)}		
			Index	Rank	change	PR	CL	change
Successful								
Bosnia and Herzegovina ^{a) b)}	1995-	Yes	0,786	68	n.a.	4	3	+
Croatia ^{b)}	1996-98	Yes	0,841	45	+	2	2	0
East Timor ^{b)}	1999-05	Yes	0,513	140	n.a.	3	3	+
Namibia ^{b)}	1989-90	Yes	0,627	125	–	2	3	0
Mixed								
Burundi	2004-	Yes	0.367	169	+	5	5	+
Liberia	2003-	Yes	n.a.	n.a.	n.a.	5	4	+
Cambodia ^{b)}	1992-93	Yes	0,571	130	+	6	5	0
Sierra Leone ^{b)}	1999-	Yes	0,298	176	n.a.	4	3	+
Negative								
Afghanistan	2002-	No	n.a.	n.a.	n.a.	5	6	+
Congo, DR	1999-	No	0,385	167	–	6	6	0
Haiti	2004-	No	0,475	153	+	7	6	–
Iraq ^{a) b)}	2003-	No	n.a.	n.a.	n.a.	7	5	+
Ivory Coast	2004-	No	0,420	163	–	6	6	–
Kosovo ^{b)}	1999-	No	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Somalia ^{b)}	1993-95	No	n.a.	n.a.	n.a.	6	7	0
Sudan	2005-	No	0.512	141	+	7	7	0
Western Sahara ^{b)}	1991-	No	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.

Notes:

Included are all peace-keeping operations exercising governmental powers during the 1990s and later and major current UN peace-keeping operations.

a) = not a UN operation;

b) = peace-keeping operations exercising governmental powers during the 1990s and later;

c) = end of war, peace agreement, armistice or settlement of conflict;

d) = Human Development Index, rank in development according to HDI: Low Human Development = countries with HDI below 0,500; Medium Human Development = countries with HDI of 0.500 to 0.799; High Human Development = countries with HDI of 0.800 or more; the rank indicates where the country ranks in the total of 177 countries; change since 1995, + = positive, – = negative, 0 = unchanged;

e) = Freedom House Index, PR = Political Rights, CL = Civil Liberties; countries whose combined average ratings fall below 3.0 are “free”, between 3.0 and 5.0 are “partly free”, and those between 5.5 and 7.0 are “not free”; change during the last three years, + = positive, – = negative, 0 = unchanged, n.a. = not available.

Sources: UNDP 2005, Freedom House 2005.

3. CREATING A MULTI-LEVEL LEGITIMATE PUBLIC MONOPOLY OF VIOLENCE

War-shattered and post-conflict societies are plagued with a number of severe problems – one of the most important one's is, as is argued in this paper, the lack of security as a result of the erosion of the state monopoly of force. The monopoly of force means the disarmament of the citizens and the de-privatisation of violence. According to legal norms citizens are required to resolve their conflicts with arguments, if necessary in court, but not with violence; they are not permitted to take the law in their own hands. This ideal situation does usually not exist immediately after the end of conflicts.

The key to the Westphalian modern nation-state is the monopolisation of legitimate force (or organised violence). One of the central functions of the modern state is to guarantee the security of its citizens by establishing the rule of law. The state in Europe became what Weber (1919) called the monopolist of the legitimate physical violence. Weber describes three forms of justification for the legitimacy to exercise the monopoly of force: *first*, traditional power as it is exercised by the patriarch or elders; *second*, based on personal charisma as it is ascribed to dictators or religious leaders; *third*, power based on legality. One could add to this classification a *fourth* type of exercising power, the election of a leadership in a one-party system as it was (and in some cases still is) practiced in communist societies where the legality is based on the dominant role of the party. In today's modern state, according to Western norms, the authority to exercise legitimate violence rests on the legality of authority of a democratically elected, controlled and accountable political leadership. The use of the instruments of legitimate force is based on good governance.

A normative postulation, based on the theory of the democratic state, is that the state function of the monopoly of violence should be based on its legitimate use, on the rule of law and democratic control. This is, of course, by no means universally established. Legitimacy is not, as Weber's classification suggest, contingent on democratic process. Soviet and East European scholars have noted that belief in the legitimacy of the state socialist system shifted over time. In some periods it was rather linked to the state's provision of general welfare or public goods. Also in the Soviet system, rule of law was formal, but not substantive. Democratic control did not exist in the sense that it is understood in liberal theory. Many cases of post-conflict, post-authoritarian, or transitional states cannot properly be called democratic; they are perhaps electoral democracies, but not substantive ones.

Logically, this Weberian notion of the state entails the elimination of private armies, deliverance of internal pacification, emergence of a state system with organised and centralised war-making activities in a given territory, and the rise of state-controlled regular professional armies. What is the relevance of these four factors in today's conflicts? These criteria are challenged in many parts of the world. The disruption of the carefully balanced nation-state system has led to 'new wars' with new non-state armed actors. Since the state is no longer capable of exercising the state monopoly of force, private groups or organisations increasingly engage themselves in conflicts. State authorities in many countries cannot guarantee internal pacification and the establishment and implementation of law and order. While the internationally accepted norm of a state guarantee for the public good of 'security' still exists, its implementation in reality is presently not possible. The idea of the undisputed national entity no longer existing as

national boundaries has been increasingly broken down or lowered due to the general trend of globalisation. Many actors today operate outside the boundaries dictated by the logic of territoriality. Economics, politics and culture are increasingly de-nationalised. Conceptually and in reality state functions are reduced and states are being emptied of some of its functions. The final Weberian criterion, the creation of regular professional armed forces, is not principally questioned although their personnel strength has been drastically reduced and numerous functions are outsourced to private companies.

The experience of the post-Cold War years in conflict prevention, peacekeeping, post-conflict reconstruction and nation-building shows that there was never a magic bullet or a panacea to ensure the security of people, the prevention or resolution of conflicts or the restoration of the state monopoly of force. The monopoly of violence of the nation-state cannot easily be re-established. Each case of conflict has its own history and process, and there are seldom, if ever, opportunities for quick fixes. This is not new, although the recent trends of internal wars and conflict and international reactions have brought this more into focus.

For conceptual as well as practical reasons the nation-state should not be seen *a priori* as the only legitimate authority to use the monopoly of violence. This argument is based on the empirical-analytical observation mentioned in the introduction that the context for the functioning of the nation-state has fundamentally changed and the mixed experiences in recent reconstruction programmes call into question the exclusive focus on the nation-state and building of central state institutions.

It is suggested in this paper that the concept of global governance and the establishment and enforcement of international norms require a *public monopoly of force* at all levels of governance i.e. local, national, regional as well as global.

The Westphalian ideal presupposes a world with sharply drawn borders demarcating distinct, territorial jurisdictions administered in relative isolation from other sovereign actors. While this perfect model has never fully materialised, today the territorially clearly defined state is not only non-existent in failed or failing states but is increasingly considered just one among several possible sites of political authority. Instead cross-cutting and intersecting grids at the local, regional, state and world levels have emerged (Mason, 2005, pp. 39-40). As a result of increasing interdependence and globalisation the nation-state has lost or transferred part of its sovereignty to other entities: to the top (to supra national or multilateral organisations as well as private actors like companies and NGOs) and down to lower levels (such as local and district associations). This trend is classified as de-nationalisation (Sürn 1998). However, at the same time, there was also a re-nationalisation visible in post-communist countries which had to build state institutions from scratch in their efforts to become an independent state or, at least, had to restructure and build domestic capacity in the part of their administrations that were previously dominated by the Soviet Union.

At the global level, the dominant role of the nation-state is challenged both conceptually through global governance and institutionally through the ever increasing number of multilateral regimes. Regionally, probably with the exception of the EU, there are only weak signs of delegating state sovereignty functions to regional bodies. This is different though below the state level. In many regions of the world, within federalist structures

local constituencies are authorised to exercise public regulatory functions. There is a trend toward a multiplicity of authority among public institutions and, at the same time, (as has been argued in the previous section of this paper) more and more functional areas are taken over by private citizens and private organisations that were previously part of the state functions.

3.1. The Model of a Segmented Multi-level Monopoly of Violence

The reconstruction of the monopoly of violence is not just about re-establishing the central *state* monopoly of violence. A more holistic approach is necessary to establish rules and regulations for the use of force that more effectively addresses both the legacy of conflict-endemic societies, namely the immediate security of the people, and the external linkages. Given the violent conflicts and the breakdown of the rule of law in many societies it is virtually impossible for any of the warring parties in a conflict to re-establish a monopoly of violence. Instead of addressing almost exclusively the level of the nation-state, as external actors presently often do, a legitimate multi-level public monopoly of violence is required.

A system of a segmented, but carefully crafted public monopoly of force with a clear division of labour should be based, in a kind of a ‘matryoshka’ system, on at least the following four levels of authority:

- the local level, with federalist structures or possibly alternatively traditional forms of shared authority, which offers proven forms of regulating violence with the inclusion of ‘zones of peace’ and ‘islands of civility’;
- the national level, with credible and accountable institutions of organised violence and good governance;
- the regional or sub-regional level, with regional organisations engaged in providing security and facilitating peace beyond the various national boundaries; and,
- the global level, through the United Nations, and including accepted international principles and agreed norms and with a legitimate authority to intervene for the protection of people.

The intention of proposing such a model is to overcome the narrow Westphalian type territorial fence, the national space. Given the globalised world, with porous or non-existent nation-state borders, with failing or collapsed states and with asymmetric zones of insecurity the future lies not necessarily in the re-establishment of a nation-state monopoly, but rather in a multi-level public monopoly of violence. A multi-level legitimate public monopoly of force comes closer to the present reality of the international system since it addresses the different levels of political decision-making.

Besides the daunting practical difficulties of implementing a multi-level public monopoly of legitimised violence regulation, such a system is faced with two conceptual problems: *First*, how shall the four different levels be legitimised, given the acute deficit in democratic processes at all four levels? *Second*, how must the authority be apportioned at

the different levels to avoid disputed sovereignties and how can co-operation and a division of labour between these segmented authorities function? Top-down, bottom-up or through consent?

A multi-level monopoly is, technically speaking, an oligopoly since the powers of a monopoly need to be shared between authorities at the different levels. Oligopolies are faced by definition with the prospect of competition and conflict. Such a system of multiple authority structures can also produce competition between the different authorities and incompatibilities with different levels of legitimacy. When one authority encroaches on another, this means necessarily a loss of authority for one actor and gain for another. To avoid a ruinous zero-sum game clear and accepted rules for the legitimisations must be spelled out. To create the suggested multi-level public monopoly of violence as an efficient and functional instrument, a set of agreed rules is a precondition. Otherwise the system will be bogged down in fights over competencies on who exercises the various authorities. And only if the system functions is there a chance to move from the present situation of the breakdown of the monopoly of force in many parts of the world to establishing a legitimate public monopoly of violence.

What could a set of agreed rules look like? The system must be based on security (not defence) and orientated to observe human rights; it should have clear political decision-making bodies on a multilateral basis and should encompass the rule of law for the use of violence (Study Group on Europe's Security Capabilities 2004). Cosmopolitanism could provide a normative framework. Cosmopolitanism emphasises diversity and multiculturalism; it is centred on the idea of collective human security and a wide spectrum of cross-cultural understanding to resolve conflict and sustain peace non-violently (Held 1995, McGrew 2000, Woodhouse and Ramsbotham 2005, p. 150). The introduction of a multi-level public monopoly of force means creating a normative and institutional framework of world order. "Authority is not something imposed from the top down which consenting behaviour then ratifies. Rather, it is a social and political relationship based on interests, norms, identities, and ideas, continually being reproduced and modified through the everyday, shared expectations, and causal logics of individuals and communities" (Mason, 2005, p. 48)

Two crucial functional principles (graphically illustrated in figure 6) should provide the basis. *First*, the monopoly of violence should be exercised according to the *subsidiarity principle*, that is, in a bottom-up approach the lowest level should be the starting point and only when the local level is not capable or cannot be tasked with exercising the monopoly of force should the next higher level be entrusted with this mission. This concept is, for example, exercised in many federal states where a federal authority (or even local community or counties) executes police functions. It stresses the function of the police and judiciary, rather than the nationally oriented armed forces. The central state (the nation-state) will only become involved if the task goes beyond the local level or if the instruments of legitimised organised violence at that level prove to be incompetent or inadequate. If the nation-state level is ill-equipped or incapable of exercising the monopoly of violence the regional organisation is tasked, for example to prevent the trade in humans, drugs or weapons. This would leave the UN as the highest authority to ensure peace and security only as a last resort.

The *second* principle is based on *supremacy*, on a hierarchy of authority. Norm setting takes place top-down. International norms prevail over regional, regional over national and national over local levels. The UN has higher authority than the regional organisations, the region is placed higher than the national level and the national level has prevalence over the local level. Given the realities of conflict-prone and war-torn societies, not all four levels will actually be functional, but the multi-level approach is designed precisely for such situations where one of the four levels is lacking or incompetent, namely, to compensate for the partial or prevent the complete breakdown of the monopoly of violence.

Figure 6: Establishing the multi-level monopoly of violence

Subsidiarity principle: bottom-up	monopoly of violence	Supremacy principle: top-down
↑	Global	↓
	Regional	
	National	
	Local	
Implementing the monopoly of violence		Norm setting

This suggestion is of course far easier to put forward than to actually implement. Numerous practical reasons and conceptual considerations can be listed to illustrate how difficult it will be to establish such a system. All the four levels experience shortcomings. The local level in many societies is haunted by corruption, dominated by criminal networks and suffering from weak public institutions; a functioning civil society is often non-existent. The central state level, although usually still considered as the most important agent in exercising the monopoly of force, is presently incapable in many countries. The regional organisations are often too inept to perform their missions, not just because of a lack of capabilities but more so because of deep-rooted political differences amongst their members and the unwillingness of most states to devolve sovereignty functions to the regional body. Although they are recognised by the UN as potentially important actors in maintaining peace, conceptually they are somewhat overlooked in the emphasis on the UN as the highest authority and the nation-state with its still important feature of state sovereignty. In Asia, for example, an accepted organisation with full membership of all states of the continent does not even exist. In other continents or regions, the organisations suffer from a lack of legitimacy as well as from economic and military weakness to exercise a public monopoly of force. The EU as a regional organisation, probably comes closest to being able and legitimised to function in that way. And at the global level, although the UN is the highest authority on peace and security, its activities are often heavily biased and contested. International norms are often selectively applied because the double standards of members prevail. Conflict regions are not only assisted with crisis prevention programmes but all too often they are at the same time at the mercy of the dominant powers.

So far this proposal remains little more than recommendations on paper. Nevertheless, the debate about the lack of security in almost all post-conflict situations signifies the high priority for the creation of a monopoly of force. Despite all the anticipated difficulties that the implementation of such a proposal for a multi-level public monopoly of force will encounter, the suggestion points at an avenue out of the present crisis. The experience of the last four centuries in Europe demonstrates that security must be guaranteed by a monopoly of violence, and that privatising or commercialising security will lead to the development of different or asymmetric zones of security and insecurity with effective protection only for the privileged who can afford to pay for their security.

In *legal* terms it must be clear that the monopoly of force has to be based on the rule of law. Interventions at whatever level must be based on clear norms – norms which are democratically controlled. Efficient rules are urgently required to uphold the public monopoly of violence.

In *political* terms it must be clear that military intervention is not an alternative to diplomacy, negotiations and conflict mediation or moderation. This was clearly spelled out in the 1992 *Agenda for Peace* by Boutros Boutros-Ghali (United Nations 1992), although since then often not practised. Despite the claim of governments, it is questionable if the military has only been used as a last resort, when political and diplomatic measures have failed.

Militarily, if the aim is to control violence, force may have to be applied. But the criteria for the use or non-use of force need to be clearly spelled out in order to find an appropriate and effective compromise between the applications of massive firepower and doing nothing (Kaldor 1997). The International Commission on Intervention and State Sovereignty (2001) as well as the UN High-level Panel on Threats, Challenges and Change (2004) have given extensively guidance as to the circumstances under which force could possibly be applied. Their criteria demonstrate that the armed forces cannot and should not be used in every conflict, but they emphasise at the same time the need for protection, if necessary by military means, of people in need.

Economic reconstruction is a means to make societies (not necessarily the nation-state) functioning again. If these efforts under the label of nation-building consist in practice only of economic liberalisation in the international community's protectorates by reinforcing the old clientele structures and siphoning off scarce resources, continuation of fighting or re-emergence of conflict and the breaking of the fragile peace can be expected (Pugh 2004). A short- and medium-term measure is to demilitarise economic life, restrict the use of economic resources for violent purposes and to reallocate such resources for peace and development processes. This, of course, requires challenging the war and conflict profiteers.

Culturally, some re-thinking about sustaining peace and norms for interventions is required and cosmopolitan policies and practice, emphasising diversity rather than uniformity, should be the guiding principle. Cosmopolitanism provides a normative framework: It aims at global governance and identifies a post-Westphalian direction for international politics, which transcends the state-centricity and it provides a way of consistently applying international humanitarian standards (the duty to protect human rights) by applying the concepts of human security (Woodhouse and Ramsbotham 2005, p. 141).

Although the suggested multi-level public monopoly of violence is difficult to implement, and pitfalls and shortcomings at each of the four levels can be enumerated, it is argued here that in many circumstances and incidences of lacking security a holistic approach will not accumulate problems, but that the weakness at one level (for example at the national level) can be compensated for by the level below (at the local federal) or above (the regional level).

3.2. The Local Level: Federalism

The foundation of the suggested multi-level public monopoly of violence is an institutionalised division of power between the different levels. This can best be described for the relationship between the local level and a central government as a federal system with a set of constituent governments variously denominated as states, regions or provinces. The opinions in the political theory and practice on the usefulness of federalism are divided. Federalism is seen as causing too much diversity or too much unity, too much regionalism or too much centralism, thus being in a constant contrast of centrifugal and centripetal forces. One group considers federalism as a relative of democracy. Federalism would be a seedbed of democracy, as it would allow for more participation and accountability, stimulate civil society, add access channels for political participation, broaden sources of legitimacy, limit the ‘terror of the majority’, broaden citizenship by institutionalising multi-ethnicity and providing for sub-national competition, thus stimulating local self-governance, innovation and efficiency. The counter-argument assumes that federalism preserves sub-national authoritarianism, promotes rule along ethnic instead of democratic lines, fosters regional disparities, undermines the rule of law, and facilitates the rise of demagogues rather than encourage democracy (Heinemann-Grüder 2005). The empirical experience offers results to underscore both of the divergent positions.

Decentralisation of political authority requires a shift of competences which might also include the monopoly of force. In the public debate decentralisation, similar to federalism, is often seen as a positive mechanism to prevent violence or avert disintegration of a society. It is argued that the closeness to the local space is likely to promote realistic and bottom-up decisions; local leadership and public institutions are generally ascribed greater legitimacy. Their familiarity with the history and root causes of a conflict in their region facilitates their role in mediating between belligerent groups and, furthermore, allows the various stakeholders to participate in the solution of problems. Conflict regulations at the local level have their strengths and weaknesses. The fact that they are better suited to the local situation allows them to offer inclusion and participation. But the authorities, particularly in traditional societies, often disregard the essentials of democratic rule and might not be in conformity with Western standards of human rights (Böge 2004). Local elites are not per definition less arbitrary in their political decisions than central state authorities. Local autonomy may protect non-democratic regimes, although federal democracy may cascade downwards too.

Central governments frequently react with centralisation measures to control or overcome politicised heterogeneity or regionalist movements. Direct rule or emergency laws undermine or wipe out the federal idea of shared rule.

Opponents to decentralisation and federal systems point out that local leadership frequently proves as violent and authoritarian as their counterparts at the national level. The misuse of power does not only occur at the central state level but can happen locally as well. Delegation of power to the lower level can help to improve conflicts but can also lead to their exacerbation if the local authorities are not impartial in conflicts over group rights (Mehler 2002). Federalism has been described as an anti-majority mechanism since devolving power to smaller constituencies can move controversial issues beyond the reach of the centre's majority (Amoretti 2004, p.10). Decentralisation can be a solution to minority problems. The flip side of this positive aspect is that, especially in multiethnic federations, the integration of sub-national units or groups often takes precedence over democracy. Globalisation has enforced new constraints on minorities; federalism might help to correct this trend. However, majority rule is a problem in ethnically divided societies. Heinemann-Grüder (2005) concludes: Two imperatives usually compete in these cases: integration and democracy. Federations generally tend to over-represent territorial units or ethnic groups on the federal level and thus contradict the democratic principle of 'one man one vote'.

When states fail, there might be no alternative to decentralising power and entrusting local authorities with state functions – unless the situation deteriorates to such an extent that a UN-mandated protectorate is preferable. This can be the case when not only the central state authority has collapsed but also no functioning structures exist at the local level.

The delegation of decision-making to the local or federal level might unblock 'gridlocks' at the nation-state level (Mehler 2002, p. 134). As has been mentioned above, even in extremely dire conditions during war, as in Somalia and Puntland, local authorities offered a minimum of security, though not perfect, these services were better than what could be provided by the central state (Debiel 2002, p. 42). The subsidiarity principle mentioned in this section above calls for decentralisation.

Federalism as such is probably a far too multi-faceted regime to have undisputed and undivided effects attributed to it. Promoters of decentralisation and federal solutions emphasise the problem solving capacities at the local level and their autonomy to try to find lasting solutions and sustainable peace. Opponents of decentralisation warn that this policy could lay the foundations for the partition of countries or the breakaway of regions. Critics of federalism point to the break-up of the former Yugoslavia and suggest that federalist formulas for accommodation are at best ineffectual and at worst deeply dangerous and damaging (Bermeo 2004). However, interestingly, empirical studies suggest that the partitioning of countries for ethnic reasons does not increase the likelihood of future conflict and that there is not much support for the thesis that partitioning leads to failure (Tir 2005).

The conditions in many countries with post-conflict reconstruction programmes illustrate that local circumstances need to be considered. In Sierra Leone, when at the end of the civil war, the chiefdoms were reinstalled and entrusted with additional authority, the difficulties in the division of labour between jurisdiction of local councils and chiefdoms became quite evident and turf wars were imminent. Critics of this policy complain that these chieftains were created by the colonial powers and are now deeply resented by their rivals. It still remains a considerable challenge to consolidate a complex administrative

network of liberal democratic and traditional administrative structures – two levels of administration which have not coexisted (Albrecht 2005). To complicate matters further, the central state has, for a long time, been manipulated by strongmen in the capital with excessive top-down control from the centre and abuse of public offices but only limited authority at the local level. It would seem that strengthening the local level, if properly legitimised, could counterbalance the focus on the central government.

In Afghanistan, by contrast, the main problem that the country faces is the lack of a monopoly of force at the central state level. State structures scarcely exist and for centuries the rulers of Afghanistan did not manage to extend their rule permanently beyond a few urban centres (Wimmer and Schetter 2002). The development still suffers from a clientele network of regional and local warlords in alliances of convenience and competition with each other at the same time. These cliques are not democratically legitimised and their influence is based on tradition, economic and military power. Federalism requires a sense of partnership manifested through negotiated cooperation, joint competencies and an accepted division of labour; it seems questionable that Afghanistan has reached this state yet. Thus, in contrast to Sierra Leone, Afghanistan seems to suffer not from a lack of power at the local level but from a lack of central state power and a lack of legitimacy of local authorities.

Violent conflicts and wars arising from erosion or disintegration of the state are but one side of the coin. The other side is that the very emergence of the nation-state has contributed in many cases to violence or has disrupted traditional local pre-state mechanisms for conflict management. Wars and large-scale violence have arisen as a result of state formation, as for example in today's Sudan where century old conflict management mechanisms had previously been used (Deng 2000). The fact that Western researchers and media do not recognise such mechanisms working at the local level does not mean that they do not exist. Such traditional conflict regulations have their strengths and weaknesses. They too are, amongst others, better suited to the local situation allowing for participation but often disregard democratic rules (Böge 2004). There is a need for deepening the understanding of traditional modes of authority and conflict mediation on the one hand and governmental and institutional structures which are based on liberal democratic values on the other.

War-torn states may be dominated by warlords, organised crime, militias and unruly gangs of ex-combatants, mercenaries, and corrupt officials and so on – features to be found in countries like Afghanistan, Colombia, Haiti, Sierra Leone, Liberia and many others. But such societies are also populated by citizens who form 'zones of peace' and 'islands of civility', as Kaldor (1999) has described them for the former Yugoslavia. In nearly all war-shattered societies, it is possible to discover local communities and groups which try to act in a cosmopolitan, inclusive way. These groups make great efforts to get away from the split of ethnic, linguistic, religious or tribal group affiliations that are often manipulated by the logic of war. The essential objective in such societies is not to exclusively address the nation-state level. The long-term, bottom-up approach of co-operating with the non-violent factions in a society is of course more laborious and time consuming, but these processes might be a prerequisite for harnessing people's ambition for better times ahead which might even lead to state-building from below. Civil society, although usually not well organised in war-torn societies, can be seen as the decisive societal pillar for reconstruction.

3.3. The National Level: Institution-Building

This paper has underlined the important function of the nation-state in ensuring security in the immediate aftermath of conflicts, but, at the same time, the inability of many states to fulfil that function effectively. A second focus was the reduced role of the nation-state due to de-nationalisation. Despite the predicted demise of the state and the dire experiences with weak, collapsed or failed states, it is still national governments which remain critical in international relations, whether it is a decision to fight war, intervene in conflicts, arm or disarm. Notwithstanding the intensification of globalisation, the quest for global governance, international norm building and the growth of civil society, international policy remains decidedly state-centric – even though its importance is gradually reduced.

The provision of security has been described as the priority function of the nation-state in post-conflict societies. Demilitarising societies and the reform of the security sector with the police and the armed forces as the main actors are considered as a necessary condition for peace and development. Security sector reform aims at improving the security of the population. To expect peace and to stabilise a society without touching the security sector is wishful thinking. Security sector reform addresses in particular the breakdown of law and order and the loss of the state monopoly of violence. Since the military, police and judiciary are the ultimate agents of the organised institutions of state force it is essential to make them legitimated, efficient and accountable. Security is important for governance and inappropriate security structures can contribute to weak governance and intensified violent conflicts (Bryden and Hänggi 2005).

Security sector reform tries to improve the situation through institutional reforms. Democratic, civilian control over security forces is crucial for the provision of security in the interests of the population (Ball *et al.* 2003, Brzoska 2003, Bryden and Hänggi 2004, Wulf 2004). Arms control, especially small arms proliferation, disarmament, demobilisation and reintegration of combatants are prerequisites for the re-establishment of legitimate state force. Neglecting the ‘revolving’ door of combatants and mercenaries that wander from one conflict region to another and the weapons that are shipped from one war to the next is a guarantee for renewed fighting. Such programmes need to be implemented chiefly at the national level.

However, looking at the record of central governments’ decision in post-conflict situations, the results are at best mixed. To properly establish and control the agents of the state monopoly of force, a legitimised government with functioning state institutions is required. It is an extremely difficult task to democratise a society and build effective state institutions where democracy has no tradition and where state institutions scarcely exist. The academic literature on what should come first, democratic elections to legitimise the central state’s government or to build first the state institutions that can provide the basic services is highly controversial and no clear-cut blueprint for post-conflict reconstruction is available (Baker 2001, Paris 2004, Wimmer and Schetter 2002 on Afghanistan). There seems to be consensus that the military operations in an intervention is usually the easiest part, while creating governance and promoting democracy successfully is as difficult as providing a sustainable peace.

The promoters of a policy of 'democracy first' argue that no efficient state institutions can be established if a culture of accountability of the decision-makers is glaringly absent and if the government is not appropriately legitimised. State failure, characterised by civil conflict and bad governance such as corruption, abuse of power, weak institutions and lack of accountability, corrodes states from within. State failure undermines governance and adds to communal, national and regional instability. The proponents of the concept of 'institution-building first' argue that war-shattered societies will not be able to establish democracy instantly and that an externally imposed democracy will not be accepted at once. In addition, the shock therapy which usually accompanies the democratisation programme includes a market oriented economic reform which will exacerbate rather than reduce conflicts.

A central thrust of this paper is the argument that too much attention in reconstruction programmes is focused on the national level, precisely because – given the interconnected global space – the national space is no longer the exclusive state authority. Hence, reconstruction programmes and particularly the creation or re-establishment of the monopoly of violence needs to be addressed not just at the state level but beyond and below. This is particularly the case for peacekeeping operations too. Woodhouse and Ramsbotham (2005, 142) argue that peacekeepers should be released from an overly state-centric control system. They address this chiefly with regard to the policy of sending states and highlight that the UN is dependant on the decisions of the governments of the UN member states for each of its peacekeeping missions. Instead, the peacekeepers should be answerable to a more transparent, democratic and accountable institutional arrangement based on a permanent military volunteer force recruited directly among individuals predisposed to cosmopolitan rather than patriotic values. This is what the authors call a post-Westphalian or democratic peacekeeping – peacekeeping that not only is focussed on the nation-state as the main actor.

3.4. The Regional Level: Increasing Responsibility and Capacity

Regional organisations should have an immediate interest in promoting peace since civil wars normally affect neighbouring countries through spill-over and destabilisation. In cases of conflict, regional bodies have the strongest vested interest in an immediate response to contain them. Regional organisations can play an important role in addressing security threats and are well placed to monitor peace agreements and produce early warnings of a crisis. The potentially vital role of regional organisations in peace missions is one of the firm general expectations of such organisations (Berman 2002). The experiences in Europe and Asia have facilitated the prospects for a more active and expanded responsibility of regional organisations (Hirsh 2000). The United Nations, both the Security Council and the Secretary General, have continued to emphasise since the 1990s the special importance of regional organisations in promoting and facilitating peace and stability within their respective regions. Regional organisations can contribute to conflict prevention in a number of specific ways. These organisations build trust among states through the frequency of their interaction, and have an intimate knowledge of the history of a conflict. Because of their proximity regional organisations can function as a continental or sub-continental forum to de-escalate tensions, pacify conflicts and promote a comprehensive regional approach to cross-border issues (UN General Assembly 2001, p. 31).

In reality, however, most regional organisations have no convincing record of peace missions to justify such expectations. The experience of UN peacekeeping during the 1990s, with partly catastrophic results, has led to an emphasising on regional responsibilities for peace and security. Given their present structure, institutions such as the African Union (AU), the Organisation of American States (OAS), the European Union (EU), the Association of South East Asian Nations (ASEAN), the Organisation for Security and Co-operation in Europe (OSCE), Organisation of the Islamic Conference (OIC) and others are not in a position to apply the monopoly of violence effectively. In recent years several regional organisations have started to take over responsibilities for the promotion of peace. This is as true for Europe as it is for Sub-Saharan Africa. The EU, the OSCE, the North Atlantic Treaty Organisation (NATO) and the AU have all made security interventions in recent years. Early warning mechanisms developed in Africa, such as the Conflict Early Warning and Response Mechanism of the Intergovernmental Authority on Development, and have enabled regional organisations to monitor critical developments. Regional institutions can also mediate among parties to a conflict: the African led mediation in the Great Lakes in 2004 and in Sudan in 2005 are examples (UNDP 2005, p. 174). In Asia a discussion is only in its early stages within ASEAN. The experience in East Timor has illustrated that peacekeepers which were mainly recruited from the region launched a largely successful peacekeeping operation. This was, however, a coalition of the willing under the auspices of the United Nations since no regional organisation was capable of taking over the responsibility. The main advantage of UN operations over regional interventions is their universal legitimacy.

Regional organisations suffer, some more than others, from four weaknesses which need to be overcome to establish a functional multi-level monopoly of force:

First: Contested sovereignty: The concept of the function of regional organisations with respect to the sovereignty of nation-states remains in many cases contested – usually states refuse to transfer functions to the regional body. Delegating traditional nation-state authority to a regional body is jealously guarded and opposed by most governments. Most regional bodies stress their character as intergovernmental organisations that might cooperate and pool resources, but nevertheless their members refrain from relocating governmental authority to the regional body. This is, for example, a barrier for an enhanced role of ASEAN. Similarly, the AU policy of international peace missions is strongly influenced by the predecessor's (Organisation of African Unity, OAU) heritage of non-intervention into the internal matters of its members. This is understandable given the colonial and post-colonial history of most African states. The principle of sovereignty and non-interference in internal matters was firmly rooted in the OAU and to some extent in the AU as well. This has repeatedly led to their inactivity. Yet, article 4(h) of the AU Charter does authorise the Union to intervene in a member state “pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity”.¹¹ Only after three decades since its foundation did the OAU pass the so-called Cairo declaration in 1993 regarding a ‘Mechanism on Conflict Prevention Management’ (Nhara 1998, p. 33). The heads of state of the OAU member countries declared their willingness to interfere in conflicts, but would leave the leading role to the UN. The AU emphasised its desire to promote peace and stability in Africa with the transfer from the OAU to the AU, the declaration of the AU constitution in July

¹¹ African Union <http://www.africa-union.org/home/Welcome.htm>

2000, and the establishment of the AU Peace and Security Council within the AU one year later. This policy is meant to underline the ambition of finding African solutions for African problems, but it is also a reaction to the many long-drawn-out and intensified conflicts on the African continent.

Second: Overlapping responsibilities: The division of labour among regional organisations is unclear and often competitive. This is especially the case when geographically overlapping organisations exist such as the EU, the OSCE and NATO in Europe; the AU and ECOWAS, the Southern African Development Community (SADC) and the OIC in Africa; similarly ASEAN and the OIC in the Middle East. Even in cases of largely overlapping memberships as within the EU and NATO the role of these two organisations in cases of crises has been far from clear and their division of labour highly controversial as the Kosovo war in 1999 demonstrated or as can be gathered from the continuing debate and competitive behaviour regarding ISAF troops in Afghanistan or the sharing of military planning capacities in Europe.

Third: Fundamental political differences: Another weakness is the existing fundamental political differences in many organisations. Often a compromise, addressing emergencies, wars and other regional concerns, is based on the lowest common denominator, resulting in inaction or mere lip service of the regional body. Many regional organisations lack common and fundamental values that are fully accepted by all members. In contrast to the EU, for example, no other important regional organisation includes only democratic member countries. The work of the Organisation of American States (OAS) has time and again suffered from fundamental political differences within the organisation, which often found its expression in the distrust against the dominant economic and military power of the United States. The predecessor of the AU, the OAU, was forced into inactivity in numerous violent conflicts because of internal quarrels, its limited mandate and, probably most importantly, because of the lingering political differences among the members in an organisation that lacked or had insufficient resources of its own. The conflict within in SADC during the 1990s concerning procedures of the military intervention of its members in the DRC was not resolved for many years. While some governments wanted to intervene militarily and did so, others insisted on using diplomatic means only (Berman and Sams 2000, p. 175).

Fourth: Lacking capacity: The final weakness is the absence of adequate institutions to implement decisions, for example to execute sanctions, and the lack of military muscle to project force if required in a crisis situation. Even in the EU which has undertaken efforts to build up its own military capacity, it is accepted wisdom that not many more troops than now could be deployed in the various peacekeeping missions. The often criticised lack of military planning capacity and the missing long distance transportation capability in the EU have not been rectified. ASEAN, with virtually no peacekeeping facilities of its own, is a case in point too. A recent example is Africa: In Darfur, by August 2004, high numbers of civilians were still being killed; there were fewer than 300 AU soldiers in place to guard an estimated 1.5 million residents of Darfur driven from their homes by government-backed militias. Only by mid-2005 the AU peacekeeping forces had increased to 3,000 troops.

Requesting coalitions of the willing to do the job instead of a regional organisation is a natural reaction in a situation of incapacity of the responsible regional bodies. The main

reason for the formation of ad hoc coalitions at the global and regional level is to not be doomed to total inactivity when regional groupings or the UN are not able to come to a decision (Wilson 2003). Ad hoc coalitions can bridge or circumvent the gap when a lack of agreement within regional organisations appears. The disadvantage is that such coalitions can only be formed on an ad hoc basis. This makes long-term commitments difficult or impossible and adds to the problem of legitimising a peace force when members of the regional organisation object to an engagement. A more fundamental problem of coalitions of the willing and their ad hoc nature is that they are not a democratically legitimised permanent structure, even if they are mandated by the UN.

The balance sheet of the regional organisations' experience in peace keeping is no reason for optimism, although the situation has improved in recent years especially in Europe and Africa. In practice regional organisations have proven that they are almost as awkward and inflexible as the UN themselves; practical measures often fail or are forgone because of a lack of political agreement. Old traditional and historical antagonisms, contrasts and differing attitudes continue to exist. To prevent the misuse of interventions by regional organisations it would be necessary to strictly follow the logic of the norm supremacy principle described above. Norm setting needs to take place from top to bottom with the UN as the decisive authority. This is already in part practiced, for example, by the South African government who has made its participation in peace missions contingent upon a mandate from the UN or the AU. This rule should be applied as a universal standard.

3.5. The Global Level: Norm Setting, Global Governance and Democratisation

Peacekeeping mandated by the UN and reconstruction programmes under international auspices are not neutral. As long as they are subjugated by the dominating economic and military powers they serve primarily as a tool for problem-fixing or band-aid of the existing world system, even though such peace operations and humanitarian interventions might be morally justified. The functioning of the international system, and with it the multi-level monopoly of violence, depends on the enhancement of international norms; a world order in which nation-state sovereignty is limited in accordance to the existence of a higher-level executive authority and regionally and globally accepted legal norms. The above mentioned deficiencies of the UN – namely its hybrid system of being an inter-governmental organisation operating not according to democratic rules and at the same time acting as the conscience of the international community as well as being the highest authority on questions of war and peace – make it an organisation in need for reform. Despite these organisational and conceptual insufficiencies and despite the gap between theory and practice of international norms there is no realistic alternative to the UN.

The idea of collective or global security is not only foreseen in the Charter of the UN but has been reiterated since 1945 many times, so for example in the 1992 *Agenda for Peace* and in the 2000 *UN Millennium Report*. At the global level a system of a legitimate monopoly of force is possible only, given the continued existence of states, within a system of collective security. This is already reality in embryonic form in as far as the Charter of the UN stipulates that all its members refrain in their international relations from the threat or use of force, except in cases of individual or collective self-defence against external aggression. The prohibition to use force, of course, is different from a monopoly of force

at the global level. Although the concept of collective security exists in theory, it is not fully implemented in practice. This system assumes in cases of violent conflicts the application of instruments of peaceful settlements and, in addition, sanctions and even intervention by military force in case such peaceful settlements fail. The idea of collective security and the prohibition to use force is based on the principle that the UN or its members will defend victims (a member state or people) against threats and aggression. This promise constitutes an enormous progress compared to the pre-1945 UN Charter times (Senghaas 2004, pp. 56-59).

UN members have committed themselves to this duty without any if and when. Thus, in theory, they are obliged by international law to respond in collective self-defence. As is well known, the practice is different. Decisions to assist a member state or to intervene on humanitarian grounds are taken selectively – *à la carte*. Not the provisions and obligations of international law but political opportunity and power politics are the decisive criterion in the world of state power. Thus, the concept of a responsible ‘international community’ is still far from being a reality.

The UN Security Council already has a monopoly to *authorise* the use of force at the global level, although the UN was never given the necessary means, like the capacity to implement sanctions, a police force and armed forces, to exercise this authority. But the lacking capability is but one part of the problem. In addition, the UN suffers from a fundamental conceptual flaw. As Senghaas (2004, p. 61) has pointed out, the dictum of Louis XIV “l’état (the state), c’est moi!” could be rephrased for the Security Council by “le droit (the law), c’est moi!” and he concludes that this is “in substance a scandalous fact”, which needs to be urgently overcome through institutional reforms. The fact that the executor of the global authority to apply force is not controlled by a legitimised body and operates instead mainly according to the veto of the powerful permanent members de-legitimises its actions. This lack in global governance is the specific bottleneck and barrier in creating the globally required and democratically legitimised monopoly of violence.

Reforms of the UN have been suggested at various levels, most of them aiming at an improvement of the organisation’s efficiency, especially also its peacekeeping and peace building capability. Other suggestions aim at changing the membership of the UN Security Council to represent the present global power relations rather than those of 1945. Suggestions for true democratic reform however are mainly discussed among academics and NGOs, but not seriously among the member state governments.

It is obvious that the UN capacity to guarantee peace, if necessary by military means can greatly be improved through technical, organisational and financial reforms, way below the level of an elementary democratisation of the UN. For example, standby contingents for peacekeeping which have often been suggested would enhance the flexibility of the UN and would allow for quicker reactions in times of crisis. However, standby contingents do not themselves signify a transition to base peacekeeping on democratic decision making. Intermediate steps, nevertheless, are possible and useful: To strengthen the UN capacity to protect civilians from violent conflict (negative peace) and the capacity to address the human security agenda (positive peace) points in the direction of what Woodhouse and Ramsbotham (2005) call cosmopolitan peacekeeping and globalisation of security.

4. CASE STUDIES

Three case studies are presented in this section: Kosovo, East Timor and Afghanistan. The international community is heavily engaged in these countries and has an interest to restore law and order and bring these societies on the path of peace, development and democratisation. Thus, these cases can be considered models of the present goals for peace building and nation-building in post-conflict societies. The intension of this section is to review the experience and results to gauge the effectiveness of these three peacekeeping and reconstruction programmes and to draw lessons from the approaches applied and, furthermore, to ask the question what a multi-level monopoly of force would mean in these cases.

4.1. Kosovo

Historical development and initial conditions for reconstruction

Kosovo enjoyed a semi-independent status in the former Yugoslavia until Yugoslav President Slobodan Milosevic suspended this status in 1989 and oppressed the ethnic Albanians in this Serb province. In response ethnic Albanians formed a movement toward nationalist separatism. The formation of the Kosovo Liberation Army (KLA), a formally private or non-state military grouping, provided the justification for the Yugoslav government's ethnic cleansing of Kosovo and the mass displacement and killing of Kosovar Albanians. Ethnic separation was a reality and the reciprocal cycle of vengeance between Serbs and Albanians continued even after the international community engaged in the region. The UN Security Council demanded in spring 1998 the immediate end to hostilities and imposed an arms embargo on Yugoslavia; in fall 1998 it called on all parties to cease hostilities and requested a withdrawal of Yugoslavia's security units used for civilian repression.¹² With the internal violence continuing, the OSCE deployed the Kosovo Verification Mission comprising of 2,000 unarmed monitors and 500 police officers to verify an agreement with the Milosevic government to cease civilian attacks.

Despite intensive internationally sponsored negotiations between the Serbs and the KLA at the beginning of 1999 Serbian forces continued to be deployed to the Kosovo. Kosovo was facing a grave humanitarian crisis. Military and paramilitary forces from the Federal Republic of Yugoslavia and the KLA were fighting intensively. Ethnic tensions were high and claimed the lives of 2000 people between March 1998 and March 1999.¹³ One million people had fled the Kosovo to seek refuge outside. Highly controversially, NATO initiated Operation Allied Force, without a mandate of the UN Security Council, and began a bombing campaign on 24 March 1999 over Kosovo. After intensive bombing the government of Yugoslavia yielded to the demands of NATO on 9 June 1999 by signing an agreement. This decision paved the way for the UN activities in Kosovo which still continue today. The response of the Kosovo Albanians upon their return to Kosovo was to begin a retaliatory campaign of murder and arson.

¹² UN Resolution S/RES/1160 31 March 1998; S/RES/1199, 23 September 1998.

¹³ See KFOR website: <http://www.nato.int/kfor/kfor/about.htm>

External inputs

Immediately after the agreement, NATO confirmed the withdrawal of security forces of the Federal Republic of Yugoslavia from Kosovo and the UN Security Council mandated a 50,000-strong NATO-led Kosovo Force (KFOR) and the United Nations Interim Administration in Kosovo (UNMIK) by Security Council resolution 1244 of 10 June 1999. KFOR was supported at the end of 2005 by 36 nations and had still 16,000 peacekeepers deployed in Kosovo. KFOR has a mixed external defence and an internal security role. The objectives of KFOR are to establish and maintain a secure environment, including public safety and order; to monitor, verify and enforce compliance with the agreements that ended the conflict; and to provide assistance to UNMIK.¹⁴ Part of KFOR's mission was to demilitarise the KLA and collect the weapons of this force. To get control over these armed non-state actors and to reintegrate former KLA fighters the Kosovo Protection Corps (KCP) was formed as a civilian emergency service.

UNMIK was intended to establish in the war-ravaged province of Kosovo an interim civilian administration led by the United Nations under which its people could progressively enjoy substantial autonomy. On the basis of the Constitutional Framework of 2001 the Kosovar Provisional Institutions of Self Government (PISG) were created to delegate functions of government to local actors. UNMIK was called upon to perform basic civilian administrative functions; promote the establishment of substantial autonomy and self-government in Kosovo; facilitate a political process to determine Kosovo's future status; coordinate humanitarian and disaster relief of all international agencies; support the reconstruction of key infrastructure; maintain civil law and order; promote human rights; and assure the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo. In other words, the UN efforts aimed at providing all essential state functions including the monopoly of force – a task of unprecedented magnitude for the UN and a result of the fact that the future governmental structure of the Kosovo within and outside the Yugoslav federation was and still is highly contentious. To react swiftly to the emergency UNMIK supplied humanitarian assistance through the UN High Commissioner for Refugees (UNHCR) which allowed several hundred thousands of refugees to cross back into Kosovo already in 1999. UNMIK is based on four so called pillars.¹⁵ The head of UNMIK is the most senior international civilian official in Kosovo and directly responsible to the UN Secretary General. He presides over the work of the four pillars and facilitates the political process designed to determine Kosovo's future status. These four pillars are:

First: Police and justice under the direct leadership of the UN, intending to establish law and order. UNMIK concentrated on building up a viable justice system and police services. UNMIK initially numbered about 1,800 international police and gradually grew to over 4,700. Their task was law enforcement, basic policing, border police and responding to high-risk circumstances. At the same time it builds up the Kosovo Police Service and has implemented legislation centred on organised crime and criminal procedure (Jones *et al* 2005, pp. 32-40). The monopoly of force is exercised in the territory by the UN.

¹⁴ See KFOR website: <http://www.nato.int/kfor/kfor/about.htm>

¹⁵ <http://www.unmikonline.org/intro.htm>

Second: Civil administration under the direct leadership of the UN to provide basic state services. The mission performs the whole spectrum of essential administrative functions and services covering such areas as health and education, banking and finance, post and telecommunications, and law and order. In January 2000, Joint Interim Administrative Departments were created; however, the UN remains the central authority in Kosovo.

Third: Democratisation and institution-building led by the OSCE to pave the way for state-building, although the future status of Kosovo remains unclear. In October 2000, local elections took place in Kosovo's 30 municipalities; in May 2001, the new Constitutional Framework of Kosovo was adopted. Province-wide assembly elections took place in November 2001; by March 2002 Ibrahim Rugova was elected President of Kosovo. Elections took place in 2005.

Fourth: Reconstruction and economic development led by the European Union (EU). More than 2 billion € are committed by international donors, mostly by the EU. Of this 1.8 billion had already been contracted by April 2005 and 1.4 billion spent. The total cost of reconstruction and recovery from 1999 to 2003 is estimated by the UN Secretary General at US \$ 2.34 billion.¹⁶

An interesting and new aspect of the Kosovo programme is that the UN, although the governing authority in Kosovo, cooperates with a number of regional organisations (EU and OSCE) and a military alliance (NATO). According to the UN, no other mission had ever been designed in a way that other multilateral organisations were full partners under United Nations leadership.¹⁷

Outputs and results

At the beginning of 2006, Kosovo remained a major source of instability in the Balkans, despite an enormous input of international personnel and finances during the past six years. The security situation has greatly improved after the end of the Kosovo war. After over four years of gradual progress an outbreak of violence in March 2004 resulted in 19 deaths, hundreds of injured and numerous acts of aggression against personnel and destruction of property. The underlying ethnic tensions are expected to continue in the foreseeable future.¹⁸ Kosovo suffers from several fundamental difficulties:

There is *first* the uncertain *political future*. Much progress has been made in all four pillars of the UNMIK but no clear international plan has been developed for the political future of Kosovo. In October 2005, the UN Security Council endorsed the beginning of talks to determine the final status of Kosovo. It indicated that such talks would likely lead to either considerable autonomy or independence for a region whose political future has essentially been in limbo since the end of the NATO bombing campaign in 1999. The basic controversy is about Serbia's intention not to allow full autonomy to the Kosovo while the ethnic Albanian Kosovars are not satisfied with the promised local self-government and do not want to settle for less than full independence. The most likely outcome might be a 'conditional independence' with some loose links to Serbia. The circumstances in the region illustrate that a federal structure per se is not a blue print for

¹⁶ http://www.unmikonline.org/pub/news/fact_sheet.pdf

¹⁷ For further details see <http://www.unmikonline.org/intro.htm>

¹⁸ Stated in a letter dated 27 May 2005 by UN Secretary General, Kofi Annan. See <http://www.unmikonline.org/chrono.htm>

success but that federations do depend on cooperation between the national and the federal level. A multiethnic provisional self-government is in place since June 2002, but this government is not autonomous. It seems clear that the favourite solution of some nationalists, namely a Greater Kosovo or a Greater Albania along ethnic lines, is unacceptable both to Serbia and the international community (ICR 2005). The danger that Kosovo's transition to self-governance could be in danger of being derailed by hard-line, principally Kosovo Albanian, extremists is no longer imminent. The relative calm in the run up to the UN-sponsored talks can be viewed as an encouraging sign. The possible impasse of the talks, however, bears considerable risk (Swiss Peace 2005a, p. 3). It is not impossible that, depending on the outcome of the talks about the political future of the Kosovo, an Albanian uprising might occur.

There is *secondly* the *internal insecurity*: Although the situation has greatly improved, ethnic tensions are still visible and the security situation continues to be worrying. The atrocities and gross human rights violation committed during the war and its aftermath are not forgotten. Interethnic conflict continues to remain a primary threat and the country is still far from having established multiethnic state institutions. Security in Kosovo rests on overcoming three basic problems related to crime: in addition to ethnic bias, organised crime and corruption. Organised crime and corruption are often linked in Kosovo. Violent crimes decreased throughout the first years after the end of the war, however trafficking in persons, drugs and weapons remains a serious issue. A fundamental security challenge pertains to the corruption of public officials. Throughout the post-conflict period, many high-ranking officials have taken bribes (Jones *et al* 2005, pp. 28-29).

The civil police programme of UNMIK, the creation of the Kosovo Police Services and the development of the justice systems helped to counter the security threats. This program has been the UN's largest police development program. However, during the March 2004 riots the response of the police was insufficient and haphazard. In addition, the Kosovo Protection Corp (KPC) was formed officially as a civil emergency service, with responsibilities for assisting in times of natural disasters or other civil emergencies. It is placed in between the political authority of NATO and the UN and subsidised financially by several bilateral donors. In addition to this unclear mandate and responsibility, this force is conceived by the Kosovo Albanian community as an army in waiting – as the future armed forces as the Albanian acronym (TMC, translated into Kosovo Defence Troops) suggest. The Serbs inside the Kosovo and in Serbia consider it a criminal organisation with unpleasant ex-KLA fighters within the force (Rees 2005, p. 214). Nevertheless, responsibility for the security sector, which consumes roughly one seventh of the Kosovo General Budget, remains entirely in the hands of the international actors. After the 2005 election some state functions were transferred to the local authority of PISG. Significantly however, the function to exercise the monopoly of force remained within UNMIK (Rees 2005, p. 205). Large numbers of private military companies have assisted with military training and logistic support the efforts for increased military capacities even though the future of the armed forces in Kosovo had not been decided yet. Such companies with combat proven personnel from many different countries are engaged in the whole Balkan region.

There is *third* a need for increased *social and economic development*. Most of the nearly one million refugees have returned. Basic health services have been quickly re-established. Yet, Kosovo is still among the poorest regions in Europe. With a Gross Domestic Product per

capita in 2003 of € 930 Kosovo ranks among the developing countries in the world. Unemployment is estimated between 50 and 60 percent, although this estimate is, according to the World Bank, halved if adjusted for seasonality and informal employment.¹⁹ The present economic situation is difficult and the gradual withdrawal of the international community might deteriorate the economic prospects. It is therefore essential to retain donor support. Kosovo, with its limited market of two million people depends on the integration into the region. Given the unsolved political problems in the region, such integration is not easy to achieve. Although the EU adopted at the end of 2005 an overall enlargement strategy for the Western Balkans, Kosovo has no realistic prospect for accession in the near future.

At present, the various external actors, including UNMIK, are still answerable to a disjointed combination of interested capitols, and to the various Headquarters of the UN, NATO, the EU and the OSCE. Rees (2005, p. 209), a security expert in the Office of the Prime Minister in Kosovo concludes: “The peace operation in Kosovo is in itself something of a confused Tower of Babel as compared to other peace operations.”

4.2. East Timor

Historical development and initial conditions for reconstruction

Following the withdrawal of Portugal as a colonial power in 1975, Indonesia invaded and occupied East Timor and annexed the territory as its 27th province.²⁰ The end of the Cold War and political changes in Indonesia created favourable conditions for East Timor’s independence. Due to strong international pressures, in 1999, the Indonesian Government allowed a referendum to be conducted in East Timor on its future status. With the assistance of the United Nations Mission in East Timor (UNAMET) a referendum was held on 30 August 1999. UNAMET registered 451,792 potential voters among the population of over 800,000 in East Timor and abroad. Violence erupted already in the run-up to the ballot as pro-integration with Indonesia militia harassed people attending a pro-independence rally.

UNAMET announced that at least 95 percent of registered voters cast their ballots in the referendum; a total of more than 430,000. Large-scale fighting broke out in September when referendum results showed that 78.5 percent of the voters wanted an independent East Timor. A small group of non-statutory militia backed by the Indonesian armed forces launched a campaign of violence, looting and arson throughout the entire territory, killing over 1,000 people and destroying much of the infrastructure.

The central security challenge was the pro-Indonesia militia and their patrons in the Indonesian military. Approximately 90 percent of the population became refugees and were driven from their homes. Over 250,000 Timorese were transported under Indonesian military and militia control to West Timor and neighbouring islands. Half a

¹⁹ http://www.unmikonline.org/pub/news/fact_sheet.pdf

²⁰ For the chronology in this section see the United Nations Department of Peacekeeping Operations website <http://www.un.org/peace/etimor/Untaetchron.html>

million Timorese fled to the interior of the country. Most of the UN personnel who had assisted in the referendum were temporarily evacuated to Australia.

During the rampage, the civil administration broke down and the mob rather than the rule of law prevailed. Following the referendum the Indonesian military, police, administrative personnel and the judicial experts like lawyers and judges fled the country. About 70 percent of public buildings and private housing had been destroyed. Many government buildings were severely damaged. Similarly, many clinics and hospitals were damaged or ruined and medical equipment looted or destroyed. With the departure of many medical staff the health system broke down (Martin and Mayer-Rieckh 2005, p. 111; Dobbins *et al* 2005, pp. 151-180).

At the time East Timor was one of the poorest regions in the world and as a result of the violence and destruction, East Timor became heavily dependent on external assistance – on financial, material and human resources.

External inputs

A week after the outbreak of violence following the referendum a five member UN delegation concluded an agreement with the Indonesian Government that it would accept the offer of assistance from the international community. The Security Council, by the means of Resolution 1264, authorised a multinational force (INTERFET) under the unified command structure headed by Australia. At the same time the UN began an emergency relief operation to repatriate some of the 250,000 East Timorese from West Timor and other areas in the region. At the end of September 1999, UNAMET was able to re-establish its headquarters in Dili and immediately began efforts to restore the mission. The United Nations Security Council established the United Nations Transitional Administration in East Timor (UNTAET) which took over responsibility from INTERFET.²¹ The mission, which had similar governmental authority as in Kosovo, comprised three main components: governance and public administration; humanitarian assistance and emergency rehabilitation; and a military component with an authorised strength of up to 9,150 military personnel and 1,640 civilian police; UNTAET also included 737 international civilian personnel and 1,745 national civilian staff. At the end of 1999 a donor conference pledged over US \$ 500 to rebuild East Timor. In addition, the UN hired private companies to assist in logistics and technical services. Pacific Architects and Engineers (PAE), a US company was awarded a contract by the UN in East Timor to operate and maintain the airports and aviation related facilities in support of the UN peacekeeping efforts. Between 1999 and 2002, international donors contributed generously to East Timor for development assistance. They also contributed US \$ 600 million to the UN budget for the operations of UNTAET. For the period from July 2001 to June 2002 alone, US \$ 476.8 million were appropriated to the UNTAET budget. However, UNTAET got off to a slow start due to the UN's complex recruitment procedures and an understaffed personnel section (Martin and Mayer-Rieckh 2005, pp. 111-112). In addition, the UN had to cope with the unanticipated handover of taking responsibility for Kosovo and East Timor at the same time.

²¹ UN Security Council Resolution 1272, S/RES/1272, 25 October 1999.

The UN transitional authority had dual responsibilities: it had the leading role in rebuilding East Timor during the transition to independence and, at the same time, it was the government until May 2002. In the security sector it had to provide security and maintain law and order; disarm, demobilise and reintegrate ex-combatants; assist in the construction of an East Timorese defence force; and help to develop the police service of the country. In the civil and economic sector it had to create an effective administration; help develop civil and social services; facilitate the delivery of humanitarian, rehabilitation, and development assistance; support capacity-building for self-government; and assist in the establishment of conditions for sustainable development.²²

East Timor became an independent country on 20 May 2002. On that day, the UN Transitional Authority was succeeded by the East Timor Government, assisted by the UN Mission of Support in East Timor (UNMISSET) to provide support to core administrative structures, especially police and security institutions, in order to provide stability to the political process. UNMISSET which completed its mission in June 2005 had an authorised strength of 5,000 military and 1,250 police personnel, in addition to 455 international civil staff, over 200 UN volunteers and almost 1,000 locally employed staff.²³

The UN continued to maintain its presence in East Timor throughout the post-independence period until June 2005 primarily to ensure the security and stability of the nascent state. The main purpose of the mission was to provide assistance to core administrative structures; to provide interim law enforcement and public security; to assist in developing the East Timor police service; and to contribute to the maintenance of the new country's external and internal security.²⁴

Outputs and results

The democratisation and institution-building proceeded in three stages: First, the UN established the transitional authority as new government, but with the clear intention to hand over to a local leadership. Second came the establishment of the East Timor Public Administration and the election of a Constituent Assembly. The third stage was the presidential elections, the independence of the country and dissolution of UNTAET.

The UN established a National Consultative Council as early as in 1999. This constituted a 15-member joint East Timorese-UNTAET body through which representatives of the people could actively participate in the decision making and the Transitional Judicial Service Commission. The swift process of transition continued with the appointment of East Timorese top administrative positions within the new administration in Dili, namely as deputy district administrators and deputy heads of departments. In June 2000 the National Consultative Council was expanded to include local authorities – 13 representatives from the districts, additional representatives from political parties, non-governmental organisations and religious communities. In July 2000 the Transitional Cabinet held its first meeting. To facilitate the reconciliation process the cabinet agreed to a proposal to establish a Commission for Reception, Truth and Reconciliation.²⁵

²² Ibid.

²³ See the UNDPKO website for further details: <http://www.un.org/Depts/dpko/missions/unmisset/facts.html>

²⁴ UN Security Council Resolutions 1410, S/RES/1410, 17 May 2002; S/RES/1473, 4 April 2003; S/RES/1480, 19 May 2003; S/RES/1543, 14 May 2004, S/RES1573, 16 November 2004; S/RES/1599, 28 April 2005.

²⁵ <http://www.easttimor-reconciliation.org>

Elections to select members of a Constituent Assembly were held 30 August 2001, the first democratic elections in the territory, in which Fretilin was declared the winning party. The Constitutional Assembly approved a constitution providing for a democratic state, based on the rule of law, freedom of speech, a free press and the separation of power between the president, parliament, executive government and the judiciary. The assembly's President Francisco Guterres signed a resolution that stipulated that UNTAET would hand over sovereignty to elected Timorese government institutions on 20 May 2002. In April 2002, East Timorese presidential elections were held with Xanana Gusmão capturing over 80 percent of the vote.

Throughout the transition period the UN peacekeepers were capable of providing general internal security. Already before, INTERFET encountered little resistance from the pro-Indonesian militia and was able to restore law and order in a brief period of time. Nevertheless, the security situation was not entirely calm. UNHCR and peacekeeping personnel were murdered by armed militias. It certainly facilitated the job of the peacekeepers that the Indonesian Government decided to cooperate. At the beginning of 2000 UNTAET, INTERFET and Indonesian military officials signed a memorandum of understanding intended to improve cooperation at the border between East and West Timor. To improve the situation and to work towards an end of the transition the Transitional Cabinet approved the establishment of the East Timor Defence Force with former Falintil soldiers representing the core of the 3,000 strong force.

The UN experienced more difficulties with its civil police component than the military since the recruitment of international police officers proceeded slowly. When riots erupted and attacks occurred throughout East Timor in 2003 the police could not control them. Apparently former militia had established bases in the country after the departure of UNTAET. Insufficient training and a lack of judicial oversight hampered the development of the police, judicial and corrections services (Dobins *et al* 2005, p. 165). Similarly, the development of an independent administration of justice was inadequate. The UN failed to design a strategy for the reform of the rule of law sector – prisons, courts, public prosecution, legal profession, justice ministry etc. This had negative repercussions on the judiciary in the independent East Timor (Martin and Mayer-Rieckh 2005, pp. 114-117).

With the three UN and the multilateral INTERFET operations between 1999 and 2005, the UN was able to avert a potentially severe humanitarian crisis. The humanitarian operation benefited from a relatively secure internal and regional environment. There was a rapid return of the displaced population and a large part of the refugees was repatriated. It was an extremely difficult task for the UN to fill the administrative vacuum after the departure of Indonesian civil servants because of an acute shortage of experienced and trained indigenous personnel. Since East Timor had not been an independent country and since most of the infrastructure had been damaged during the 1999 riots, the majority of state functions had to be built from scratch. The democratic process was facilitated by a viable and promising civil society which provides social services and promotes human rights. Dobins *et al* (2005, p. 162) conclude that thanks to a favourable international response, comparatively generous resources and a high-quality leadership, the UN was able to maintain security, restore governance, begin reconstruction, hold democratic elections, and turn power over to the representative government of an independent East Timor.

A number of international donors, the World Bank and the International Monetary Fund engaged in promoting the economic development of East Timor. However, East Timor remains a poor country, even after its economic growth picked up after the 1999 disturbances and turmoil. However, growth moderated after the withdrawal of the UN personnel. Despite remaining difficulties, East Timor is a case of successful nation-building and democratisation in a brief period of time, facilitated by a powerful UN transitional authority.

The creation of a monopoly of violence in a contested territory has been quickly restored by a strong backing at the global level and with the assistance of regional forces, though not a recognised regional organisation. The process to hand over this authority to the newly created nation-state was extremely short and, with a few transitional hick-ups, efficient.

4.3. Afghanistan

Historical development and initial conditions for reconstruction

Motivated by the September 11th 2001 terrorist attacks in New York and Washington, the US and allies intervened in Afghanistan in October 2001 to overthrow the Taliban Government. The main goal was not to set up a better government, this could have been done much earlier, but the aim was to make Afghan territory unusable as a sanctuary for terrorists. The *Bonn Agreement*, signed on 5 December 2001, provided the road map for the transformation of Afghanistan, culminating in the 18 September 2005 legislative elections. In 2005, 20,000 Coalition and over 9,000 International Security Assistance Force (ISAF) soldiers were still deployed in Afghanistan. Neither the US nor the UN established a central body of authority, like the Coalition Provisional Authority in Iraq by the US or the UN Transitional Authority in East Timor and Kosovo. Instead, the *Bonn Agreement* of 2001 led to the establishment of an Afghan Interim Authority which was assisted by international donors on a bilateral basis. Several UN Security Council resolutions stressed the right of the Afghan people themselves freely to determine their own political future and recognised the transitional administration as the sole legitimate government.²⁶ The idea was to initiate an inclusive political process that would be primarily driven locally.

In November 2001, the UN Security Council called on member states to support the establishment of a new transitional administration leading to the formation of a broad-based, multi-ethnic government as well as for urgent humanitarian assistance and long-term assistance for social and economic reconstruction and rehabilitation in Afghanistan.²⁷ A month later the council authorised the ISAF to assist the Afghan Interim Authority in the maintenance of security in Kabul and its surrounding area.²⁸ NATO took on the command and coordination of the ISAF in Afghanistan in August 2003. It still operates under a UN mandate. This is NATO's first mission outside the Euro-Atlantic area. In 2006, the ISAF is providing security assistance in about 50% of Afghanistan's territory. One of the major tasks was how to deal with the 'transitional'

²⁶ For example in UN Security Council Resolutions S/RES/1401, 28 March 2002 and S/RES/1453, 24 December 2002.

²⁷ UN Security Council Resolution S/RES/1378, 14 November 2001.

²⁸ UN Security Council Resolution S/RES/1386, 20 December 2001.

army, later dubbed the Afghan Militia Forces, composed of various opposition factions to the Taliban. Claimed to consist of between 800,000 and 1,000,000 men under arms, the actual number of 'full-time' armed men was estimated to be closer to 200,000. More than 1,000 illegal armed groups with some 100,000 members are allegedly still operating outside the structure of the Afghan Militia Forces (Ponsio 2005, p. 72 and p. 92).

Like many other traditional political systems, the Afghan society is characterised by overlapping groups and authorities: village communities, clans, tribal groups and religious communities were for centuries the decisive political groups. This structure undermined the centralising state-building processes. Afghanistan has been controlled by kinship ties and patrilineal descent, rather than the state. Successive governments of the centre depended on foreign assistance to remain politically, economically and militarily viable (Jones *et al* 2005, p. 65). One of the basic results of the war that raged Afghanistan for over two decades was that the embryonic state that had been built up during the last century collapsed almost completely: the state monopoly of force eroded with the destruction of the infrastructure; the stabilisation of client networks of regional and local representatives, warlords and drug dealers weakened the central state. Eventually, the civil war of the 1990s led to the dissolution of the territorial integrity with several regions drifting apart (Wimmer and Schetter 2002, pp. 8-10). There was no national civilian police force. Instead, local militia and tribal forces enforced the local and regional authority in much of the country. These are certainly not favourable conditions for the creation of federal structures.

Afghanistan is one of the poorest countries in the world. The long-lasting internal conflicts and wars have destroyed the infrastructure; the Taliban regime led to an isolation of the country with only limited economic relations to the world market. Illicit production and trade of drugs has been the main economic activity of the country over long periods of time.

External inputs

At the beginning of the reconstruction process immediately after the fall of the Taliban Government and as a result of the *Bonn Agreement* of 2001, the political commitment of the international donors was remarkable; they pledged financial aid in the order of over US \$ 4 billion to begin a massive reconstruction and rehabilitations programme. The programme envisages the stabilisation of security in Kabul by a multinational force, economic reconstruction through massive external aid and democratisation, and the establishment of a representative government. This concept is clearly orientated towards state-centred institution-building, including the state monopoly of force. The *Bonn Agreement* decreed that "upon the official transfer of power, all *mujahidin*, Afghan armed forces and armed groups in the country shall come under the command and control of the Interim Authority, and be reorganised according to the requirements of the new Afghan security and armed forces."²⁹

In addition to the approximately 20,000 US troops, ISAF currently numbers about 9,200 troops from 35 NATO and non-NATO troop contributing countries. Individual contributions to ISAF by each country change on a regular basis due to the rotation of

²⁹ <http://www.afghangovernment.com/AfghanAgreementBonn.htm>

troops. At the end of 2005, the six top contributing countries were: Germany (over 2,100), Italy (more than 1,900), Canada (over 800), and France, the United Kingdom and Spain (each over 500).³⁰ In practice, ISAF troops conduct regular patrols in Kabul and the surrounding areas as well as in nine provinces in the North and the West where ISAF is leading Provincial Reconstruction Teams (PRT); it supports the government in the reform of its security sector through training and build-up of security forces; and through the PRTs it works in civil-military cooperation with the local authorities in basic services like health, water, education, refugee repatriation etc. In addition, numerous private military companies have been hired to complement the efforts to restore security. Even the Afghan President Karzai is protected by bodyguards from a US private military company.

Since no central international authority was established, the reconstruction process centred instead on a 'lead nation' approach, with the US in charge of creating the National Armed Forces, Germany for the police; the UK for counter-narcotics; Italy for justice; and Japan (with UN assistance) for the disarmament, demobilisation and reintegration of ex-combatants (Sedra 2003, p. 11). All major multilateral organisations like the World Bank, the International Monetary Fund and specialised UN agencies are present in Afghanistan. In addition to the thousands of foreign experts in official donor organisation an at least equal number of employees of international NGOs have set up their operations in Afghanistan. All activities of the Afghan Government depend largely on foreign personnel, material and financial assistance. Over the past two years alone, the influx of aid is estimated to have amounted to some US \$ 10 billion. The World Bank has contributed over US \$ 900 million to post-war Afghanistan since 2002 with the major component being soft loans. When funding for Coalition military operations is factored in, the cost of maintaining relative peace and stability in Afghanistan could exceed the US \$ 16-18 billion per year currently being spent—a prohibitively high figure in light of creeping donor fatigue (Sedra and Middlebrook, 2005).

Afghanistan made progress towards establishing a framework for an inclusive democratic state. The new constitution provides for a presidential system of government with a bicameral parliament, guaranteeing equal rights for women. There is ample evidence of the achievements of Afghanistan's reconstruction process. Sedra and Middlebrook (2005) conclude that over the past four years, four million Afghan refugees have repatriated from neighbouring countries; five million children have returned to school, and 6,000 teachers have been trained; over 60,000 former combatants have been demobilised; a new currency has been introduced; the economy grew substantially. Approximately 33,000 of the planned 50,000 police had been trained by the end of 2004. Yet, severe difficulties and problems remain. Factional fighting and clashes between neo-Taliban and Coalition troops continue to be the main conflict lines in Afghanistan. Clashes between local militias in the North are often linked to the control over the drug trade. Although the Taliban movement was declared dead in 2005, renewed violence and clashes suggest organised and vicious resistance (Swiss Peace 2005b, 3-4). To defeat the remnants of the Taliban and Al Qaeda, the US-led coalition has often relied on, and thus supported, destabilising factional militias and their commanders (Ponsio 2005, 79).

³⁰ <http://www.nato.int/issues/afghanistan/050816-factsheet.htm>

One line of conflict runs between the regional warlords and the government. Numerous private and state ‘violence actors’ are involved and create a hazy picture: the war lords, the remaining forces of the Taliban, private military and security companies hired by the government and foreign actors, the coalition forces, ISAF, the Afghan Defence Force and the Afghan Police. The state lacks a monopoly of violence over the whole country. There has been significant progress in some areas of security sector reform. But the government continues to face the pressure of pervasive insecurity throughout much of the country. It finds it impossible to exert its authority over all provinces and does neither really have the controls over the two types of international military (coalition forces and ISAF) nor over the two types of private violence actors (the militias and private military companies). It seems difficult, if not impossible, to install a functioning federal system in this situation.

Several trends are not encouraging: terrorists attacks have increased, the cultivation and production of opium poppy have risen and Afghanistan produces approximately 87 percent of the world’s illicit opium, amounting to about one third of the economic activities in the country; according to the UN Office on Drugs and Crime the number of hectares cultivated with poppy doubled from 2002 to 2004;³¹ warlords and regional commanders still control substantial territory, although the central government has made progress in curbing their power; there is still no functioning justice system (Jones 2005, p. 62).

A barrier for a smooth political process is the fact that stable interest groups scarcely exist in Afghanistan. This is reflected in the present Afghan Government, with representatives from the various groups which engage in alliances of convenience. The lack of a burgeoning traditional civil society and the support for a newly created one, concentrated mainly on the capital Kabul, has led to the establishment of parallel structures with new clientele networks and by instituting new forms of dependence and a system of political patronage (Wimmer and Schetter 2002, pp. 11-15). Practical and functional structures of the nation-state are difficult to implement since this requires the fusion of the state into a homogeneous political organisation of a single people.

The political process has been strongly influenced by the *loya jirga*. *Loya jirgas* (Grand Assembly of Elders), a special body of the Afghan society, who in the past, were not a democratically oriented parliament, but rather an instrument of rule set up from above in order to give blessing to the decisions of the King. Institutionalising the traditional system of consensus building between notables, bureaucrats and tribal leaders seems more realistic than a short transition period for quick democratisation. In this respect the *loya jirga* could represent a suitable body since democratisation represents a long-term project (Wimmer and Schetter 2002, 13-19). The 2004 presidential elections gave President Karsai a popular mandate. He used this to reshuffle his Cabinet by integrating some of the powerful warlords and for removing the previous Defence Minister, Marshall Fahim who has been seen by observers as obstructing the defence sector reform. The 2005 legislative election stabilised the democratisation process further. However, Afghanistan is still far from being a transparent and accountable democracy. Corruption is still rampant in many parts of public offices despite the establishment of an Anti-Corruption Office in 2004 and the cliques networks are a decisive feature of politics in the country.

³¹ http://www.unodc.org/pdf/afg/afghanistan_opium_survey_2004.pdf

The rationale behind the international reconstruction programme and its 'lead nation' concept rather than a focus on a central authority, was to give the principal donors a direct stake in the process and solicit their long-term support (Sedra and Middlebrook 2004, p. 212). This has materialised in so far as enormous amounts of assistance have been pledged and delivered. In practice, however this set-up has encouraged donor rivalries and competition; it slowed down the reconstruction process and made it less effective. In theory, each lead nation was supposed to contribute significant financial assistance, coordinate external assistance, and oversee the programme in its sector. In practice, this approach created duplication (Martin and Mayer-Rieck 2005, p. 111). Despite the influx of unprecedented amounts of foreign aid, Afghanistan's infrastructure is still in dire condition and in urgent need of repair. The continued insurgency and the warlords' control over their fiefdoms, in which they operate with relative impunity, make the peace building process extremely difficult and in certain areas impossible.

The Afghan economy has improved since 2001, so has the inflation; refugee repatriation has eased social tensions but not all results are positive. Economic growth has slowed down and Afghanistan remains one of the poorest nations of the world with extremely low ranking in UNDP's human development index. The government lacks the human resources to deliver the required basic services.

The presence of international forces in Afghanistan and the enormous assistance in finances and personnel aid has been important for the existence of the Karsai Government. It is dependent on this international commitment. At the same time it does not have the capacity in human resources to cope with the inflow of these large amounts of finance and experts.

4.4. Cross-Cases Comparison

A cross-case comparison reveals both recurring patterns as well as distinct differences in the initial conditions, approaches and strategies and outcomes. It impressively shows that international interventions and post-conflict reconstruction programmes require strategic clarity of objectives (Bryden 2005). The following experiences in key components in the three peace building programmes in Kosovo, East Timor and Afghanistan, which are of relevance for other peacekeeping and reconstruction programmes as well, can be summarised:

Monopoly of violence: Establishing a monopoly of violence has proved to be an extremely difficult process, although in all three cases, security has been improved. The different notions and practices are summarised in Figure 7 below. At the beginning of 2006, the situation was most favourable in East Timor where a nationally-oriented monopoly of violence is largely functioning. In the critical transition period, the monopoly of force was guaranteed through a UN mandated peacekeeping operation which received strong regional assistance. In Kosovo, the monopoly of violence is still entirely under the auspices of the UN Transition Authority. This process is convoluted at the institutional level through the ambiguous division of authority at the global level (the UN) and the regional level (with the EU, OSCE, NATO and KFOR). The implementation of a functioning monopoly of violence is further complicated and intricate since the future role of the existing Kosovo-based security sector agents (especially in the case of the civil

emergency forces) is not decided up till now and plans to hand over this authority to local actors in Kosovo are yet to be developed. The problem in the case of Afghanistan is two-fold. Although the responsibility for exercising the monopoly of violence lies clearly in the hands of the Afghan Government, the government is neither in a position to put into effect effective control over the entire country (against the resistance of warlords, militias and remnants of the Taliban) nor over the many external armed forces (coalition forces, ISAF and private military companies). Non-state armed actors played or still play a role in the other cases too.

Figure 7: Authority over the Monopoly of Violence

Government functions	Kosovo	East Timor	Afghanistan
main government authority during peace building process	UNMIK in cooperation with EU, OSCE and NATO	INTERFRET, later UNTAET	Afghanistan-based Interim Authority, assistance of UN, ISAF, coalitions forces, EU, bilateral and multilateral donors
government authority in 2006	UN transition authority UNMIK, Provisional Institutions of Self Government with limited functions	handed over from transition authority to government, assisted by UNMISSET until 2005	government with assistance of UN, ISAF, coalitions forces, EU, bilateral and multilateral donors
global authority to exercise the monopoly of force	UNMIK with the assistance of KFOR	transition authority (until 2002)	coalition forces, ISAF
regional authority to exercise the monopoly of force	some role for EU (via KFOR) and OSCE as well as NATO	none	assistance by EU, bilateral and multilateral donors, no regional organisation
national authority to exercise the monopoly of force	national status unclear	government, armed forces and police	government armed forces and police, assisted by private military companies; monopoly of force in large parts of the country lacking
local authority to exercise the monopoly of force	withheld from local actors, Kosovo Police Service, Kosovo Protection Corp is an army in waiting	local government, police	contested by warlords, militias and Taliban, overlapping groups and authorities; a role for PRTs too

Political future: In East Timor the recognised objective was independence. At no stage of the UN operations was this aim contested. By contrast, Kosovo's final status was and still is undecided and remains harder to determine. The parties to the conflict propose mutually exclusive political concepts. The UN mandate never specified whether Kosovo would become independent or remain an autonomous province within Serbia and Montenegro. The result was a lack of strategic vision which had repercussions for the practical work of the transition authority. Only in November 2005 did the talks begin to lead to a solution. Afghanistan, in contrast to both Kosovo and East Timor has been an independent state for long, even if flawed since the state did not exercise the central state functions properly and at times not at all. The aim at the beginning of the international intervention was a regime change to facilitate the fight against terrorism. State and

institution-building to create accountable central state structures was added after the fall of the Taliban Government in Afghanistan.

Transition authority and democratic process: In Kosovo, similar to the neighbouring Eastern Slavonia (Croatia) and East Timor, the UN had plenary powers to secure and govern the territories. By contrast, the 'lead nation' strategy with no single international authority and a nationally-based transition authority was chosen in the case of Afghanistan. The 'lead nation' concept created colossal difficulties of coordination which led to a loss of efficiency; the advantage of this concept was that the primary role of the local actors was clear from the beginning. Once the UN decided to get engaged, the political mandate was most clearly spelled out for Afghanistan, namely to establish a democratic state. In the case of East Timor the mandate included this general provision too but provided little guidance since the steps on the path to independence were not spelled out, a political time table had not been provided, and the nature of the East Timorese participation had not been defined. This was left to decide by the transitional administration. UNTAET's dual role in East Timor as the transitional administration (effectively the government) and as agency to prepare for East Timor's democratic self-government was at times confusing and led to reluctance to cede authority to local actors. In the case of Kosovo, as spelled out above, for understandable reasons, the strategy for the future was not mandated at all immediately after conflict; only six years later have talks been opened, the result of which is open. The democratic process in Afghanistan depends largely on the cooperation of the various competing clientele networks of regional strongmen. Both the laws and political practice need more clarity relating to ethnic, racial and sectarian discrimination and violence. If and when the eventual final defeat of the Taliban is possible is still an open question and a self-sustaining peace and a self-sustaining economy without the assistance of international peace builders seems at a distant rather than near future.

Regional environment: An advantage for the programme in East Timor was the comparatively small territory and small population. This is different especially in Afghanistan. The strong international backing which all three cases received was facilitated especially in East Timor by a favourable regional environment, although no formally recognised regional organisation was involved. This is only partially the case in Kosovo with a strong engagement of both the EU and OSCE; however difficulties arise with the fragility of the Western Balkans. The regional environment seems most volatile in the case of Afghanistan, given the fact that the whole sub-region surrounding Afghanistan is not very stable but haunted by crises. However, in contrast to Kosovo and Afghanistan, in the case of East Timor the UN did not have to deal with the additional complication of coordinating different regional organisations or independent international and bilateral donors.

Resources: All three programmes were comparatively well funded. According to OECD/DAC statistics East Timor generated almost 42 percent and Afghanistan almost 35 percent of its Gross National Income through Official Development Assistance.³² It is a balancing act to find the right level of resources which are required for the peace building programme since there is at the same time a shortage of resources and a limited local absorption capacity. The problem is usually not one of a lack of financial resources but of qualified personnel. Slow deployment of international personnel (especially in the

³² http://www.oecd.org/document/9/0,2340,en_2649_34447_1893129_1_1_1_1,00.html, table 25e. Separate figures for Kosovo are not available in these country statistics.

police and judicial services) created insecurities especially in the early part of the programmes. This is mainly due to reluctance, lacking political will or inability of the international community to act swiftly and decisively. More generally, the UN usually bases its programmes on best rather than worst case assumptions. The Security Council finds it difficult or impossible to make contingency planning or take decisions to manage unanticipated task. The unexpected parallel request for 5,000 civil police for Kosovo and 1,250 police for East Timor could not be met in a timely fashion. It resulted in slow recruiting of civil administrators and police. Similar bottlenecks were experienced in the judicial services (Chesterman 2002). Lack of immediately available personnel slowed stabilisation and security reconstruction. The capacity gap of the state to provide basic services, discussed above as a structural deficiency in many states, could not easily be compensated for through international assistance.

Lessons to be learned: Several lessons can be learned from these peace building programmes:

- The importance of the ‘security first’ concept is recognised in all three cases. However, the privatisation of violence from below, with activities of armed non-state actors, played a role, especially at the beginning of the peace building process and still continues to destabilise the situation in Afghanistan. In all three cases private military companies were contracted, with varying degrees of success, to facilitate the implementation of the monopoly of force and the provision of security. The role of these companies is still contentious. The private sector can possibly react with greater flexibility, but at the same time the still largely unregulated activities of private military companies can contribute to undermining rather than strengthening the monopoly of violence. Clear international norms to control their activities in conflict and post-conflict reconstruction are urgently required.
- Armed non-state violence actors like militias but also private companies have complicated the security picture. This remains particularly troublesome in Afghanistan and creates difficulties in creating and maintaining a monopoly of force.
- In all cases there was an essential need for immediately deployable experts, especially to ensure security but also to build up a comprehensive criminal justice system. When intervening, the international community needs to prepare for the outbreak of violence to continue. In the three cases, all facilities of internal security and justice were essentially nonexistent. There was neither rule of law, nor enough police and justice personnel, equipment or supplies. These shortcomings could have been anticipated and are predictable for future cases (Marenin 2005). But the international community was slow to fill the judicial vacuum. Thus, it took time to introduce the rule of law and exercise the monopoly of force in the case of East Timor, while this state function is still a major problem in Kosovo and even more so in Afghanistan.
- A ready-to-deploy pool of personnel, as this is the case with the armed forces, is also essential for police, criminal justice and civil administration.
- It is important to determine whether it is appropriate or possible to draw on a previously existing rule of law that governed the country or whether it is necessary to create or adopt a new one as was the case both in Kosovo and East Timor, partly also in Afghanistan given the Taliban’s flawed understanding of justice (van yl 2005).

- Large resources are required, usually for a long period of time. The case of Afghanistan has shown a certain inability to effectively coordinate assistance from bilateral and international donors, since no central authority was in place as in Kosovo and East Timor.
- Massive aid packages produce unintended negative side effects: the institutional capacity required to absorb foreign personnel and finances is simply not there. Donor organisations which have committed assistance are under pressure to spend the earmarked aid. They create their own administration and control bodies, especially if no UN implementing body such as UNMISSET in East Timor and UNMIK in Kosovo is set up. Aid initially buttressed criminal sections both in Kosovo and Afghanistan which facilitated the contentious process between warring parties.
- The three cases illustrate that the security gap, described above, is of immediate concern in the early phases of peacekeeping and reconstruction programmes. This gap has been quickly closed in the case of East Timor, while it is still most worrying in Afghanistan. The legitimacy gap of the governments in the three countries has been closed surprisingly quickly in East Timor and to a large extent in Afghanistan too through the democratic process and the elections. This has only been partly the case in Kosovo, mainly due to the lack of clarity of the political future.
- Civil society has a key role to play in the peace building process especially to function as an oversight mechanism *vis-à-vis* government (Caparini 2005). But it has been virtually lacking in all three cases, although improvements have been made and the creation of such organisations in East Timor has contributed positively to the quick transition process.

Although it might be difficult to pin-point the exact outcome in these three cases in all relevant areas in hard empirical evidence, it seems obvious that the reconstruction process was most successful in East Timor, so that the UN mission could be closed in 2005. The process in Afghanistan has made great progress, although a number of important obstacles remain. Similarly in Kosovo, until the final political status of Kosovo is decided, a strong international presence seems needed to stabilise the situation.

5. CONCLUSION

A wide range of arguments have been raised both for and against present international efforts to rebuild failed states and to facilitate the rehabilitation after conflict. The current interest reflects a mixture of humanitarian, security, development and economic concerns. Proponents of intensified international engagement try to find a balance between national ownership and firm international control of the process. Liberals promote both democratisation in the political arena and free market reforms. The realists' school focuses on the control over trouble spots by providing security and stability without much regard for liberal values. Cosmopolitan thinking and critical theory advocates looking beyond the territorial state towards genuine humanisms and calls for a critical assessment of the global political and economic structures in order to find a post-Westphalian solution.

The analysis in this paper has underlined that the failure or inadequacy of the state to ensure the monopoly of legitimate force is a central problem in societies haunted by violent conflict and wars. It is an extremely difficult task to build or rebuild satisfactory state structures which can exercise this monopoly of force and guarantee peace and security. The experience in recent years illustrates the pivotal role that the international community places on building strong centric state structures at a time when typical state functions are de-nationalised and the role of the nation-state diminishes. Interestingly, concepts of state-building and national building have re-emerged now, though the increase of global threats as well as intra-state violent conflicts and wars, make concepts of national security look outdated.

It is argued in this paper that as a consequence of the weakening of the nation-state a broader based monopoly of force is required to facilitate the stabilisation of societies. The governance tasks are too complex for single nation-states to handle alone, especially those states that are in crisis or have emerged from conflict. The monopoly of force needs to be based on a multiplicity of authority at different levels; it must be exercised at least in a rudimentary form to permit prospects for stabilisation of the society. A holistic approach is required to set the rules for the use of force. Such a multi-level system leads to a reallocation and diversity of authority away from the nation-state towards the global, regional and the local level, implemented according to the subsidiarity concept of exercising force and the supremacy concept in norm setting described above. As has been argued in this report on the basis of the results of peace and state-building experiences in the recent past the suggested multi-level legitimate public monopoly of force meets the test of the present reality of the international system better than a primarily nationally oriented systems since it addresses the different levels of political decision-making.

A focus on local ownership, which is often absent or not clearly visible, is needed to emphasise the bottom-up, long-term approach to peace building (Caparini 2005). But the international community finds it too laborious and time consuming to fully engage the diverse factions at the local level. There is a need for the consideration of traditional modes of authority and conflict mediation which are normally locally based.

Probably the weakest factor in this multi-level approach is the regional level because of continued political disagreement over state sovereignty, overlapping responsibilities of regional organisations, political differences within the organisations and a severe lack of

their capacities. At the global level, the UN which has increasingly taken over more and more responsibility to intervene on the basis of humanitarian concerns and moral obligations operates on the basis of international law and emerging norms. This paper has identified a trend that international norms having universal applicability are increasingly recognised and are binding even if political practice often diverts from this concept. At the same time the UN organisation suffers from a democratic deficit which is due to its structure as an intergovernmental organisation. The prevailing power politics have led to selective and biased practices of interventions in the name of humanitarian concerns. One might dismiss the proposal of a multi-level monopoly of violence as unrealistic and utopian. Yet the present fundamental assault on Westphalian nation-state system is so far-reaching that alternatives need to be considered. This has been recognised by the creation of transitional administrations or UN protectorates in actuality, but conceptually, peace building is still considered as a hopefully short-term transition to establishing a functioning nation-state. Doubt is cast in this paper as to the presently practiced nation-building and reconstruction concept is a realistic perspective or if there is rather the need for long-term peace building operations including more permanent exercising of governmental powers by the UN or UN-authorized bodies and delegation of power to the regional level.

The basis of many interventions is a new, widened and broadened understanding of security which has limited the strong emphasis of state sovereignty and non-interference, thus creating new international norms. This trend has been amplified by the securitisation of development and the developmentalisation of security. In other words, the new understanding of security and development highlights the linkage between these two spheres which were, conceptually, largely separated in the past. The broadening and widening of the concept of security and the introduction of the notion of human security have contributed to facilitate the protection of human rights. But only gradually are internationally accepted criteria for humanitarian interventions emerging.

Since the international community is still inadequately equipped for non-military interventions and hesitates to clearly prioritise civil means for conflict prevention, there is a trend to use the armed forces as a substitute in tasks which they are not trained for. While the purpose for intervention might be legitimate, the means might often be insufficient or wrong.

Given the hidden agendas of power politics and the often concealed promotion of liberal market concepts, the legitimacy of policies of peace building, democratisation and development can easily get undermined. Covert behind the overt humanitarian anxiety are also the aspirations of great powers to exert political influence and pursue their own economic interests. The re-emerged and presently promoted concepts of nation-building and post-conflict reconstruction are part and parcel of a strategy for political containment, global problem solving and a particular type of globalisation.

A recent intervening factor of importance has been the privatisation of violence. The emergence of armed non-state actors has contributed to insecurity and intensification of conflicts. At the same time the use of private military and security companies in wars and conflicts has increased dramatically. Empirical evidence also shows that private security companies expand rapidly in post-conflict situations because of the institutional weakness of the public police sector. While such companies might contribute to security if they are

properly regulated and monitored, and many people rely on them in their everyday security, they have also become a source of insecurity themselves in many countries. The de-privatisation of violence is a trend of great concern since it questions the public good security and transforms it to a commercial and marketable product. Global governance, an accountable, cosmopolitan oriented policy, is far from being implemented in the security sector. Military and police resources are now available on a contract basis in the global market. Experts for almost any military job wait to be called on. Economic power can now be converted into military power faster than ever before. The extent of the currently existing regulation of these violence actors is inadequate. National laws have been introduced in a few countries only; international law, like the Geneva Convention and the regulations of mercenary activities are deficient or do not apply. To ensure a public monopoly of force, steps need to be taken to improve regulation of the private security and military companies at the international and global level. Efficient rules are urgently required to uphold the public monopoly of violence. The established and endangered monopoly of violence must be reformed so as to not leave the internationalisation and privatisation of war and peace to market forces or uncontrolled non-state actors. The significant difference between outsourcing postal, railway or utility services and outsourcing military, police or judicial functions is of a qualitative nature, and this is the public monopoly of violence. This ought not to be given up light-heartedly. The combination of privatisation (including the privatisation of violence) and globalisation can give rise to a process, which is almost the reverse of the process through which modern states were constructed.

In practical terms it is evident from the experience in the major peace-building and reconstruction programmes that security, and with it the legitimate monopoly of violence, is the key and a prerequisite to progress. Local ownership is an important issue of concern; the people in post-conflict societies must own their rehabilitation programmes and take an active part in setting the agenda. This principle is widely accepted, though often violated in the practical circumstances of carrying out reconstruction programmes. But the international community cannot deliver sustainable outcomes without utilising the knowledge and experience of local and regional actors. More intensified and efficient coordination of external actors is also important. All too often missions are initiated with unclear mandates and inadequate resources. So far, the international community seems insufficiently equipped with qualified civil personnel to implement the peace building and reconstruction programmes it deems necessary. The military has useful resources available that civil organisations lack. This should give reason to debate the priorities of resource allocation.

Timing matters too – both the timely intervention, based on international norms, as well as the duration of reconstruction programmes. Quick reactions in times of crises are needed to stop violence and prevent the worst from happening, but peace building and reconstruction are not a quick-impact but a long-term project. Sequencing of peace building programmes involves the need to balance the individual components of the reconstruction process and institution-building with the overall requirement to preserve peace (Bryden 2005). The guarantee of a minimum of security early on needs to be followed by the next phase of reconstruction through a long-term strategy of political and economic recovery. This concept would greatly be facilitated if conflict prevention were to be given priority over intervention in crises.

It seems that the disengagement of warring factions after the end of conflict is an important condition for sustainable peace. This condition is, however, difficult to achieve in most conflict-prone societies. Effective and sustainable peace processes can only be expected if the structural causes of conflict are removed, if political primacy over the military is established, if there is respect for traditional forms of conflict regulation, if the non-violent groups in conflict-endemic societies are strengthened, and if good governance and human security are observed at the local, national, regional and global levels.

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