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United Nations Development Programme

The Challenges of Restoring Governance in Crisis and Post-Conflict Countries

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DESA

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In memory of

Professor Dennis A. Rondinelli

*as a tribute to his enduring contributions to governance,
public administration and development.*

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Foreword

Restoring governance and strengthening and building trust in government in crisis and post-conflict countries are important aims of the United Nations' "Reinventing Government" programme. This book assesses the challenges of restoring governance and building trust in government in post-conflict countries, where international organizations must often take the lead in mobilizing resources and providing technical assistance. The book was written by Dr. Dennis A. Rondinelli with the research assistance of Joseph Clifford Birungi, Nadia Selim, and Maria Stephania Senese as a background discussion document for the Seventh Global Forum on Reinventing Government in Vienna, Austria in June 2007.

The Global Forum, in accordance with UN General Assembly resolution *A/RES/57/277* of 2002, is held every two years. The Forum is a bridge on which governance principles and practices meet, and on which global initiatives interact with regional and local priorities. The Forum offers tremendous opportunities for diverse stakeholders — notably, high-ranking government officials, eminent public administration scholars, corporate leaders, representatives of international organizations, donor agencies, and non-governmental organizations — to exchange ideas on approaches that are critical to public policy and management challenges facing the world as a whole and its constituent regions.

The mission of the Bureau for Crisis Prevention and Recovery (BCPR) is "to enhance the United Nations Development Programme's (UNDP) efforts for sustainable development, working with partners to reduce the incidence and impact of disasters and violent conflicts, and to establish the solid foundations for peace and recovery from crisis, thereby advancing the UN Millennium Development Goals on poverty reduction." BCPR is the practice leader for crisis prevention and recovery within the UNDP and provides expertise on crisis issues to UNDP country offices, regional bureaus, and headquarters. The work of the Bureau bridges the humanitarian phase of a post-crisis response and the long-term development phase following recovery. BCPR is also an advocate for crisis sensitivity, working to ensure that all of UNDP's long-term development policies and programmes address the risks and opportunities related to disaster reduction and conflict prevention.

As part of the United Nations' efforts to promote excellence in governance and public administration, the Division for Public Administration and

Development Management (DPADM) provides support to the Global Forum on Reinventing Government as an international gathering of policy makers and experts so that it can serve as a worldwide laboratory for new ideas and policy development. DPADM extends these discussions not only through the biennial Global Forum but also through a series of regional forums on reinventing government that focuses on specific challenges and innovations in particular geographical regions of the world.

The Global Forums on Reinventing Government have explored a wide range of topics for improving governance and public administration including the challenges facing governments in the 21st century arising from globalization; means of fostering democracy and development through e-government; partnerships among citizens, businesses and governments for development and democracy; innovation and quality in government; and participatory and transparent governance.

The lessons learned from more than 25 years of experience by international organizations and donor countries can provide guidelines that will help improve the approaches and processes of delivering international financial and technical assistance to countries recovering from conflict. We hope that this publication will stimulate thinking, policy discussions and innovative programmes to strengthen democratic governance and enhance citizens' trust in government in countries pursuing reconstruction and development.

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Executive Summary

This book examines the tasks and challenges of restoring effective governance in crisis and post-conflict countries. It explores the types of functions and roles that governments must carry out in conflicted societies and the approaches to assistance that have been used by international organizations and bilateral donors. More than three decades of experience with post-conflict reconstruction has yielded important lessons about the conditions that enable or inhibit the progress of governments and international assistance organizations in restoring governance and rebuilding trust in government in those countries emerging from violent hostilities.

Because governments are often weak or because a new state must be constituted after violent hostilities cease, post-conflict countries often need immediate and substantial assistance in restoring governance and carrying out the tasks of economic, political, physical, and political reconstruction. International assistance organizations — the United Nations, the World Bank, Regional Development Banks, bilateral aid agencies, non-governmental organizations, and others — have become crucial participants in helping governments with increasing their capacity to perform essential functions in the early and transitional stages of post-conflict recovery.

This book draws on experience in Africa, Asia, the Middle East, Eastern Europe, the Balkans, Central, South and North Asia, and Central and South America to review the state of knowledge and derive lessons for restoring effective governance and rebuilding trust in government in the post-conflict period. It seeks to provide insights from experience into the types of governance capacities needed in crisis and post-conflict countries to promote political stability, trust in government, and reconstruction. It reviews the types of assistance international organizations, donor countries, and development finance agencies are providing in post-conflict and crisis countries and the factors that affect implementation.

Chapter 1 explains the importance of restoring governance and rebuilding trust in crisis and post-conflict countries, examines the changing concepts of effective governance, and describes governance weaknesses in countries emerging from hostilities.

Chapters 2 through 6 examine the diversity of tasks, challenges, and lessons of experience with helping post-conflict countries, address the urgent needs

for establishing safety and security; strengthening constitutional government; reconstructing infrastructure and restoring services; stabilizing and equitably growing the economy; and strengthening justice and reconciliation organizations. The objective is to illustrate the diversity of conditions and needs in post-conflict societies, the variations in the types of tasks governing institutions must carry out, and the types of challenges governments and international organizations face in reconstructing war-torn countries.

Chapter 7 identifies the approaches that international assistance organizations use to help post-conflict countries restore governance and strengthen governments to carry out the tasks and meet the challenges of reconstruction and development. It examines the most frequently used approaches to restoring governance and strengthening government for post-conflict reconstruction. These are: a) substituting for weak or yet-to-be-constituted governments; b) assisting governments directly with financial and technical aid; c) supporting public-private partnerships; and d) assisting through non-governmental organizations.

Chapter 8 focuses on lessons of experience about how governments and international organizations can more effectively plan and implement programmes for restoring governance and rebuilding trust in government. It offers suggestions about how to make international assistance appropriate, balanced, and timely.

Throughout the book, examples of attempts to restore governance and rebuild trust in government highlight the most important lessons learned from past experience. Among the most important are the following:

- Because the challenges facing crisis and post-conflict countries are complex and varied, governments and international organizations can rarely, if ever, rely on universally-applicable approaches to restoring governance. Each country has a unique history, a different political tradition, culture, and society, and different levels of capacity to recover from hostilities, making the needs and conditions for restoring governance quite varied. Each country requires a different combination of financial and technical aid. Although post-conflict countries may share similar problems, in no two countries will those problems manifest themselves in exactly the same way. Policies and programmes that were successful in one country have to be modified and adapted if they are tried in others. The complex process of restoring governance and strengthening government requires different time horizons

to accomplish similar tasks in different countries and, in all of them, the time horizon is usually long.

- What can be learned most effectively from experience with restoring governance and rebuilding trust in government is not how merely to replicate programmes used in other countries, but how to tailor, adjust, and implement programmes successfully given the differences in conditions and needs in post-conflict countries. In all cases, international prescriptions for reconstruction and for strengthening government should be preceded by careful diagnoses of conditions and needs, the feasibility of delivering assistance in conformance with both donor organization and recipient government criteria, and the timeliness of the interventions.
- Although restoring governance involves increasing the capacity of the state, the private sector, and civil society organizations to perform important reconstruction and development tasks, little progress is likely to be made without first determining whether or not appropriate preconditions exist or can be created. Each of the approaches to restoring governance discussed in this book requires appropriate policies, coordinating mechanisms, and administrative capacities in order to work effectively. When these preconditions do not exist or cannot easily be developed, direct assistance to governments or even the use of parallel structures and arrangements can easily fail.
- Because restoring governance and strengthening government in post-conflict societies often requires difficult and complex reforms that may take a long time to implement, initial efforts should focus on strengthening capacities needed for carrying out the most urgent reconstruction functions. The basic functions that seem most often to challenge governments in post conflict societies — establishing safety and security, strengthening constitutional government, reconstructing infrastructure and restoring services, stabilizing and growing the economy, and strengthening justice and reconciliation organizations — are usually those in which capacity building is most urgently needed.
- In those post-conflict countries where governments have weak administrative capacity or lack financial resources, they usually suffer from institutional deficiencies that will require long periods of time

to strengthen. In such cases, donors assisting with reconstruction and recovery may decide to enhance governance capacity by exploring parallel approaches or they may simply bypass government altogether. Among the most frequently observed advantages of parallel approaches are that they can usually respond rapidly to emergency situations and humanitarian crises, fill gaps in public administration capacity until governments become more stabilized and reforms can be undertaken, and substitute for a governing authority in post-conflict countries where no legitimate or acceptable government exists. Bypassing government or providing assistance through private and civil society organizations can help overcome obstacles caused by weak public sector administrative capacity or inefficient or ineffective civil services; leverage scarce public administration capacity and extend government's ability to perform reconstruction functions or deliver services; or enhance the efficiency and effectiveness of existing government services and functions.

- In some countries, public-private partnerships can mobilize private financial, managerial, technical, and knowledge resources for providing public services more effectively. Using NGOs and civil society organizations can extend the reach of weak governments in providing services to the poor, to remote rural areas, and to regions subject to continued tensions. Designed effectively, approaches that encourage public-private and public-NGO partnerships can help build public administration capability to take over functions carried out by parallel structures and to manage public-private partnerships and strengthen administrative capacity in the private sector or organizations of civil society to deliver services that supplement those of the public sector.
- Donors that encourage governments to partner with the private sector and civil society organizations should help strengthen their capacity to work with non-governmental organizations. Parallel approaches to strengthening government work best when international assistance organizations also help to enhance the administrative, technical and financial capacities of private and civil society groups to deliver services efficiently, effectively, and responsively.
- In the long-run, no alternatives to building government capacity, alone, will increase the prospects for restoring effective governance.

All international assistance approaches for restoring governance and strengthening government require some degree of public administration capacity. Using parallel or partnership approaches does not obviate the need to strengthen government nor does it eliminate or reduce the responsibility of donors to help host governments develop the institutions and policies required to make partnerships with the private sector and civil society organizations work efficiently. Although parallel approaches that build temporary capacity for reconstruction may be viable short-term solutions, strengthening governments committed to transparent, accountable and participatory governance will always remain a crucial condition for stabilizing post-conflict countries.

Chapter 1

Restoring Effective Governance and Building Trust in Government

The 20th century and early years of the 21st century were marked by widespread violent conflict as a means of resolving political differences within and among countries. Two world wars took the lives of millions of people and destroyed the economies of dozens of countries in Europe and Asia during the first half of the 20th century. Cold War tensions from the 1950s to the late 1980s led to political and military interventions and internal conflicts in many countries throughout the world. Since the late 1980s armed conflicts among political, religious, and ethnic groups over the control of fragile states have exacted a high toll in human life and imposed misery on those who survived.

The International Crisis Group found that in 2006 about 70 countries had some form of internal conflict, ranging from overt civil war and insurgency to regional conflicts or violent opposition to governments by political factions, secular or ethnic minorities, or other disaffected groups.¹ The World Bank points out that about 80 per cent of the world's poorest countries have experienced serious violent conflicts since the early 1990s, and its Crisis Prevention Unit monitored more than 40 countries considered "conflict affected" in the early 2000s.² Between 1992 and 2002, 80 per cent of the countries that the World Bank categorized as "low income countries under stress" experienced serious civil conflict.³ In 2006, Project Ploughshares reported 30 countries with active armed conflicts and 18 countries in which they had recently ended.⁴

The most important tasks facing countries in crisis or recovering from recent hostilities are restoring effective governance and building public trust in government. Without effective governance institutions — an effective government, a strong private sector, and a vital civil society — little can be done to bring

¹ International Crisis Group, *Crisis Watch*, October, 2006.

² World Bank, "The Role of the World Bank in Conflict and Development: An Evolving Agenda," Washington: World Bank, 2004.

³ World Bank, "Low-Income Countries Under Stress: Update," Report No. 34789, Washington: World Bank, 2005.

⁴ Project Ploughshares, "Armed Conflicts Report 2006," accessed at <http://www.ploughshares.ca/libraries/ACRText/ACR-TitlePageRev.htm>

about peace, reconstruct war-torn countries, and stabilize political, economic, and social conditions. Those groups dissatisfied with governance or lacking trust in government are unlikely to end on-going hostilities or to join together in a united effort to rebuild peaceful societies. Restoring effective governance and rebuilding trust in government are necessary but not sufficient conditions for both peacekeeping and post-conflict reconstruction.

The Crucial Role of Effective Governance in Post-Conflict Countries

Conflict devastates human life and the societies in countries where it occurs. Often that devastation spills into neighbouring countries as well. Two world wars and widespread political violence of one type or another resulted in mass killings, genocide, or 'ethnic cleansing' that took the lives of an estimated 170 million people between 1900 and 1987.⁵ Since 1987 mass killings have continued in civil wars, insurgencies, and military incursions in fragile states throughout the world. The civil war in Mozambique during the 1980s, for example, resulted in the death of nearly one million people. It brought extreme brutality against civilians, widespread sexual violence against women, and the displacement of at least six million people, including more than 1.5 million who crossed international borders.⁶ The inter-regional war provoked by the invasion of the Democratic Republic of the Congo by Rwanda and Uganda in 1998 led to the death of 4 million people. The 20-year conflict in Sudan left more than two million people dead by 2005. More than 400,000 Sudanese poured into official refugee camps and an equal number of unregistered refugees scattered to Sudan's neighbouring countries.⁷

The ethnic conflicts between Hutu and Tutsi in Rwanda in 1994 alone claimed the lives of from 500,000 to one million people and drove up to two million people into neighbouring countries.⁸ More than one million Rwandans were

⁵ See the estimates in R.J. Rummel, *Power Kills: Democracy as a Method of Non-Violence*, New Brunswick, NJ: Transaction Books, 1997; and William Easterly, Roberta Gatti, and Sergio Kurlat, "Development, Democracy and Mass Killings," Working Paper No. 93, Washington, DC: Center for Global Development, 2006.

⁶ Sally Badem, "Post Conflict Mozambique: Women's Special Situation, Population Issues and Gender Perspective," Sussex, UK: Institute for Development Studies, University of Sussex, 1997.

⁷ Library of Congress, Federal Research Division — Sudan.

⁸ See Peter M. Manikas and Krishna Kumar, "Protecting Human Rights in Rwanda," in Krishna Kumar (ed.), *Rebuilding Societies After Civil War*, Boulder, CO: Lynne Rienner Publishers, 1997, pp. 63-83.

displaced within their own country. Women were targeted for sexual abuse and massacre. As one report noted, “All Tutsi women were targeted, simply because they were Tutsi, and large numbers were killed, often after having been subjected to sexual violence and torture. Educated, elite women were attacked by marauding militia gangs regardless of their ethnicity.”⁹ The war led to the total breakdown of public institutions, increased the level of poverty, caused the collapse of health-care and education systems, and destroyed basic infrastructure.

The decade-long war in Sierra Leone was marked by widespread human rights abuses, the collapse of the central government, and destruction of public capacity to provide any services or protection for its people. During the war, more than two million people were forced to flee their homes. Many crowded into displaced person camps around Freetown or dangerous holding camps along the volatile Guinean-Liberian border. Sexual violence occurred on a wide scale. More than 1,800 victims of sexual violence came forward after the war, 55 per cent of whom reported being gang raped in a conflict in which abduction, molestation, and sexual slavery became commonplace. More than 100,000 people were killed during the strife. Others suffered from the intentional amputation of arms and legs as well as other forms of mutilation.

The 20-year civil war in East Timor and its occupation by Indonesian forces beginning in 1975 resulted in the death of 200,000 East Timorese (one quarter of the population) who were either killed in conflicts or terrorist activities or died from starvation and disease.¹⁰ The insurgencies that resulted from a referendum supporting independence in 1999 led to the destruction of 70 per cent of East Timor’s infrastructure and displacement of more than 60 per cent of its population.

Violent conflict takes its toll not only in the number of people killed but also in the misery it imposes on those who survive. When international donors began to assist Afghanistan with reconstruction and development in 2002, the impact of prolonged war was evident: basic social services did not exist in most of the country, infrastructure had been destroyed, and health conditions were poor. About 70 per cent of the Afghan population was estimated to be malnourished

⁹ Catherine Newbury and Hannah Baldwin, “Profile: Rwanda,” in Krishna Kumar (ed.), *Women and Civil War: Impact, Organizations, and Action*, Boulder, CO: Lynne Rienner Publishers, 2001, pp. 27-38; quote at p. 27.

¹⁰ Alvaro Alfonso and Ruairi Brugha, “Rehabilitating the Health System After Conflict in East Timor: A Shift from NGO to Government Leadership,” *Health Policy and Planning*, 21, 3, 2006, pp. 206-216.

in 2000. More than 64 per cent — nearly two-thirds — of Afghan adults were illiterate.¹¹ Only about 35 per cent of people living in urban areas and 19 per cent living in rural areas had access to safe drinking water, mostly from public wells.¹² The Asian Development Bank (ADB) estimated the per capita Gross Domestic Product at only about \$200.¹³ Only 13 per cent of roads were paved in 1991, but most of those fell into disrepair during the following 10 years of warfare. Less than 30 per cent of boys were enrolled in elementary school. Under Taliban rule girls were forbidden to be educated and women were not allowed to be trained, to obtain access to health services, or to work outside of their homes. The United Nations Development Programme (UNDP) estimated that more than one million Afghans were displaced persons, and an additional 3.5 million Afghan refugees were in Pakistan and Iran in 2002.¹⁴ Much of the country was littered with land mines and unexploded ordnance from previous wars.

The continuing violent conflicts in Haiti for more than 30 years left the population of that country the poorest in the southern hemisphere. By 2004, about 80 per cent of Haitians were living in dire poverty on less than US\$2 a day and more than 50 per cent were living on less than \$1 a day.¹⁵ Life expectancy at birth was 53 years and the under-age-five mortality rate was 123 out of 1,000. Haiti had the highest HIV/AIDS rate of any country outside of sub-Saharan Africa. Repeated violence and crises devastated the economy. Per capita income dropped to less than \$400 a year. Underemployment rose to almost 60 per cent and formal unemployment ran as high as 10 per cent. Many families were surviving only on transfers from relatives who had left the country.

UNICEF reports that only 34 per cent of the Haitian population had access to adequate sanitation facilities. It points out that “poverty, destitution and violence foster conditions that allow children to become excluded and invisible — exploited, neglected, trafficked and abused.”¹⁶ The low survival rate of infants

¹¹ United Nations, “Afghanistan: Facts and Figures at a Glance,” New York: United Nations, 2002.

¹² United Nations, “Immediate and Transitional Assistance Programme for the Afghan People, 2002,” New York: United Nations, 2002.

¹³ Asian Development Bank, *Asian Development Outlook 2002*, Manila: ADB, 2002.

¹⁴ United Nations Development Programme, “Afghanistan Crisis: UNDP Strategy,” New York: UNDP, 2002.

¹⁵ Canadian International Development Agency, “Canadian Cooperation with Haiti: Reflecting on a Decade of ‘Difficult Partnership,’” Ottawa: CIDA, 2004.

¹⁶ United Nations Children’s Fund, “Child Alert: Haiti,” *Child Alert*, No. 2, March 2006; quote at p. 3.

resulted from poor health services and low rates of immunization. With more than half the children in Haiti without birth registration, they were excluded from health-care and education services or most legal protections. About 10 per cent of children, whose parents could not care for them, ended up in domestic work and were often exploited or abused. Others were trafficked abroad in domestic service or prostitution. High rates of malnutrition subjected both children and adults to chronic health problems and short life expectancies.

Violent conflict also undermines or weakens governance capacity. Reconstruction in Rwanda after years of brutal conflict depended on restoring governance and reconstituting government. In the absence of a strong government, the private sector and civil society had to be strengthened sufficiently to carry out important roles in rebuilding the country. After the end of hostilities in 1994, international assistance organizations helped a weak government to re-establish public institutions and to reorganize public administration for better service delivery. These reforms focused on decentralizing government and encouraging popular participation in public affairs. Little could be accomplished in the post-conflict period without re-establishing a 'capable' state with a policy-making apparatus that could provide security and stability, deliver basic services to a traumatized population, and create conditions to attract local and foreign investment.

When hostilities ceased in Sierra Leone, peace could be sustained only by providing a new constitutional foundation for the state. Sierra Leone needed a new system of governance that provided for effective participation and representation of all groups in society, established the process by which peaceful transitions could occur from one regime to another, and protected human rights. The roles and boundaries of all branches of government had to be delineated as a first step in establishing legitimacy for a new government.

Similarly, after the fall of the Taliban regime in Afghanistan, the international community's 2001 meeting in Bonn focused on providing assistance for a new system of governance. The Conference concluded with the adoption of the "Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions," a document that became the blueprint for creating a fully functioning and empowered Afghanistan State. The Bonn Agreement envisaged a full-fledged independent government chosen freely by the people of Afghanistan. It mandated that the Interim Authority be succeeded by a Transitional Authority selected through

an Emergency Loya Jirga (General Assembly) whose participants would be drawn from both men and women and all ethnic and religious communities. The Transitional Authority would lead Afghanistan until a fully representative government could be established.

The Interim Authority had to ensure a fair process of constitution making that could legitimize the system of governance among people who had lived without any form of central government for decades. The process by which the Afghanistan Constitution was formulated turned out to be cumbersome and logistically complex but necessary in a society plagued with entrenched mistrust and divisions among ethnic and religious factions. The Interim Authority established the Special Independent Commission, which was responsible for convening the Emergency Loya Jirga.¹⁷

Although weak governance and ineffective government are often the results of conflict, sometimes they are also its causes. Dissension tends to increase in societies where government fails to meet public needs and provide essential services or cannot solve basic development problems. Continuing conflicts in Liberia arising in the late 1980s, for example, can be traced in large part to the widespread dissatisfaction with living conditions in the country, the lack of trust in government, and high levels of poverty that fuelled tensions among dissident political factions. Governance characterized by severe corruption, nepotism, and inequities in the distribution of wealth along ethno-political lines offered little or no hope for many Liberians. The government's narrow revenue base and the breakdown in fiscal discipline resulted in the accumulation of huge domestic and external debts.¹⁸ In 1998, 80 per cent of the population in Liberia was living in poverty.¹⁹ More than 85 per cent of Liberians were unemployed. Infant mortality stood at 149 per 1,000 live births and average life expectancy was only 40 years. Only about 17 per cent of urban dwellers had access to sanitation facilities. Literacy levels declined to 35 per cent of males and 22 per cent of females. The government was unable to provide food security, social services, or human-rights protection.

¹⁷ For a more detailed discussion see Charles H. Norchi, "Toward the Rule of Law in Afghanistan: The Constitutive Process," in John D. Montgomery and Dennis A. Rondinelli (eds.), *Beyond Reconstruction in Afghanistan: Lessons from Development Experience*, New York: Palgrave Macmillan, 2004, pp. 115-131.

¹⁸ Office for the Promotion of Good Governance, "Liberia's Governance Program," implemented by the UN Department of Economic and Social Affairs, New York: UNDESA, 2000, pp. 18-19.

¹⁹ *Ibid.*, p. 15.

In all of these cases, as well as in those of most other countries recovering from conflict, the restoration of effective governance is the foundation for post-war recovery. The UNDP points out that “in post-conflict situations, such as in Sierra Leone or Somalia, establishing some form of credibly representative government that can provide essential services is increasingly seen as an essential part of the first stages of post-conflict reconstruction.”²⁰ Somalia, for example, experienced a 20-year conflict that resulted in the collapse of the state, partition of its territory and national resources, and exacerbation of hostilities among ethnic groups. In 1991, opposing clans overthrew the military regime, leaving Somalia under the control of rival warlords and without an effective central government for much of the 1990s. Continuing violence eroded the legitimacy and autonomy of the state and led to extensive migration. The United Nations reported that “civil war and persistent fragmented conflicts in Somalia over the past two decades (both before and after the collapse of the Siyad Barre regime) have devastated public and private institutions and assets....”²¹ After 1991, Somalia continued to slip back into conflict and attempts to stabilize the situation were undermined by weak governance and the inability to develop a government strong enough to unify the country. Without effective governance Somalia reverted to violent conflict again in 2006 and early 2007.

Sustaining the peace depends on restoring governance and building trust in government among groups in society who had been dissatisfied with or excluded from participation in political and administrative processes and doing so in a way that reflects the values and interests of all groups in society. In most post-conflict countries, re-establishing the government’s legitimacy depends on the ability of political leaders to gain the support of diverse and sometimes still hostile constituencies. The government must develop the capacity to rebuild a shattered economy and extend or re-establish its authority over the entire national territory.

The Concept of Effective Governance

Experience with post-conflict reconstruction and recovery over the past quarter of a century clearly indicates the fundamental need for restoring effective governance and building trust in government both for meeting humanitarian needs

²⁰ UNDP, “Public Administration Reform,” *op. cit.*; quote at p. 19.

²¹ UNDP Somalia, *Millennium Development Goals (MDGs) Report: Somalia*, Draft, September, 2004.

and for creating long-term political stability. The central role that international assistance organizations have come to play in helping post-conflict countries has shaped the concepts and definitions of good governance. These concepts changed over time as governments and external support organizations learned more about the complexities and challenges in crisis and post-conflict countries.

When the World Bank began using the term ‘good governance’ in the early 1990s it focused primarily on improving public administration. In a 1992 report on “Governance and Development,” the World Bank expanded the definition to mean “the manner in which power is exercised in the management of a country’s economic and social resources for development.”²² In this sense, the World Bank viewed governance as the exercise of power by the national government. Effective governance by the state involved five fundamental tasks that “lie at the core of every government’s mission, without which sustainable, shared, poverty reducing development is impossible.”²³ These fundamental tasks included establishing a foundation of law; maintaining a non-distortionary policy environment, including macroeconomic stability; investing in social services and infrastructure; and protecting the environment and vulnerable groups of the population. The Bank also saw it as the state’s responsibility to put in place “the appropriate institutional foundations for markets.”

The Bank identified a hierarchy of functions for an effective state. Minimal functions included providing for defence, law and order, property rights, macroeconomic management, and public health, as well as protecting the poor.

Intermediate functions included providing basic education and environmental protection, regulating monopoly, facilitating the provision of health, life and retirement insurance, providing financial regulation and consumer protection, and extending social insurance. In addition, good governments also performed some ‘activist functions’ including fostering markets, coordinating private activity, and encouraging asset redistribution.²⁴

Although the World Bank’s concept of governance expanded over time, the focus remained on the roles and functions of government. It further redefined governance as “the traditions and institutions by which authority in a country is exercised for the common good. This includes (i) the process by which those in

²² World Bank, “Governance and Development,” Washington: World Bank, 1992, p. 1.

²³ World Bank, *World Development Report 1997*, New York: Oxford University Press, 1997, p. 4.

²⁴ *Ibid.*, p. 27.

authority are selected, monitored and replaced, (ii) the capacity of the government to effectively manage its resources and implement sound policies, and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them.”²⁵

Acknowledging that the path to good governance varied among countries, the Asian Development Bank noted nevertheless that governments share similar responsibilities in that “they need to establish a basic policy framework, provide critical goods and services, protect and administer the rule of law, and advance social equity.”²⁶ The ADB focused on four key components of good governance: 1) accountability — or the capacity to hold public officials responsible for their actions; 2) transparency, allowing low-cost access to relevant information; 3) predictability, provided by laws and regulations that are clear, known in advance, uniformly applied, and effectively enforced; and 4) participation, to allow government to obtain reliable information and citizens to act as a watchdog for government action.

In 1997, the United Nations Development Programme broadened and extended the concept of governance, seeing it as “the exercise of political, economic, and administrative authority to manage a nation’s affairs. It is the complex mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests, exercise their rights and obligations and mediate their differences.”²⁷ In this framework, the government was only one of the institutions exercising authority. In the UNDP’s view, the private sector and civil society organizations played important roles in helping citizens articulate their interests and exercise their rights. The role of government was not only to exercise political authority but to interact effectively with the private sector and civil society organizations in achieving public goals and objectives.

The UNDP defined good governance as promoting widespread participation by all citizens, making decisions by rule of law, ensuring transparency in the actions of governance institutions, being responsive to the needs and desires of citizens, and assuring equity in the treatment of citizens, effectiveness and effi-

²⁵ World Bank, “What is Our Approach to Governance?,” accessed December 2006 at <http://web.worldbank.org/WBSITE/EXTERNAL/WBI/EXTWBIGOVANTCOR/0,,contentMDK:20678937~pagePK:64168445~piPK:64168309~theSitePK:1740530,00.html>

²⁶ Asian Development Bank, Annual Report 1998, Manila: ADB, 1998, p. 15.

²⁷ United Nations Development Programme, “Reconceptualizing Governance,” Discussion Paper No. 2, New York: UNDP, 1997, p. 9.

ciency in the use of public resources, public accountability, and the exercise of strategic vision in planning for development.²⁸ Underlying the United Nations' conception was the need for governments to reinvent themselves in order to conform to the basic characteristics of good governance and to enhance their capacity to work effectively with the private sector and civil society organizations in reaching the UN's Millennium Development Goals.

Governance Weaknesses in Post-Conflict Countries

Because conditions in post-conflict countries vary widely, restoring governance and rebuilding trust in government requires different approaches in countries at different stages of conflict resolution, at different stages of recovery from conflict, and with governments at different levels of administrative capacity. Some countries require and can support a more comprehensive approach to governance reform. Others may only be able to support narrow interventions that build capacity to carry out specific functions or to address critical deficiencies.

The most difficult challenges of restoring governance arise from the absence of a constitutionally-established governing authority and from serious weaknesses in government capacity and resources. Most countries in early stages of post-conflict reconstruction, and even those in the transition from reconstruction to more stable government, rank relatively low on indicators of governance.

Using the World Bank's 2006 governance indicators, for example, almost all post-conflict countries show relatively weak performance in government effectiveness, political stability and control of violence, voice and accountability, regulatory quality, and control of corruption (see Table 1). The World Bank's percentile ratings for all countries range from weak (0) to strong (100). Those countries with percentiles of 25 or less can be considered "very weak," those from 26 to 50 can be described as "weak," those from 51 to 75 are "relatively strong," and those from 76 to 100 can be considered "strong."

Table 1 shows that, on average, richer OECD member countries with well-established governance systems receive "strong" ratings on all of the World Bank's indicators. None of the crisis and post-conflict countries, however, reached a level beyond "weak" on any of the six indicators, with the exception of Sri Lanka on rule of law, Gambia on political stability, and Uganda on regulatory quality.

²⁸ United Nations Development Programme, "Governance for Sustainable Human Development," New York: UNDP, 1997.

Even countries that signed peace accords more than a decade ago such as Nicaragua, Guatemala, Honduras, and El Salvador, and that have gone through the longest periods of recovery and reconstruction are still weak by absolute ratings and in comparison to OECD countries.

Government Effectiveness

Most governments in post-conflict countries simply are not very effective in performing their functions. The World Bank's governance indicators for government effectiveness assess the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation and the credibility of the government's commitment to such policies.²⁹

All of the crisis and post-conflict countries or areas in Table 1 were "very weak" or "weak" on government effectiveness. Some that have been in recovery for the longest period of time — El Salvador, Mozambique, Uganda, Gambia, Kosovo, Sri Lanka, and Bosnia and Herzegovina — are in the weak category, but none reached a percentile score higher than El Salvador's of 45.9, and none can be classified as relatively strong. Countries still experiencing conflict in 2005 — Sudan, Zimbabwe, Iraq, Haiti, and Afghanistan — ranked among the countries with the lowest levels of government effectiveness.

Political Stability and Absence of Violence

The World Bank's political stability indicators reflect perceptions of the likelihood that a country's government will be destabilized or overthrown by unconstitutional means or by political violence or terrorism. Again, on political stability measures, none of the crisis or post-conflict countries or areas in Table 1 except Gambia had a percentile score that was relatively strong. Predictably, those countries or areas still experiencing violence or conflict or that had only recently reached peace agreements — Afghanistan, Burundi, the Democratic Republic of the Congo, Côte d'Ivoire, Iraq, Somalia, the Sudan, Togo, the West Bank and Gaza, and Zimbabwe — had political stability scores that were "very weak." But even those post-conflict countries that largely controlled or limited hostilities — El Salvador, Guatemala, Lao P.D.R., Mozambique, Nicaragua, and

²⁹ Daniel Kaufmann, Aart Kraay, and Massimo Mastruzzi, "Governance Matters III: Governance Indicators for 1996, 1998, 2000, and 2002," *World Bank Economic Review*, 18, 2004, pp. 253-287.

Table 1.
World Bank Governance Indicators for
Selected Post-Conflict Countries/Areas

Country/Area	Government Effectiveness	Political Stability/ No Violence	Rule of Law	Regulatory Quality	Voice and Accountability	Control of Corruption
Afghanistan	9.1	2.4	1.4	5.4	11.6	2.5
Angola	17.7	23.1	8.2	9.9	16.9	10.3
Bosnia and Herzegovina	33.5	24.5	30.4	31.7	43.5	46.3
Burundi	7.2	6.1	9.7	9.9	17.4	20.7
Cambodia	18.7	31.1	11.1	27.2	23.7	8.9
Central African Rep.	3.3	16.5	7.7	9.4	17.9	11.3
Chad	11.5	9.9	8.7	18.3	12.1	6.9
Congo, D.R.	1.0	1.4	4.8	4.5	29.0	14.3
Côte d'Ivoire	6.2	0.9	3.9	17.3	8.7	5.9
El Salvador	45.9	40.1	44.0	57.4	52.7	44.3
Eritrea	14.4	25.9	25.6	2.5	3.4	45.8
Ethiopia	15.8	8.0	28.0	13.9	19.3	25.1
Gambia	31.1	51.4	45.9	38.6	28.0	30.0
Guatemala	29.7	21.7	14.5	46.9	35.7	17.7
Guinea	13.4	17.0	12.6	18.8	15.5	22.2
Guinea-Bissau	3.8	30.2	6.3	13.4	37.2	12.3
Haiti	5.3	3.8	1.9	11.9	10.1	1.0
Iraq	1.4	0.0	0.5	5.9	9.7	4.9
Kosovo	26.8	n.a.	17.9	n.a.	33.3	32.0
Lao P.D.R.	12.0	37.3	11.6	10.9	8.2	9.4
Liberia	6.7	8.5	2.4	4.0	24.2	10.8
Mozambique	44.0	47.2	31.4	28.2	44.4	31.0
Nicaragua	24.9	39.6	32.9	42.6	46.9	35.0
Niger	24.4	28.8	23.2	31.2	44.9	22.7
Rwanda	12.9	12.7	15.9	23.8	10.6	24.1
Sierra Leone	9.6	30.7	12.1	17.8	34.8	17.2
Somalia	0.0	0.5	0.0	0.0	1.9	0.5
Sri Lanka	40.7	10.8	54.1	50.0	39.6	47.3
Sudan	8.1	2.8	3.4	8.4	2.9	2.0
Tajikistan	12.4	9.4	16.9	15.8	15.9	11.8
Timor-Leste	14.8	26.9	36.7	14.4	51.2	25.6
Togo	5.7	12.3	14.0	21.8	13.0	4.4
Uganda	36.8	10.4	30.0	53.0	30.9	20.2
West Bank/Gaza	11.0	5.2	39.1	12.9	13.5	9.9
Zimbabwe	4.3	7.5	4.3	1.0	6.8	5.4
Average for OECD Countries	88.0	77.7	89.6	91.1	91.3	90.5

Source: World Bank, 2006. n.a.= not available

Niger — did not, even after more than a decade, reach a level of political stability that could be considered strong.

Rule of Law

The World Bank's indicators for rule of law reflect "the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, the police and the courts, as well as the likelihood of crime and violence."³⁰ Only one of the crisis and post-conflict countries in Table 1, Sri Lanka, had been able by 2005 to establish what could be considered a relatively strong rule of law. El Salvador and Gambia had somewhat higher scores than most other post-conflict countries. The vast majority were rated as "very weak" or "weak." Afghanistan, Haiti, Iraq, Sudan, Zimbabwe, the Democratic Republic of the Congo and Côte d'Ivoire ranked particularly low on the government's capacity to enforce a rule of law in which citizens had confidence or trust.

Regulatory Quality

Similarly, indicators of regulatory quality — or what the World Bank considers the ability of a country's government to enact and implement sound policies and regulations that permit and promote private sector development — show that only El Salvador and Uganda have been able to develop relatively strong regulatory policies. Guatemala, Nicaragua and Sri Lanka come closer to a transition between weak and relatively strong policies. Most other crisis and post-conflict countries have either very weak or weak regulatory quality that in most cases limits expansion and development of the private sector.

Voice and Accountability

The World Bank's voice and accountability indicators reflect perceptions of the degree to which citizens in a country can participate in selecting their government and enjoy freedom of expression, freedom of association, and free media. Only Timor-Leste and El Salvador among the crisis and post-conflict countries listed in Table 1 received a percentile score in 2005 that placed them in the "relatively strong" category. Voice and accountability remained especially weak in Afghanistan, Eritrea, Haiti, Iraq, Lao P.D.R., Somalia, Sudan, and Zimbabwe.

³⁰ Kaufmann, Kraay and Mastruzzi, *op. cit.*, p. 4.

Control of Corruption

World Bank indicators of the extent to which public power is exercised for private gain through petty and grand forms of corruption or state capture by elites and private interests, show that by 2005 none of the crisis or post-conflict countries or areas listed in Table 1 were rated strong in the control of corruption. Bosnia and Herzegovina, Sri Lanka, Eritrea, and El Salvador had percentile scores that were generally better than “very weak” or “weak” countries, but corruption or state capture still characterized most of the post-conflict countries. Corruption remained a serious problem in countries such as Afghanistan, Haiti, Somalia, and Sudan that were still in conflict. Governments in some countries that have had longer periods of post-conflict recovery such as Lao P.D.R., Guatemala, Cambodia, Mozambique, and Nicaragua, still had weak scores on their ability to control corruption.

Complexities of Restoring Governance

Whether governance is seen in a narrow perspective of improving public management and strengthening government capacity to perform essential functions, or in the broad form of expanding capacity of government, the private sector, and civil society organizations to exercise political, economic, and administrative authority to manage a nation's affairs, restoring governance is both crucial in post-conflict countries and one of the most complex and difficult aspects of rebuilding war-torn societies. Reaching a peace agreement or arranging for the cessation of hostilities is, in itself, no guarantee that peace can be secured. The World Bank estimates that, on average, countries emerging from hostilities have a 40 per cent chance of relapsing into conflict within five years.³¹ Good governance and trust in government are essential conditions for maintaining peace and reconstructing countries that have been devastated by war because countries emerging from crises remain vulnerable to continuing tensions.

Governance Tasks and Challenges

Experience over the past quarter of a century indicates that among the most immediate and important tasks facing post-conflict countries is strengthening their capacity to carry out five categories of governance and redevelopment functions: 1) establishing safety and security; 2) re-establishing or strengthening

³¹ World Bank, “Conflict-Affected Countries,” Washington: World Bank, 2006.

constitutional governance; 3) implementing post-conflict recovery and reconstruction programmes; 4) stabilizing and equitably growing the economy; and 5) strengthening justice and reconciliation organizations. Each of these sets of functions is crucial in contributing to post-conflict reconstruction and is inextricably interrelated with each of the others (see Figure 1). The boundaries among these sets of functions are often porous and the ability to deal with one often requires strengthening other government capacities as well. Some problems cut across several or all sets of functions that governments must perform during the period of post-conflict reconstruction.

The interrelationships among them make the tasks more challenging and the need for stronger government capacity to carry them out more urgent. The relationships among these functions are reflected in the assistance provided by international organizations to Balkan countries in the aftermath of hostilities during the 1990s. Carl Bildt, the former Prime Minister of Sweden, the first United Nations High Representative to Bosnia and the United Nations Envoy to the Balkans, noted that the urgent priorities for reconstructing the post-conflict states that emerged from the former Yugoslavia spanned a wide range of needs, including securing the environment quickly in order to protect minorities and cease hostilities; determining the appropriate form of the state, and creating programmes for strengthening the state. In Bosnia, Kosovo, and the Balkans it was essential to create a strong economic framework for currency, customs, and taxation systems, debt restructuring, accessing international capital markets, and strengthening commercial law and the banking system to achieve economic growth.³²

In many post-conflict countries governments need the capacity to carry out all of these tasks at the same time while ensuring the accountability, transparency and integrity of their actions. Failure to attend to one set of problems often impacts negatively on a government's ability to deal effectively with others. For example, widespread corruption often undermines the capacity of government to carry out all of the other reconstruction tasks and weakens trust in public sector leaders. In Sierra Leone high levels of corruption in the post-conflict period was a serious problem that threatened the legitimacy and efficacy of the government, which had limited success because it did not have the authority to prosecute, had few trained professional investigators, and relied on police officers from the old corrupt system to investigate and refer cases to the Attorney

³² C. Bildt, "Hard Learned Lessons on Nation-Building," *International Herald Tribune*, May 7, 2003, p.1.

General's office for prosecution. As a result, very few cases were prosecuted. The lack of tangible results led to frustration and disillusionment among both the people of Sierra Leone and the donor community.

The inextricable relationships among governance functions appeared as well in attempts by international organizations to strengthen government in Liberia. Improving the Liberian government's capacity for providing security required wider political, economic, and administrative changes. Technical assistance to the Ministry of Defense alone would have little impact without also creating an adequate constitutional framework that could legitimize the government, strengthen mechanisms for making the reform process accountable, improve parliamentary oversight and civilian leadership of defence forces, increase civil society involvement in maintaining security, and create mechanisms for civilian disarmament.³³

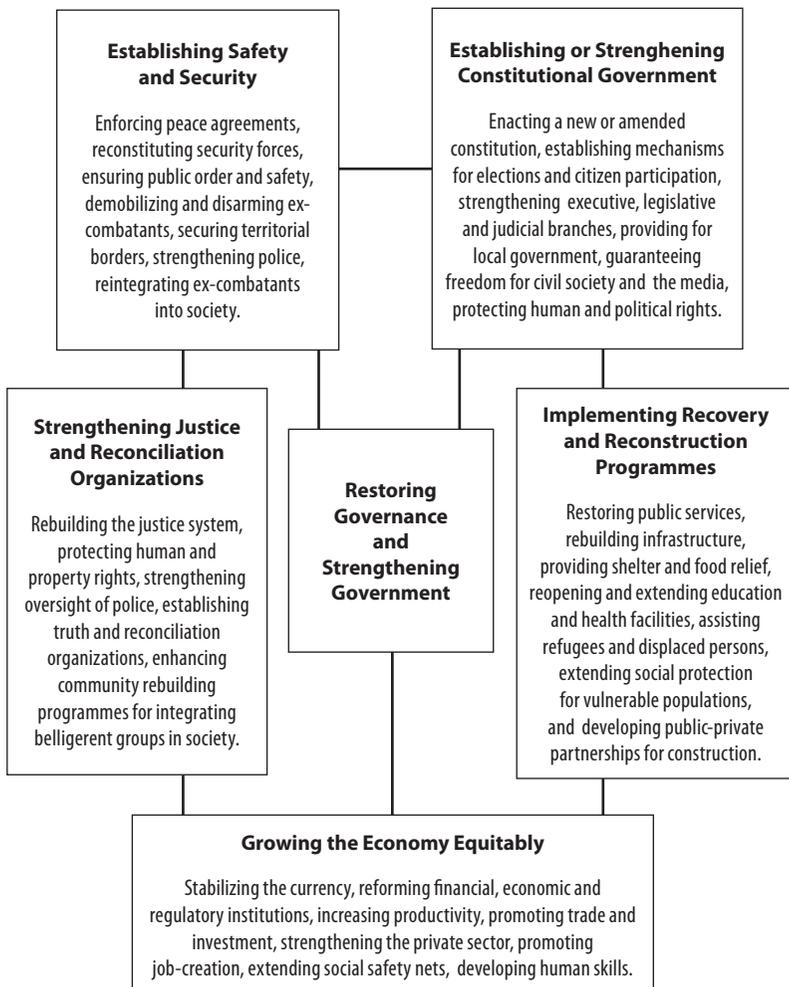
The interrelationships among these tasks was also seen quite clearly in the enormous challenges international assistance organizations and the government faced in providing the infrastructure and services required to improve human welfare and living conditions in Sierra Leone. The entire government and the civil service had to be restructured to deliver services effectively. Sierra Leone initiated the task, with the help of the international community, by enacting decentralization. Following local elections in 2004, many of the functions of service provision were devolved to the local councils and chiefdoms. The Ministry of Local Government was successful in getting 19 local councils fully functional in providing basic social services to the people. These services included health and sanitation, agriculture, forest and food security as well as education, local commerce, and communication and transportation infrastructure. The government had to develop new ways of making inter-governmental fiscal transfers and of ensuring that local governments had adequate financial capacity to carry out their functions and responsibilities.

Providing for emergency humanitarian needs, resettling ex-combatants and internally displaced persons, and providing basic social services throughout the country, while at the same time ensuring safety and security, revitalizing the economy, creating or rebuilding a competent justice system and reconciling continuing hostilities among political, sectarian, ethnic or other factions — all of these are difficult tasks and each affects the ability of government to find sat-

³³ Adedeji Ebo, "The Challenges and Opportunities of Security Sector Reform in Post-Conflict Liberia," Occasional Paper, No. 9, Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2005.

isfactory solutions to all of the others. For example, in many post-conflict countries, the government may have to play a strong temporary role in reintegrating displaced people into the economy and society in order to reduce social tensions and prevent future outbreaks of hostilities or rampant crime and violence. The International Labour Office's experiences in the war-torn countries of Mozambique, Liberia, the Democratic Republic of the Congo, Sri Lanka, Sierra Leone and others led it to conclude that the employment options in the years following the cessation of conflict are limited for ex-combatants and that those who are reintegrated find employment most often in micro- and small-enterprises unless

Figure 1:
Governance Functions in Post-Conflict Countries



the government can also find ways of expanding the economy, reconstructing infrastructure and service provision, and reconciling lingering hostilities.³⁴

Importance of External Assistance

Because of the scale of devastation and the widespread need for reconstruction of conflict-torn countries, international financial institutions, multilateral development assistance organizations, and the foreign assistance agencies of the world's richer countries are devoting more of their resources and attention to strengthening government capacity to carry out complex redevelopment tasks. The United Nations Development Programme (UNDP), the World Bank, the Asian, African, and Central European regional development banks, and many donor countries have created programmes or units that focus on fragile states, countries in crisis, or nations undergoing post-conflict reconstruction.

International organizations and bi-lateral donors allocate billions of dollars to strengthening governments in countries recovering from hostilities. The UNDP alone budgeted nearly \$8.7 billion between 1992 and 1996 for assistance to countries in "special circumstances," most of which were recovering from conflict.³⁵ The World Bank increased its lending to low income countries under stress (LICUS) from about \$2.5 billion during the fiscal years 2000 to 2002 to more than \$4 billion in fiscal years 2003 to 2005.³⁶

The World Bank, UNDP, and national governments launched significant reconstruction assistance programmes in El Salvador, Nicaragua, Cambodia, the West Bank and Gaza, Lebanon, East Timor, Mozambique, Bosnia and Herzegovina, Kosovo, Rwanda and other countries recovering from military conflicts. The World Bank's lending for post-conflict reconstruction, alone, increased 800 per cent between 1980 and 1998 to \$6.2 billion.³⁷ By 2002, it was committing 16 per cent of its total lending for this purpose.³⁸

³⁴ I. Specht, "Jobs for Demobilized Rebels and Soldiers: Early Preparedness and Sustaining Capacities," Geneva: International Labour Office, 2000.

³⁵ United Nations Development Programme, *Governance in Post-Conflict Countries*, New York: UNDP, no date.

³⁶ World Bank, *Engaging with Fragile States: an IEG Review of World Bank Support to Low Income Countries Under Stress*, Washington: World Bank, 2006.

³⁷ A. Kreimer, J. Eriksson, R. Muscat, M. Arnold, M. and C. Scott, *The World Bank's Experience with Post-Conflict Reconstruction*, Washington: World Bank, 1998.

³⁸ World Bank, "The World Bank in Conflict Prevention and Reconstruction," Issue Brief, Washington: World Bank, 2003.

Although few good estimates exist of the total amount of international aid that is going to crisis and post-conflict countries, the Organization for Economic Cooperation and Development (OECD)'s Development Assistance Committee (DAC) indicates that from 2001 to 2004 more than \$51 billion in official development assistance went to the 29 countries or areas in crisis or in post-conflict recovery that are listed in Table 2. Assistance to these countries increased from \$6.7 billion in 2001 to \$17.5 billion in 2003 and dropped only slightly to \$16.6 billion in 2004. The official development assistance for these selected 29 countries or areas, which are not the total number of those in crisis or post-conflict recovery, rose from nearly 20 per cent of all of the official aid going to developing countries in 2001 to nearly 36 per cent in 2003, and to almost 34 per cent in 2004.

The World Bank, the European Bank for Reconstruction and Development, the European Union and 10 other international organizations, along with 50 individual country donors, pledged and expended more than \$5 billion for reconstruction and development of Bosnia and Herzegovina from 1996 to 1999.³⁹

Between 2001 and 2004, the governments of Denmark, Ireland, the United Kingdom, Sweden and the Netherlands together provided 791 million Euros to Afghanistan alone for nation- and state-building and for stabilization and reconstruction.⁴⁰ These donations accounted for 25 per cent of all civilian aid to the country. In addition, all of the countries except Ireland also made military contributions to Afghanistan. After large international contributions to helping restore governance and pursue post-conflict reconstruction in Burundi, a donors' conference held in 2006 pledged \$170 million for development in 2006 and 2007.⁴¹ From 2001 to 2006, the United States spent more than \$34 billion on reconstruction and stabilization in Iraq, and more than \$9 billion on post-conflict reconstruction in Afghanistan.⁴² In addition, during the same

³⁹ World Bank, *Bosnia and Herzegovina: Post-Conflict Reconstruction and the Transition to a Market Economy*, Washington: World Bank Operations Evaluation Department, 2004.

⁴⁰ Government of Denmark, *A Joint Evaluation: Humanitarian and Reconstruction Assistance to Afghanistan, 2001-05 from Denmark, Ireland, the Netherlands, Sweden and the United Kingdom*, Koege, Denmark: Ministry of Foreign Affairs, 2005.

⁴¹ <http://www.globalsecurity.org/military/library/news/2006/03/mil-060301-irin04.htm>

⁴² United States Government Accountability Office, "Global War on Terrorism: Observations on Funding, Costs and Future Commitments," GAO-06-885T, Washington, DC: GAO, 2006, p. 7.

period U.S. military spending for military operations to secure Iraq grew to more than \$350 billion.⁴³

Much of the post-conflict country assistance is aimed, directly or indirectly, at restoring governance and building the capacity of government to operate effectively in carrying out reconstruction and development. External aid is essential because some countries have no constituted government at all in the post-conflict period and many others have weak or ineffective ones. Without external assistance many countries cannot easily reconstitute their governments or strengthen them enough to cope with the complex challenges of reconstruction.

Conclusion

Restoring governance and strengthening government and people's trust in it have become crucial tasks in crisis and post-conflict countries. In those countries where the state must be reconstituted or governments need strengthening, international assistance has become vital in sustaining peace and promoting political, economic, and social stability. But because political, economic, and social circumstances differ widely among countries emerging from conflict, the pathways to strengthening governance are likely to be diverse. International assistance programmes and government policies for strengthening capacity to carry out essential government functions must be customized to existing and future requirements for recovery or reconstruction in each country.

Although no standard set of reforms fit all post-conflict countries, experience suggests that there is a widely-shared perception of the characteristics of a government that are needed in order to perform essential public functions in the immediate post-conflict and transition periods.⁴⁴ No matter whether governance reform begins more broadly or more narrowly, in each stage of progress in the post-conflict period, it is likely to be tied to larger issues of public sector institutional or structural change. In most crisis and post-conflict countries restoring governance and building trust in government requires public administration reform, which the United Nations Development Programme (UNDP) refers to as changes in the "aggregate machinery (policies, rules, procedures, systems, organizational structures, personnel, etc.) funded by the state budget

⁴³ United State Government Accountability Office, "Rebuilding Iraq: Governance, Security, Reconstruction and Financing Challenges," GAO-06-697T, Washington, DC: GAO, 2006, p. 1.

⁴⁴ For overviews of experience see, for example, World Bank, "Recent Bank Support for Civil Service Reconstruction in Post-Conflict Countries," *PREM Notes*, No. 79, October, 2003.

Table 2:
Official Development Assistance to Selected Crisis and Post-Conflict Countries/Areas (in millions of US dollars)

Recipient	2001	2002	2003	2004
Afghanistan	322.86	985.92	1 200.32	1 702.49
Angola	169.40	336.05	363.87	271.55
Burundi	54.70	84.65	121.20	185.72
Cambodia	265.08	272.75	319.18	298.70
Central African Rep.	47.72	39.2	32.26	54.80
Congo, Dem. Rep. of	143.36	351.01	6 291.84	1 149.81
Côte d'Ivoire	169.60	1 162.01	215.76	160.31
Eritrea	151.38	120.76	185.49	177.47
Ethiopia	365.93	475.91	1 051.40	943.65
Gambia	13.37	17.54	28.27	11.64
Guatemala	189.82	158.65	201.84	190.4
Haiti	134.84	124.45	152.22	208.98
Honduras	387.83	291.11	233.8	348.84
Iraq	137.37	85.05	2 094.98	4 395.66
Laos P.D.R.	150.35	177.82	187.81	177.28
Liberia	15.63	26.95	70.28	530.57
Mozambique	732.96	1 474.01	580.47	741.93
Nicaragua	868.4	289.11	536.2	599.38
Palestinian Adm. Areas	280.19	410.34	490.81	604.90
Rwanda	151.15	199.11	212.95	216.87
Serbia & Montenegro	630.88	2 387.03	954.29	624
Sierra Leone	163.65	236.51	203.38	163.1
Somalia	88.49	102.41	113.56	139.72
Sri Lanka	271.61	175.91	269.89	336.72
Sudan	107.64	232.27	332.02	750.37
Tajikistan	63.46	128.79	81.32	91.87
Timor-Leste	154.16	199.96	265.28	134.56
Uganda	375.56	448.81	587.51	682.65
Zimbabwe	125.67	164.51	149.67	155.45
Selected Countries, Total	6733.06	11,158.60	17,527.87	16,649.39
Developing Countries, Total	34 326.69	43 152.78	48 943.32	49 075.76
Selected Countries, per cent of Developing Countries Total	19.6	25.8	35.8	33.9

Source: OECD, Development Assistance Committee, accessed at http://www.oecd.org/document/33/0,2340,en_2649_34447_36661793_1_1_1_1,00.htm

and in charge of the management and direction of the affairs of the executive government, and its interaction with other stakeholders in the state, society and external environment.”⁴⁵ Over the longer run, effective governance can rarely be restored in any country without addressing changes in institutional arrangements and organizational structure, and without rethinking the roles and functions of government. In the short run, however, as the UNDP points out, public administration must be capable of “the management and implementation of the whole set of government activities dealing with the implementation of laws, regulations and decisions of the government and the management related to the provision of public services.”⁴⁶

The variations in conditions and needs in post-conflict societies often render conventional public sector reform prescriptions inappropriate for restoring governance and strengthening government. Solutions to governance problems must be tailored, at least in the short-run, to the specific types of tasks and functions that governments must perform in order to reconstruct war-torn societies. The specific types of institutional and organizational changes required will likely differ in countries in different categories. It is on these reconstruction functions and governance capacity needs that the following chapters focus.

⁴⁵ United Nations Development Programme, “Public Administration Reform: Practice Note,” New York: UNDP, 2004; quote at pp. 1 and 2.

⁴⁶ *Ibid.*; quote at p. 2.

Chapter 2

Establishing Safety and Security

In all crisis and post-conflict countries establishing safety and security has been a high priority of governments and international assistance organizations. Without the capacity to provide safety and security, governments can do little to reconstruct war-torn countries. Establishing safety and security involves a combination of functions that include enforcing peace agreements, reconstituting security forces under civilian control, ensuring public order and safety, demobilizing and disarming ex-combatants, securing territorial borders, strengthening police forces, and reintegrating former combatants into the society and economy. This function of post-conflict governance involves not only building effective military and police forces that act neutrally toward former conflicting factions on behalf of the new national government, but also on recruiting or training civil servants who can manage programmes for or coordinate the activities of non-governmental organizations seeking to demobilize and integrate former combatants into society.⁴⁷

Although governing authorities in post-conflict countries face a wide range of security issues, the United Nations points out that “demobilizing combatants is the single most important factor determining the success of peace operations. Without demobilization, civil wars cannot be brought to an end and other critical goals — such as democratization, justice and development — have little chance for success.”⁴⁸ Strengthening the government’s capacity to provide security and to disarm, demobilize, and reintegrate ex-combatants is a complex process that has political, humanitarian, social, and economic dimensions. If programmes for providing security and reintegrating former combatants are successful they can help to restore trust in government among conflicting factions and the general population and may help to prevent future conflicts.

⁴⁷ See Dennis A. Rondinelli, “International Goals and Strategies for Afghanistan’s Development: Reconstruction and Beyond,” in John D. Montgomery and Dennis A. Rondinelli (eds.), *Beyond Reconstruction in Afghanistan: Lessons from Development Experience*, New York: Palgrave Macmillan, 2004, pp. 11-31.

⁴⁸ United Nations, *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General’s High Level Panel on Threats, Challenges and Change, New York: United Nations, 2004.

The tasks of ensuring security are multiple and complex.⁴⁹ Initially, either the government or international organizations must achieve a cessation of hostilities by enforcing ceasefires, negotiating a peace agreement, disarming belligerents, rebuilding constitutional national armed services, and establishing a weapons control programme. Once hostilities have ceased, reconstruction depends on demobilizing former combatants and reintegrating them into society, providing them with jobs, pensions, or other forms of financial support, and ensuring that they have adequate health and social services.

Essential aspects of assuring safety and security in many post-conflict countries are establishing border and boundary security, facilitating internal movement and travel by key political and military leaders, and dealing with issues related to personal identification, property ownership, legal records, birth certificates, drivers' licenses, and other documents of legal status.

Little is likely to be accomplished in other areas of reconstruction without also ensuring public order and safety. Protecting the safety of vulnerable segments of the population — including former belligerents, refugees, internally displaced persons, women, and children — is essential to restoring governance and building trust in government. In many post-conflict countries, a reliable and neutral civilian police force must be re-established quickly and its behaviour monitored closely.

Clearing unexploded ordnance, de-mining areas of likely human traffic and marking mine fields are essential elements of a safety and security programme. In countries where religious or ethnic tensions still exist, establishing safety and security requires protecting religious and cultural sites. Provisions must also be made in many post-conflict countries for protecting critical infrastructure, civic records and other crucial public and legal documents, as well as public institutions and government buildings.

Often the government — usually with the help of international organizations — faces the complex task of coordinating the operations of national military, police and intelligence groups. Governments in post-conflict countries must coordinate their own security forces with those of international

⁴⁹ A detailed discussion of the types of tasks involved in establishing security can be found in "United States Department of State, Post-Conflict Reconstruction: Essential Tasks," Washington: Office of the Coordinator for Reconstruction and Stabilization, 2005, based on Robert C. Orr, *Winning the Peace: An American Strategy for Post-Conflict Reconstruction*, Washington: Center for Strategic and International Studies Press, 2004.

peacekeeping or assistance organizations and negotiate or modify regional security arrangements.

As initial programmes succeed, governments in post-conflict countries often turn to rebuilding their military and police forces, restructuring them to assure efficiency, effectiveness, and objectivity, and retraining and re-equipping them to operate according to international standards. They generally need the capacity to limit the flow of weapons from neighbouring countries and develop mechanisms for dealing with long-term disputes.

The Diversity of Security Issues in Post-Conflict Countries

As the foregoing description illustrates, the needs for security in post-conflict countries are both complex and diverse. Experience in Afghanistan, Sierra Leone, Liberia, Kosovo, Somalia, and Rwanda illustrate the variety of security and safety issues that governance institutions face as countries emerge from hostilities.

Establishing security was a high priority for both the transitional and elected governments of Afghanistan, and for the United Nations and multilateral and bilateral development organizations that came to Afghanistan's assistance. The Afghanistan reconstruction and development needs assessment carried out by UNDP, the World Bank, and the Asian Development Bank in preparation for the donors' conference in Bonn in 2001 identified several immediate security needs: establishing a professional police force of 30,000 people, creating drug control commissions in Kabul and key provinces, and supporting mine clearance in the immediate post-conflict period. However, the government of Afghanistan also needed to pursue longer-term goals: to expand police and law enforcement forces and develop a national plan for counter-terrorism; create capacity to investigate threats to national security and customs, tax, and financial crimes; reduce opium cultivation and drug trafficking; and increase its capacity to clear and mark mined areas and destroy ordnance stockpiles.⁵⁰ Experience in Afghanistan demonstrated that a strong but politically neutral army was especially important where existing military power was shared with independent local warlords and dissident elements. New institutions and training programmes for security were essential in Afghanistan to keep military organizations out of the hands of ambitious political warlords.

⁵⁰ United Nations Development Programme, World Bank, and Asian Development Bank, "Afghanistan: Preliminary Needs Assessment for Recovery and Reconstruction," New York: UNDP, 2002.

In Sierra Leone, UN Peacekeeping Forces had to play a strong role in maintaining internal security and ending the civil war, but the government also needed quickly to build its own capacity to protect citizens through reforms of the civil service, the police and civil defence forces, and justice systems.⁵¹ In Liberia and Sierra Leone, government had to strengthen its capacity not only to pursue disarmament, but also to demobilize and reintegrate fighters, repatriate refugees, protect civil rights, and prevent criminal capture of the economy.⁵² The United Nations Mission in Sierra Leone focused on insuring security and freedom of movement by minimizing and containing ceasefire violations and keeping roads open; strengthening police capacity, accountability, and loyalty by increasing the force to pre-war levels; strengthening strategic management, enhancing training, and providing essential equipment. Sierra Leone's armed forces had to be restructured by combining government and rebel forces and the army's capacity had to be strengthened to maintain security when UN peacekeepers left the country. In addition, the UN supported the reintegration of ex-combatants, restoration of control over diamond mining, and control of external security threats.

The diverse needs for reform of the security sector in Liberia arose from the fact that the military, the police, and other security organizations were highly centralized and became heavily personalized and politicized. To depoliticize the security sector and modernize and professionalize the armed forces required both behavioural and structural changes. Among the priority areas identified by the United Nations in 2000 was the need to build an effective, competent, and responsible security system.⁵³ The most important task was creating security forces loyal to elected civilian leaders who would be democratically accountable and capable of encouraging peaceful conflict management and resolution and of protecting the rights of all citizens.

Following the signing of the Comprehensive Peace Agreement (CPA) in 2003, the National Transitional Government initiated a donor-supported Security Sector Reform (SSR) programme to redress decades of abuse. UN Resolution 1509 (2003) established the UN Mission in Liberia (UNMIL) that helped imple-

⁵¹ International Crisis Group, "Sierra Leone: The State of Security and Governance," ICG Africa Report No. 67, Freetown/Brussels: ICG, 2003.

⁵² International Crisis Group, "Liberia and Sierra Leone: Rebuilding Failed States," Crisis Group Africa Report No. 87, Dakar/Brussels: ICG, 2004.

⁵³ Liberia's Governance Program (2000), prepared by the Office for the Promotion of Good Governance, a UNDP project implemented by the UN Department of Economic and Social Affairs (DESA).

ment provisions of the CPA and support the SSR. A 15,000-man UN peace-keeping force achieved modest levels of peace, security, and stability. The United States Government promoted reform and restructuring using DynCorp, a private company that was contracted to reform the Liberian national army.⁵⁴ Other programmes focused on increasing the capacity of the police. However, after three years, UNMIL reported that “Liberia continues to face serious challenges to upholding, protecting, and respecting the human rights of its citizens.”⁵⁵

Post-conflict reconstruction experience in the province of Kosovo also illustrates the diversity of security and safety tasks facing governing authorities in the post-conflict period. In Kosovo, as in most post-conflict situations, the governing authority had moved quickly to secure the peace and provide protection and safety in order to build trust and protect human rights.⁵⁶ Following the end of violent conflict in Kosovo, the United Nations and multilateral and bilateral development assistance organizations focused on rebuilding the state security sector in order to guarantee the safety of the population, including refugees and internally displaced people. When the conflict ended in June 1999, nearly 65 per cent of Kosovo’s two million people poured back to the province while others returned to their homes after being internally displaced. As the U.S. Committee on Refugees and Immigrants has pointed out, where there are strong inter-ethnic hostilities, “refugees and internally displaced persons constitute one of the most vulnerable groups.”⁵⁷

In Mozambique, the needs for security reform changed as the country went through a transition from implementing a ceasefire to protecting human rights. The initial tasks of monitoring the ceasefire fell to the Joint Commission for the Formation of the Mozambican Defence Force, under United Nations chairmanship. Under arrangements approved by the Lisbon Declaration, France, Portugal, and the United Kingdom assisted the government in forming a new unified army. The Secretary-General of the United Nations recommended the

⁵⁴ Adedeji Ebo, *The Challenges and Opportunities of Security Reform in Post Conflict Liberia*, Geneva Centre for the Democratic Control of Armed Forces (DCAF), December 2005, p.24.

⁵⁵ UN News Service, “Security Sector Reform in Liberia critical to cutting UN presence there,” accessed 30/10/06 at <http://www.globalsecurity.org/military/library/news/2006/02/mil-060203-unnews03.htm>

⁵⁶ S. Feil, “Building Better Foundations: Security in Post-conflict Reconstruction,” *The Washington Quarterly*, 25, 4, 2002, pp. 97-109.

⁵⁷ United States Committee on Refugees and Immigrants, “World Refugee Survey 2003 Country Report,” accessed at <http://www.refugees.org/countryreports.aspx?area=investigate&subm=19&ssm=29&cid=189>

creation of a United Nations Operations in Mozambique (ONUMOZ) civilian police component.⁵⁸

The ONUMOZ civilian police component (CIVPOL) monitored all police activities and verified that their actions were consistent with the General Peace Agreement. It was also responsible for monitoring the police force's respect for citizens' rights and civil liberties; providing technical support to the National Police Commission; and verifying that the activities of private protection and security agencies did not violate the General Peace Agreement. CIVPOL also monitored the strength and location of government police forces and their equipment, and oversaw the process of reorganizing and retraining the quick reaction police. In addition, CIVPOL, together with other ONUMOZ components, monitored conduct of the post-conflict general election campaign and verified that the political rights of individuals, civic groups, and political organizations were respected.

The UN Secretary-General recommended that CIVPOL be deployed gradually. By April, 1994, about 278 members of the ONUMOZ police component, authorized by Security Council Resolution 898 (1994) had already arrived in Mozambique and had been deployed throughout the country.⁵⁹ Despite this deployment, the security situation in Mozambique deteriorated from political tensions that arose prior to the general elections. Rioting among soldiers, both inside and outside assembly areas, continued to escalate until early August 1994, when most soldiers were demobilized. In addition, crime levels rose dramatically in both rural and urban areas. The increasing security problems required ONU-MOZ to step up its patrolling of major transportation routes and to reinforce guards at United Nations properties and key locations throughout the country.

UNDP support to the Mozambique Republic Police began after ONU-MOZ left the country following the general elections in 1994. The scope and nature of assistance was based on an assessment of needs by the Spanish Civil Guard on behalf of UNDP and the government. The first project started in 1997 with bilateral assistance coordinated by UNDP and implemented by the Guard. It aimed to improve the capacity of the new police force to guarantee public safety according to international human rights standards. Most of the support focused on functional and organizational re-engineering, rehabilitation

⁵⁸ United Nations, "Background: United Nations Operations in Mozambique," 1994, accessed at http://www.un.org/Depts/dpko/co_mission/onumozFT.htm

⁵⁹ *Ibid.*

of training facilities, curriculum development and training, and reorientation of members of the police force. The second phase included strategic planning and stronger management at the central command, the establishment of model policing units countrywide, and continuing technical assistance to the police academy and its training programmes.

Notwithstanding the relatively short period of intervention and narrow objectives, external assistance organizations did help achieve reforms. They provided rehabilitation of police and legal training facilities and supported individual training for about 5,000 police officers by 2003. However, the model of the new police force was based on the Spanish Civil Guard, which was paramilitary in nature and clearly foreign, and its sustainability in Mozambican society became increasingly uncertain.⁶⁰

In Kosovo, the diversity of security needs arose in part from the uncertain economic situation, enormous refugee problems, illegal occupation of property, and the lack of a proper legal framework for property ownership. The United Nations Mission in Kosovo (UNMIK) established “the Immovable Property Rights Register” to clarify legal ambiguities and uncertainties registering “socially-owned property,” yet conflicts over property rights remained a serious point of contention.⁶¹ Security sector reform became a multifaceted task requiring the creation of democratic institutions to provide transparent and accountable procedures. The reforms sought to enhance respect for the rule of law, provide equal access to justice for all ethnic groups, encourage the participation of all communities and ethnic groups in government, and guarantee freedom of movement for people to “travel, work and live in safety and without threat or fear of attack, harassment or intimidation, regardless of their ethnic background,” customs, and culture.⁶²

⁶⁰ Carlos Lopes and Thomas Theisohn, “Ownership, Leadership and Transformation: Can We Do Better for Capacity Development?” New York: UNDP, 2003.

⁶¹ Organization for Security and Co-operation in Europe, Mission in Kosovo, Department of Human Rights and Rule of Law, “Property Rights in Kosovo, 2002-2003,” accessed at http://www.osce.org/documents/mik/2003/06/974_en.pdf#search=%22Despite%20the%20UNMIK%20Regulation%202002%2F22%20that%20establish%20an%20immovable%20property%20rights%20register%20as%20a%20mechanism%20to%20protect%20private%20ownership%20of%20land%2C%20%22

⁶² UNMIK, “Standards for Kosovo,” 2003, accessed at http://www.unmikonline.org/standards/docs/leaflet_stand_eng.pdf#search=%22travel%2C%20work%20and%20live%20in%20safety%20and%20without%20threat%20or%20fear%20of%20attack%2C%20harassment%20or%20intimidation%2C%20regardless%20of%20their%20ethnic%20background%22

One of the most urgent needs in enhancing safety and security was control of the illegal possession of arms by civilians, a problem that UNMIK saw as “an expression of the lack of trust in legally established security forces.”⁶³ UNMIK, KFOR (the military force created by NATO) and UNDP began a weapons control programme to stop the proliferation and illicit trafficking in small arms. KFOR and UNMIK also attempted to control organized crime. Local law enforcement became crucial for protecting the safety of individual citizens and for the success of reconciliation and peace-building processes.

In the absence of a strong indigenous government, international organizations also had to take responsibility for the rehabilitation of former combatants in Kosovo. UNMIK designated the International Organization for Migration (IOM) to demilitarize the Kosovo Liberation Army (KLA) and reintegrate its former members into civil society. The Information Counselling and Referral Service (ICRS) supported the creation of the Kosovo Protection Corps (KPC). The training it provided was crucial to the successful integration of former combatants into civilian life.⁶⁴

The Challenges of Establishing Security and Safety

Establishing safety and security involves both diverse tasks and difficult challenges. In Sierra Leone, for example, the demobilization and reintegration of ex-combatants posed major security challenges for both the government and international assistance organizations. The UN Mission in Sierra Leone (UNAMSIL) took a strong role in supporting a demobilization and reintegration programme. Its mandate was to provide security at all sites of the disarmament, demobilization, and reintegration programme and to guard, dispose of, or destroy weapons, ammunition and other military equipment collected from ex-combatants. However, the process was long and complex and went through three phases, each interrupted by renewed violence and re-started by signing a new agreement.

The first phase of establishing security by disarming and reintegrating combatants came after the Abidjan Peace Accords in 1997 when the ruling government and its supporters were militarily strong. The peace accords allowed

⁶³ *Ibid.*

⁶⁴ IOM Kosovo, “International Organization for Migration KOSOVO,” accessed at <http://www.iomkosovo.org/index.html>

for blanket amnesty for all combatants. They were then allowed to join the national army without any form of vetting for previous human rights abuses. The National Committee for Disarmament, Demobilization and Reintegration (NCDDR) was established and headed by the ruling party, but without any representative from the insurgent groups. In the first phase of the programme only 3,000 combatants were disarmed before it was interrupted by a military coup.

The second phase of the DDR programme began in 1999 with the Lomé Peace Accord. The ruling government negotiated this agreement from a militarily weak position and thus had to allow representatives of rebel groups to be part of the NCDDR. The Lomé Accord provided for a blanket amnesty of all combatants and the inclusion of rebel factions in the government in exchange for the cessation of hostilities and the disarmament, demobilization and reintegration of combatants. Phase Two of the DDR was more successful in achieving its disarmament and demobilization objectives. In less than a year, this phase led to the disarmament and demobilization of over 18,000 combatants. The process was again interrupted, however, with renewed fighting in 2000.

The third phase began with the Abuja Protocols, which provided a framework for a speedy disarmament process. Within a year of signing the protocols, the National Committee on DDR disarmed more than 76,000 combatants, including 6,000 children. The DDR reintegration package included skills training and other educational programmes for ex-combatants and the programmes were generally implemented by local or international NGOs.

Although the DDR was considered successful in its first two objectives, the reintegration packages were not adequate to reintegrate former combatants successfully into society and their communities. Nor did the reintegration programme pay enough attention to disarming, demobilizing, and reintegrating the many child and youth combatants.

More complex challenges arose in the attempts to restore security in Rwanda. Security tasks had to go beyond disarmament to ensuring the safety of all citizens. The government faced difficult challenges in reforming the security system because of persistent conflict and a general mistrust of government arising from economic stagnation and widespread poverty. The security situation in Rwanda was constantly undermined by border conflicts with neighbouring countries. The lack of security discouraged foreign investment, slowed economic development, and made it difficult to prevent or manage internal tensions.

Maintaining the peace usually requires reintegrating ex-combatants politically, economically, and socially. In order to extend security the government in Rwanda had to deal with armed groups implicated in human rights abuses and atrocities. Finding ways of excluding or marginalizing those groups was key to the transition from a military regime to a more participatory and transparent government that could be held accountable for its actions. Yet, at the same time, other ex-combatants had to be demobilized, disarmed, and reintegrated into society in order to maintain peace. The Rwandan experience indicates that this aspect of providing security and safety is often a long-term and difficult process. In 1997 the World Bank funded the Rwanda Demobilization and Reintegration Commission (RDRC) to advise the government on the principal problems associated with the reintegration of former combatants. Implemented in two stages under the auspices of the Rwanda Demobilization and Reintegration Commission (RDRC), the Rwandan Demobilization and Reintegration Programme (RDRP) set out to demobilize Rwandan Defence Force (RDF) soldiers and members of Rwandan armed groups. The programme focused on reintegrating ex-combatants into Rwandan society while improving their ability to earn a living in their home communities without resorting to violence. The low rate of repatriation of members of Rwandan armed groups from the Democratic Republic of Congo continued to limit the potential contribution of the programme to regional stabilization. The MDRP Secretariat continued for more than nine years to seek opportunities for enhancing cooperation between the governments of the Democratic Republic of the Congo and Rwanda on disarmament and repatriation of members of Rwandan armed groups.

In Liberia, security reform was obstructed by the difficulty of getting security forces to recognize the need for civilian control. A National Dialogue on Security Sector Reform held in Monrovia in August 2005 found that the sector was bloated, with many agencies performing overlapping functions, that personnel lacked adequate skills and experience, and that the security sector's human rights record was poor.⁶⁵ Reforms were inhibited by inadequate oversight mechanisms, low levels of remuneration, and the involvement of security personnel in the proliferation of arms. Achieving security was further complicated by tensions among neighbouring countries in the region.

⁶⁵ Liberia National Dialogue on Security Sector Reform, August 2005, accessed at http://www.dcaf.ch/awg/ev_monrovia_050803report.pdf

Pursuing a Multifaceted Security Programme: The Case of Timor-Leste

Post-conflict countries have diverse needs for security and often differ substantially in the conditions under which these needs arise. The experience in Timor-Leste illustrates the interrelated aspects of security functions in a post-conflict country and the complexities of implementing them effectively.

One of the first tasks of international assistance organizations and the United Nations after the referendum declaring the independence of East Timor from Indonesia was to establish a comprehensive programme for achieving peace, safety, and stability in the new country of Timor-Leste. Immediate security services were provided, first by Australian troops — the International Force for East Timor (INTERFET) — and then by the United Nations Transitional Authority for East Timor (UNTAET). These groups succeeded in slowly and persistently reducing the level of violence and securing peace and stability in Timor-Leste even though periods of violence perpetrated by various militia groups, Indonesian military factions, and Timorese citizens continued for some months after the official withdrawal of Indonesian armed forces.

Establishing security at the borders, however, was a longer and more difficult process. Clashes among various militia groups and the UN and INTERFET continued sporadically, in part because only 95 per cent of the border between Indonesia and Timor-Leste had been formally delineated. The Indonesian military, UNTAET, and the INTERFET first signed a memorandum in 1999 to improve cooperation on border management and the handling of incidents. UN military observers were deployed as border liaison teams. These liaison efforts were followed by regular meetings between UNTAET and the Indonesian military commanders. As the capacity of the Timorese border patrol increased, it began to play a more active role in these meetings, further strengthening its capacity and fostering better relations with Indonesia's military.

As Timor-Leste's government achieved more stability, UNTAET continued to provide security services while strengthening Timorese security forces. During this period, UNTAET developed plans for creating the new East Timorese police and military forces and for establishing selection criteria and training centres. In 2000, the East Timor Police Service was established; and by 2002, the Police College had trained 1,552 officers, 20 per cent of whom were female.⁶⁶

⁶⁶ See United Nations Security Council, report S/2002/432, *op cit.*, p. 4

While the numbers of individuals completing the course continued to rise, by 2005 only half of the 1,700 officers had achieved the desired level of competency. Concurrently, the East Timor Defence Force, established in 2001, began recruiting and training members with the assistance of international partners and the UN.

Although the capacity of the armed force continued to grow, the effectiveness of the Timorese police and armed forces remained weak, requiring continued international support. By 2006, the Timorese security sector continued to be hampered by a lack of experienced personnel, uncoordinated training and equipment, limited logistical capacity, exclusionary recruitment policies, and dissension within the ranks resulting from arbitrary promotions. These problems were exacerbated by increasing incidents of police misconduct, excessive use of force and assaults, and lack of transparency and accountability.

At the same time, the problem of how to reintegrate former resistance fighters within the armed forces emerged as a divisive factor in Timorese society. Resistance fighters were excluded from any security roles after the referendum and were rarely recruited by the Timorese security forces. The situation of those excluded became dire because most of them could not obtain gainful employment, creating tensions among ex-fighters and the security forces. Continued clashes between the police and the armed forces culminated in a security crisis in April 2006 that forced the President to request additional international assistance.

To address the problems of unethical police conduct, the UN and its partners restructured their training programmes and established a Professional Ethics Office and a national human rights database. The UN developed new training courses focusing on institutional development and management; formulated new rules, guidelines, and standard operating procedures; introduced codes of ethics, professionalism, and conduct; and designed human rights training programmes. As a result, human rights violations by the police gradually decreased but the process of investigating disciplinary cases remained stalled.

Although the government and international organizations succeeded in creating new institutions and procedures for establishing security and safety for Timorese citizens, by 2007 many security functions were still carried out ineffectively. The government needed stronger capacity to institutionalize and standardize the command and control structure and promotion policies and to strengthen leadership, decision making, and managerial skills of security force

commanders. International assistance was also required to address acute shortages of logistical resources for both police and military forces. The government still did not have effective mechanisms for managing the border between Timor-Leste and Indonesia or an adequate strategy for reintegrating ex-combatants and pro-Indonesia forces to prevent future conflicts.

Conclusion

Providing safety and security is one of the most important functions for governance institutions in post-conflict countries. Experience in Sierra Leone and Liberia, as well as in Iraq and Afghanistan, demonstrates that unless the governing authority can quickly ensure security and a peaceful settlement of conflict, little progress can be made on establishing a strong national government, reconstructing infrastructure, or creating the foundation for economic growth.⁶⁷ In the aftermath of the overthrow of the previous regimes in Afghanistan in 2001 and Iraq in 2003, continuing insurgency, terrorism, lawlessness, and sectarian conflict slowed plans for nation building and undermined the legitimacy of the interim occupation organizations and of the fledgling transition authorities.

Successfully implementing security reform is complicated by the fact that in no two countries are the needs exactly the same. Nor are the conditions that shape reforms and influence their efficacy. In a review of experience with international assistance for security reform, David Law correctly points out that among post-conflict countries “there are differences in how the security sector is defined, how its reform is conceptualized and how this relates to the overall state of governance in a given theater.”⁶⁸ In order to be effective, he points out, programmes for security reform need to be “de-ethnicized” in countries where ethnic tensions were the cause of hostilities; implemented in ways that ensure local ownership and responsibility for sustaining them; and help the country reintegrate with others in its region. The UNDP’s evaluations of security reforms point out that they are difficult to carry out and sustain “unless accompanied by attention to the legal framework, judicial institutions and the penal system.”⁶⁹

⁶⁷ A. Cordesman, *The Iraq Wars: Strategy, Tactics and Military Lessons*, Washington, D.C. Center for Strategy and International Studies, 2003.

⁶⁸ David M. Law, “The Post-Conflict Security Sector,” Policy Paper No. 14, Geneva, Switzerland: Geneva Centre for the Democratic Control of the Armed Forces, 2006; quote at p. 1.

⁶⁹ United Nations Development Programme, “Security Sector Reform: Lessons Learned from Bosnia and Herzegovina and Kosovo,” New York: UNDP, 2002; quote at p. 29.

The report also emphasizes that without public participation in selecting appropriate security models it is difficult for external assistance organizations or the government to adapt them to the needs of the intended beneficiaries.

The experience in Sierra Leone illustrated the difficulties of restoring safety and security before a ceasefire can be sustained, and in Rwanda and Sierra Leone, the difficulties of providing security when plans for disarmament and demobilization are either ineffectively designed or inadequately implemented. In Rwanda, widespread public mistrust of the government undermined attempts to restore security in the early stages of reconstruction as did continuing border conflicts. In both Rwanda and East Timor security problems were exacerbated, even after internal hostilities ceased, because of tensions across national borders.

Generally, security reforms are more effectively sustained in countries where government also achieves some success in strengthening the rule of law and participatory governance, and in implementing economic and social reforms. Because in the initial period after the cessation of hostilities increasing the government's capacity for providing security and safety falls to international organizations, the latter need to coordinate their activities to ensure a coherent reform programme and to maintain assistance after peacekeeping forces withdraw.

The East Timor experience highlights the importance of early and continued training of security and safety forces and the need to strengthen the administrative as well as the technical capacity of security organizations.

Governments and international organizations also must address what Brozoska identifies as the seven imminent risks that affect security sector reforms in post-conflict countries: the resurgence of violence, the politicization of security forces, militarization of the security system, ethnicization of the national public security organizations, the lack of enforceable norms, corruption, and lack of professionalism.⁷⁰ In Liberia, the government could not effectively restore security or guarantee safety without strengthening civilian control over policy and military forces and ensuring adequate oversight of their practices and behaviour.

As with other post-conflict governance functions, success in providing security and safety is inextricably linked with and dependent on achieving suc-

⁷⁰ Michael Brzoska, "Introduction: Criteria for Evaluating Post-Conflict Reconstruction and Security Sector Reform in Peace Support Operations," *International Peacekeeping*, 13, 1, 2006, pp. 1-13.

cess in other areas of reconstruction. As Kayode Faymi points out, experience indicates that success in achieving security and safety is easier in countries that have an effective and sustainable peace agreement, where multiple stakeholders have the capacity “to reorder power relations and guarantee inclusion and access to the wider population,” where functioning public-sector institutions are able to provide citizens with basic needs, where economic development is addressing the grievances that may have caused conflict in the first place, and where post-conflict justice systems are addressing human rights violations.⁷¹ The absence of these conditions makes it more difficult and less likely that security reforms will have their intended effects.

All of the experience cited in this chapter — in Afghanistan, Sierra Leone, Rwanda, Kosovo, and East Timor — illustrates the close interrelationships between security and safety functions and strengthening the justice system and reconciliation organizations, reconstituting government to protect human and property rights, stimulating economic opportunities for ex-combatants, and enhancing government capacity to reconstruct infrastructure and provide services for refugees, internally displaced people, and victims of past hostilities.

⁷¹ J. Kayode Faymi, “Pursuing Security in the Post-Conflict Phase: Reflections on Recent African Cases and Implications for Current and Future Peace Operations,” in T. Tardy and R. Mani (eds.), *Pursuing Security in the Post-Conflict Phase: Implications for Current and Future Peace Operations*, Geneva: Center for Security Policy, 2002, pp. 14-26; quote at p. 14.

Chapter 3

Establishing or Strengthening Constitutional Government

Another essential condition for restoring governance in many post-conflict countries is establishing or strengthening constitutional government. This function usually includes designing and implementing a new constitution or amending and reforming an existing one, ensuring that procedures exist for free and fair elections and citizen participation in choosing those who will govern, strengthening the government's executive, administrative, legislative branches, assuring open political competition, guaranteeing human and political rights, determining local governance structures, strengthening freedoms for civil society and the media, and allowing political participation by citizens — men and women of all races, religions, and ethnic affiliations.

In post-conflict countries, constitution making is essential for establishing the formal foundations of a state. A well-written constitution that effectively provides for participation and representation of all members of society, establishes the process by which peaceful transitions can take place from one regime to another, protects human rights, and clearly delineates the roles and boundaries of all branches of government is a basic step toward establishing legitimacy for and building trust in government. Because a constitution is the fundamental legal charter for government, people's trust in it often depends on their participation and representation in its formulation and ratification. In post-conflict countries where civil society has been ravaged by war, gaining trust and confidence in the state depends on fairly engaging the population in the constitution-making process. Challenges arise, however, from weaknesses in human, institutional, and financial capacity in the post-conflict period. Some countries, therefore, need an interim or transitional constitution that affirms the values of inclusion and accessibility.

Clearly, in some countries the ability to develop a new constitution is limited by the destruction of the state and debilitation or overthrow of the government. In such cases, international organizations often create a transitional political authority with an interim civil administration to ensure the provision of at least basic public services and re-establish some form of public administration. Often the constitution-making process is preceded by the creation of a national

transitional administration that can establish rules and a realistic agenda and timetable for reconstituting a national government. The national transitional administration generally takes responsibility for initiating a national dialogue on the process of constitution making, working with relevant political leaders and groups on establishing a constitutional commission, obtaining technical and legal advice on constitution drafting, and achieving agreement on procedures for adopting a new constitution.⁷²

Constitution making involves reaching agreement on the role of the state and the structure and functions of government. Decisions must be made about the structure and mandate of the executive branch, the functions it should perform, how the civil service will be structured and operate, and how public revenues will be generated and managed.

In most post-conflict countries, reconstituting the government involves decisions about the mandate, structure, and processes of the legislature. The constitution sets out the authority of the legislative branch, how legislators will be chosen, and the extent of citizen access and input to the legislative process. Often, the judicial branch of government must also be restructured to increase people's trust in the courts and in law enforcement organizations. Whether governments must be reconstituted anew or constitutionally restructured in post-conflict countries, attention must also be given to strengthening local government capacity to deliver essential public services and the staffing and training of local administrative organizations.

In many post-conflict countries, restoring governance and building trust in government requires national and local elections. Governments and international organizations often have to work together to develop election procedures, establish or verify voter registration, establish an independent national electoral commission, support political party formation, and ensure widespread participation in the election process. Election monitoring becomes an essential task to assure that voting is free and fair and that the outcomes are acceptable by a strong enough majority of the population to confer legitimacy on the elected government. This often requires the government and international organizations to protect the freedom of civil society organizations and the media.

⁷² A detailed discussion of the types of tasks involved in constitution making can be found in United States Department of State, "Post-Conflict Reconstruction: Essential Tasks," Washington: Office of the Coordinator for Reconstruction and Stabilization, 2005, based on Robert C. Orr, *Winning the Peace: An American Strategy for Post-Conflict Reconstruction*, Washington: Center for Strategic and International Studies Press, 2004.

The Diversity of Constitution-Making Tasks

As with establishing security and safety, the functions of creating or strengthening a constitutional government are diverse and vary among countries depending on local conditions and needs. The diversity of tasks involved in creating a constitutional government in places where overt violence has been calmed but where underlying ethnic or secular hostilities remain is no better illustrated than by experience in Kosovo. The constitutional status of Kosovo had been controversial since its integration into Serbia in 1912. From then on, but especially since the early 1990s, the legal status and institutional structure of Kosovo changed repeatedly.⁷³

In areas such as Kosovo where no recognized independent government exists after the cessation of hostilities, constitution making becomes the responsibility of international organizations. After the Yugoslav civil war and an armed conflict between the ethnic Albanian Kosovo Liberation Army (KLA) and Serbian military forces, Kosovo needed a new governance structure. Because governance could only be restored by an international organization, in 1999 Kosovo became a protectorate of the United Nations Mission in Kosovo (UNMIK) under UN Security Council Resolution 1244.⁷⁴ This resolution, as one observer noted, “marked the beginning of a new phase in the history of the longstanding dispute between Serbs and Kosovo Albanians as well as a new phase in international involvement in conflict management of war-torn territories.”⁷⁵ Resolution 1244 authorized UNMIK to “organize and oversee the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections and transferring, as these institutions are established, its administrative responsibilities as well as supporting the reconstruction of key infrastructure and other economic reconstruction.”⁷⁶ United Nations Security Council Resolution 1244 created a temporary gov-

⁷³ See Carsten Stahn, “Constitution Without a State? Kosovo Under the United Nations Constitutional Framework for Self-Government,” *Leiden Journal of International Law* 14, 2001, pp. 531–561.

⁷⁴ Under the resolution, the UN is responsible for Police and Justice, Pillar I, and Civil Administration, Pillar II, while Economic Reconstruction, Pillar IV, is the responsibility of the European Union.

⁷⁵ Alexandros Yannis, “The UN as Government in Kosovo,” *Global Governance* 10, 1, 2004, pp. 67–81.

⁷⁶ Kosovo, Federal Republic of Yugoslavia (Serbia and Montenegro), (Kosovo), Economic and Social Reforms for Peace and Reconciliation, Prepared by the World Bank, February 1, 2001, accessed at http://www.seerecon.org/kosovo/documents/wb_econ_report/wb-kosovo-econreport-vol1-ch2.htm

ernment and a parliament in Kosovo under the international protectorate of UNMIK and NATO.

In 2001, UNMIK developed a Constitutional Framework for Provisional Self-Government. The Provisional Institutions of Self-Government (PISG) replaced the Joint Interim Administrative Structure that UNMIK had created in 1999 to deliver central and municipal administrative services. UNMIK transferred most of the administrative and legislative powers to the PISG, while special “powers and responsibilities” were reserved exclusively for the Special Representative of the Secretary-General (SRSG).⁷⁷ As a result, restoring governance in Kosovo became “a particular constitutional experiment, as it is a system of ‘dual power’ combining an international governing administration (UNMIK) and a subordinate, domestically-elected administration.”⁷⁸

Kosovo’s Constitutional Framework reaffirmed a commitment to ensuring the return of refugees and internally displaced persons and to the creation of a free, open, and safe environment in which all ethnic groups and communities could participate in establishing democratic institutions. The Constitutional Framework protected human rights while providing the Provisional Institutions of Self-Government with an Assembly, a President of Kosovo, and a government administration. UNMIK also sought through the Constitutional Framework to protect the territorial integrity of Kosovo. Accordingly, the Constitutional Framework declared Kosovo “an undivided territory...composed of municipalities, which are the basic territorial units of local self-government with responsibilities as set forth in UNMIK legislation in force on local self-government and municipalities in Kosovo.”⁷⁹

UNMIK Regulation 2000/45 devolved many powers and responsibilities to the 30 municipalities in order to promote decentralization. The transfer of power to the local level started under the UNMIK mandate with two elections, one in 2000 and the other in 2001. The Provisional Institutions of Self-Government were empowered to promote municipal cooperation, develop a professional municipal civil service, assist the municipalities in the development of their own budgets and financial management systems, and monitor the quality

⁷⁷ These included foreign policy, security, protection of the rights of minority communities, oversight of the judiciary, and the administration of publicly and socially owned enterprises.

⁷⁸ Organization for Economic and Community Development, “Kosovo: Overall Context,” Paris: OECD, 2004, accessed at <http://www.oecd.org/dataoecd/60/15/36501739.pdf>

⁷⁹ Accessed at http://www.unmikonline.org/pub/misc/FrameworkPocket_ENG_Dec2002.pdf

of municipal services. In practice, the Constitutional Framework invested the PISG with responsibilities for local administration.

Experience in Rwanda also reflects the diversity of tasks involved in strengthening constitutional governance. When the Rwandan Patriotic Front (RPF) took power in 1994 it set up a Government of National Unity that lasted, under the terms of the Arusha Peace Accord, until the country adopted a new constitution and held presidential and parliamentary elections in 2003. Under the new constitution, the government was to promote reconciliation and unity. All political activity or discrimination based on race, ethnicity, or religion was banned. The Constitution declared that “Rwanda shall be a democratic, social, and sovereign Republic. All citizens shall be equal in the eyes of the law, without any discrimination, especially in respect to race, color, origin, ethnic background, clan, sex, opinion, religion, or social status.”⁸⁰

The new Constitution was drafted through a consultative and participatory process in 1996 and 1997. The consultative process in local communities reflected the country’s determination, as one government minister pointed out, to “have a constitution reflective of the true wishes and needs of Rwandan people and secondly to contribute to building a culture of participation in democratic politics.”⁸¹ International organizations saw the success of the constitution-making process and of the elections as important steps toward democratization. The main tasks of the government of Rwanda were to build democratic institutions allowing participation and involvement of civil society and local communities in the decision-making process and reduce poverty.

In order to strengthen local government, Rwanda adopted a decentralization policy in 2001 that transferred authority over local development to 106 districts. The government implemented the policy by creating a more decentralized (fiscally and administratively) organizational structure through de-concentration, delegation, and devolution. De-concentration shifted the administration of many central government services and functions to the local level; delegation transferred responsibility for providing services to local governments; and devolution transferred from the national government to local governments’

⁸⁰ The Constitution of the Republic of Rwanda, accessed at [http://www.chr.up.ac.za/br_docs/constitutions/docs/RwandaC\(rev\).doc](http://www.chr.up.ac.za/br_docs/constitutions/docs/RwandaC(rev).doc)

⁸¹ Protais Musoni, Minister of State in Ministry of Local Government, Information and Social Affairs, in charge of Good Governance in Rwanda.

control over local decision making, finance, and management.⁸² The national decentralization policy emphasized that “the combination of the three phases of decentralization will be geared towards economic, political and managerial-administrative empowerment and reconciliation of the people of Rwanda to determine their livelihood.”⁸³

Experience in Sierra Leone further documents the diversity of tasks involved in constitutional strengthening in post-conflict countries. Sierra Leone’s first constitution was written in 1951 to provide the framework for decolonization. That constitution was suspended, however, during the late 1960s. A new republican constitution was adopted in 1971 and the document was amended in 1978 to establish one-party rule. A constitutional review commission amended the charter again in 1978 in response to domestic agitation and international pressure. In 1991, based on the prior recommendations of the commission and in a drastic move away from the previous constitution, a new and more democratic document was drafted by the ruling political party, the All People’s Congress (APC), allowing for a multi-party political system. The constitution, however, was never fully implemented by the APC and one-party rule continued under increasing impunity, repression, and corruption.

The 1991 constitution, with a few amendments on electoral process and voting registration, continued to be the principal document guiding the political process in the post-conflict period. It established Sierra Leone as a republic with an executive president, a multiparty system of government, and a 124-seat parliament. It also created an executive office and judiciary. While the constitution delineated the various tasks and roles of the three branches of government — executive, legislature, and judiciary — and created boundaries and checks and balances among those branches, the executive branch retained strong power, restricting the independence and efficacy of the other two branches.

The 1991 constitution also provided mechanisms for peaceful transition through elections. Although numerous elections were held prior to 2002, they were generally not considered free and fair. Following the end of internal conflicts, however, the Presidential and Parliamentary elections in May 2002

⁸² “The *Intara* (province), the central government entity closer to the local communities, has the responsibility for coordinating the planning, execution and supervision of central government programmes and activities. The province also coordinates, monitors and evaluates the activities of the *Akarere* (district) on behalf of the central government.” U.S. Agency for International Development, *Rwanda Decentralization Assessment*, Washington: USAID, 2002.

⁸³ National decentralization policy, 2001.

marked a strong departure from previous votes. While the electoral process suffered from logistical and administrative flaws in voter registration and procedures, the 2002 general elections were conducted smoothly throughout the country, with no substantiated reports of violence. The election was generally regarded as free, fair, transparent, and inclusive, with high voter turnout (over 80 per cent of the population) and the participation of members of civil society as electoral observers and monitors. While the 1991 Constitution did not provide for local governance institutions, the country held its first local elections in 32 years in 2004 under the mandate of the Local Government Act of 2004. The National Electoral Commission in Sierra Leone also prepared for 2007 elections by improving voter registration procedures, increasing civic education and information, and strengthening the election process with the financial support of a more than \$8 million commitment from the government and \$18 million from international organizations.

Constitution making does not always lead to more effective governance and stronger trust in government, however, and often the process is manipulated by political regimes or factions to sustain their own political power. In Angola, the constitutional revisions of 1991-1992 opened the way for pluralist politics through an electoral law easing the registration requirements for political parties. New legislative measures led to a more diverse mass media and to more independence for trade unions and national NGOs. These reforms culminated in 1992 in the first multi-party general elections in which 91 per cent of the registered electorate cast their votes.⁸⁴

However, the hope that Angola could establish a stable democratic government was quickly shattered by resumption of conflict when UNITA refused to accept the results of the 1992 election. The instability of the state in the following years made it impossible to hold new elections, especially when the four-year mandate of the National Assembly expired in 1996. The return to war at the end of 1998 further postponed elections. By 2005, Angola had held no national, provincial or local elections since 1992. Consequently, the constitutional reforms of 1991-1992 were limited in their scope and impact: the National Assembly remained quite weak in its capacity to provide effective checks on the actions of the executive, scrutinize legislation, or oversee government activities. Provincial and local governments have not yet been democratized. Many of the deputies

⁸⁴ United Nations, "Angola: The Post War Challenges — Common Country Assessment 2002," New York: UN, 2002.

have a tenuous sense of accountability to the electorate. Because the majority of deputies were elected from national party lists, they did not represent geographical constituencies, nor did they develop a strong relationship with the local population.

The Challenges of Strengthening Constitutional Government

Although establishing or strengthening constitutional government is a crucial function in most post-conflict countries, like other governance functions, it is often complex and difficult to carry out. Governments and international assistance organizations face myriad challenges in restoring governance through constitution making.

Despite intensive efforts to develop a strong governance system and a multi-ethnic society based on the rule of law through the formation of the PISG, for example, the situation in Kosovo remained contentious. The most difficult issue concerned Kosovo's independence. The constitutional framework did make Kosovo an independent state. Yet Serbia and Montenegro, in its own draft constitution, declared Kosovo a part of Serbia, making it clear that the "inclusion of Kosovo in the new Serbian constitution will effectively rule out Belgrade's consent to Kosovo's secession, as demanded by its ethnic Albanian majority."⁸⁵ UN Special Envoy Martti Ahtisaari held continuing negotiations between delegations of Kosovo Albanians and the Serbians in an effort to define the future status of Kosovo. The negotiations focused on the rights and protection of Kosovo's minorities, but the mistrust between communities remained one of the major sources of insecurity and instability in the country, and an obstacle to reducing the potential for violent aggression in the region.

Establishing a constitutional government was equally complex in East Timor. With the conclusion of 24 years of struggle for independence, both old and new tensions arose among Timorese leaders. Thus, writing and adopting a constitution for Timor-Leste became the most crucial post-conflict function in establishing a democratic sovereign state. After the United Nations Transitional Administration in East Timor (UNTAET) misread the political situation and created a constitutional drafting committee that did not include leaders of the most important political factions, it had to form a new constitutional committee

⁸⁵ "Serbian Leaders Draft New Constitution Declaring Kosovo Part of Republic," *Herald Tribune Europe*, September 29, 2006.

in 2000 composed exclusively of Timorese members from political parties, civil society organizations, and religious groups. However, the frustration among the Timorese continued because no real decision-making power was transferred to them. As a result of the tensions among the UNTAET, the Timorese National Consultative Council, and the Cabinet, all parties favoured the rapid development of a plan and timetable for constitution making and elections that would allow Timor-Leste to gain its independence as quickly as possible. The timetable of both the NCC and UNTAET stipulated that a popularly elected Constituent Assembly would produce a draft constitution within 90 days of its election. It also stipulated that after the adoption of the Constitution, the Constituent Assembly would transform itself into the first national parliament without additional elections.

Once the Constituent Assembly model was adopted for drafting a constitution, political parties became the primary participants in shaping the new government, estranging civil society and religious organizations. The power of the parties was further reinforced by the NCC's decision to elect members of the Constituent Assembly by proportional representation that strongly favoured central party organizations. Sixteen parties registered to run in the elections for Constituent Assembly and about 91 per cent of eligible voters participated in what was declared a free and fair election.⁸⁶ The election also produced a clear victor, the Fretilin Party, which enjoyed broad popularity and legitimacy because of its strong role in the resistance movement.

Following the elections, the UNTAET proceeded with its public education and consultation process, despite the fact that both Fretilin and the Timorese NGOs rejected its plans. The UNTAET's district commissions held more than 200 public hearings in which more than 38,000 people participated.⁸⁷ The findings from the hearings were compiled in reports that were passed to the Constituent Assembly. However, Fretilin submitted its own draft constitution and that became the basis for subsequent discussion. Although the Assembly created working groups and brought in international experts to work on the draft, neither the suggestions of the experts nor drafts by other political parties were incorporated into the Fretilin proposal in any meaningful way. Recognizing the

⁸⁶ Institute for Democracy and Electoral Assistance, "The Role of Constitution Building Processes in Democratization: Case Study Timor-Leste," 2005, accessed at <http://www.idea.int/conflict/cbpr/upload/CBP-Timor-Leste.pdf>

⁸⁷ *Ibid.*, p. 19

need for more widespread participation in the process, the Assembly extended its schedule to allow for public consultations. These were marred, however, by a tight time frame and lack of information available to the public in advance of the meetings. The consultations became information sessions rather than true exchanges of ideas and recommendations.

The Constitution for Timor-Leste was completed within seven months of the election of the Constituent Assembly and approved in 2002 with 72 of the Constituent Assembly members in favour. Thus, it was officially adopted with multi-party support, although some critics claim that the process was too heavily dominated by Fretilin. The public generally supported the constitution, but the short timetable restricted widespread public participation. The constitution was adopted by a vote of the parties in the Constituent Assembly and not by a popular referendum. The UNTAET did not provide an alternative model for drafting, such as the use of a broadly representative constitutional commission that had been proposed by an NGO forum. Similarly, it ruled out the idea of adopting an Interim Constitution to allow time for more extensive civic education and participation.

Conclusion

In countries where no recognized government exists in the period following violent conflicts, constitution making is essential to restore governance, and in countries where governments have been weakened by widespread dissension constitutional strengthening is usually necessary to legitimize elections and build trust in governing institutions. As Kirsti Samuels has pointed out, “the design of a constitution and constitution-making process is an integral part of the political and governance transition in peace building.” But at the same time, “it is also a particularly difficult aspect, both because there is little understanding of the impact of constitutional processes and constitutional designs in post-conflict states, and because these decisions must be made in highly charged, divided, often violent environments.”⁸⁸

The German aid organization GTZ concluded from its experience in post-conflict countries that effective constitutional reform requires striking a balance between two needs: establishing legitimacy and mutual trust between state and society; and enabling political institutions to act as quickly as possi-

⁸⁸ Kirsti Samuels, “Post-Conflict Peace-Building and Constitution-Making,” *Chicago Journal of International Law*, 6, 2, 2006, pp. 1-20; quote at p.19.

ble.⁸⁹ Too often, international organizations push governments in post-conflict countries to create constitutions aimed more at enabling political institutions to act quickly than in creating a process that is likely to engender reciprocal trust between the state and citizens.

To the extent that a constitution seeks to create a democratic state, Larry Diamond and Leonardo Morlino point out that, at a minimum, it should provide for universal, adult suffrage, recurring free, fair and competitive elections, more than one competitive political party, and alternative sources of information.⁹⁰ They point out that the quality of democracy can be measured in three different ways through procedure, content, and results. A constitutional democracy “will satisfy citizen expectations regarding governance (quality of results); it will allow citizens, associations, and communities to enjoy extensive liberty and political equality (quality of content); and it will provide a context in which the whole citizenry can judge the government’s performance through mechanisms such as elections, while governmental institutions and officials hold one another legally and constitutionally accountable as well (procedural quality).”⁹¹

As the case of Angola illustrates, adopting a new constitution and holding elections, in and of themselves, do not guarantee sustainable democratic governance. A new constitution must mandate that the government operates under and enforces the rule of law. To do so, Guillermo O’Donnell argues, the constitution must address flaws — in the existing legal code, in the application of law in ways that favour some groups and abuse others, in the relations between state agencies and ordinary citizens, in access to the judiciary and fair legal practices, and due to sheer lawlessness — that can undermine the rule of law and constitutional governance.⁹²

Other examples cited in this chapter illustrate that building trust requires widespread participation in constitution making so that all ethnic, religious, geographical and political factions feel a sense of ownership. Participation involves more than just vote counting; as experience in Timor-Leste demon-

⁸⁹ Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), “Promoting Good Governance in Post-Conflict Societies,” Discussion Paper, Eschborn: GTZ, 2004.

⁹⁰ Larry Diamond and Leonardo Morlino, “The Quality of Democracy: An Overview,” *Journal of Democracy*, 15, 4, 2004, pp. 20-31.

⁹¹ *Ibid.*, p. 22.

⁹² Guillermo O’Donnell, “Why the Rule of Law Matters,” *Journal of Democracy*, 15, 4, 2004, pp. 32-46.

strates, it involves widespread consultation and representation in the drafting and adoption of a constitution sufficient to ensure majority support. Although international organizations can provide financial and technical assistance in constitution drafting, the process and the result must reflect the fundamental aims and desires of the people in post-conflict countries. In Timor-Leste capture of the constitution-making process by one political faction weakened public confidence in the legitimacy of the government among those left out or whose suggestions were ignored.

Attempts to impose constitutional principles on post-conflict countries by international organizations are no more likely to be effective than attempts by political elites or one political faction to impose them on their own citizens. As Vivien Hart observed from her assessment of experience with constitution making in Africa, “a democratic constitution cannot be written for a nation, nor can one be written in haste. ‘Interim’ or ‘transitional’ constitutions that include guarantees for a continuing, open and inclusive process for the longer term offer one solution to urgent needs for a framework of governance in new, divided, or war-torn nations.”⁹³

The Commonwealth’s guidelines for constitution making emphasize the importance of developing a process that can engage a majority of the population and assists and empowers civil society groups to participate; that ensures that the public is informed about or involved in all stages of the drafting, adoption, and ratification; that is open to diverse views in society; and that uses mechanisms for adapting and ratifying the constitution that are credible and representative of citizens’ views.⁹⁴

⁹³ Vivien Hart, “Democratic Constitution Making,” Special Report 107, Washington: United States Institute of Peace, 2003; quote at p. 1.

⁹⁴ These and other principles are described in more detail in Jennifer Widner, “Constitution Writing and Conflict Resolution,” *The Round Table*, 94, 381, 2005, pp. 503-518.

Chapter 4

Reconstructing Infrastructure and Restoring Services

In the post-conflict period, among the most crucial functions of all governance institutions — the government, the private sector, and civil society organizations — are reconstruction of infrastructure and the restoration of social services. Governments in war-torn countries face urgent needs to rebuild physical and technological infrastructure and facilities and to restore and extend public services in order to sustain the peace and gain the public trust. The tasks usually include rebuilding physical infrastructure and utilities, providing emergency shelter and food relief, restarting and extending education and health services, assisting refugees and displaced people to resettle, extending social services to vulnerable populations, and in some countries, developing public-private partnerships and encouraging private investment for financing and reconstructing social capital.

In many post-conflict countries, governments and international assistance organizations face the complex tasks of building new roads, repairing railways, ports, waterways, airports, and telecommunications systems, and also of establishing policies and strengthening administrative capacity for the efficient operation of transportation systems.⁹⁵ Often energy systems are disrupted during conflicts requiring the government to restore electrical power, energy infrastructure, and fuel production facilities. Destruction of schools, medical clinics, municipal buildings, police and fire stations, and public health facilities is often part of the “collateral damage” of fighting in post-conflict countries and they must be rebuilt in order to restore service delivery.

Government ministries and agencies in post-conflict countries face an enormous task in rebuilding or replacing the physical infrastructure through which they deliver services, and of creating the capacity to work with the private sector in situations where government alone does not have the technical, managerial or financial resources to provide infrastructure effectively.

⁹⁵ A detailed discussion of the types of tasks involved in reconstructing infrastructure and restoring services can be found in United States Department of State, “Post-Conflict Reconstruction: Essential Tasks,” Washington: Office of the Coordinator for Reconstruction and Stabilization, 2005, based on Robert C. Orr, *Winning the Peace: An American Strategy for Post-Conflict Reconstruction*, Washington: Center for Strategic and International Studies Press, 2004.

Conflict has devastating impacts on the capacity of governments to meet the basic needs of the people because it seriously weakens human, financial and institutional resources. Increases in military spending during war generally reduce financial resources available for social services and entitlements for the poor. When the central government completely disintegrates, the provision of basic services ceases. Newly established governments depend on large amounts of external assistance to be able to extend services, especially to marginalized and vulnerable groups. Providing health and education services, especially in refugee camps that can easily become recruitment grounds for militants, plays an important role in preventing renewed conflict.

The Diversity of Post-Conflict Reconstruction Tasks

During the 23 years of continued hostilities in Afghanistan, the capacity of the state to provide basic social services to its people came to a complete halt. As a result, for years, all emergency relief services were provided by the United Nations and the international community in conjunction with national NGOs in an effort to stave off a humanitarian crisis.

In the post-conflict period, the Interim and Transitional Governments had little or no capacity to address serious and widespread infrastructure and service deficiencies. Afghanistan had desperate needs for delivering emergency relief services, resettling refugees and displaced persons, restoring health and education services, rebuilding shelter and transport infrastructure, and clearing large areas contaminated by landmines and unexploded ordnance, which posed a hazard to national rehabilitation and development. Most of these activities were undertaken by UN agencies, bilateral and multilateral assistance organizations, and national and international NGOs. For example, in collaboration with the Interim Authority, UN agencies and their partners resumed supplying most of the health services they had provided before September 2001. The halted Mine Action Programme was also resumed and was successful in clearing key routes and other high priority areas, allowing humanitarian services to reach remote areas.

Longer-term development objectives included the rehabilitation of public administration so that a fully functioning civil service could continue to provide basic services after the international community departed. Rebuilding the civil service was a monumental task. At its inception, the Interim Administration

had no funds of its own even to pay salaries. Many of the personnel had to be newly recruited because about 9,000 civil servants were dismissed during the Taliban regime. Discrimination against women and the fear of those who were perceived to have links to former regimes depleted the ranks of the civil service.

Similar reconstruction needs emerged in other post-conflict countries. During the war in Bosnia and Herzegovina more than 60 per cent of homes were damaged and 20 per cent were destroyed, along with nearly 40 per cent of hospitals and 70 per cent of schools. Nearly half of all industrial plants were damaged or destroyed. By the end of the war industrial output had declined to only about five per cent of pre-war levels and gross domestic product to less than 20 per cent of what it had been in 1990.⁹⁶

The conflict in Angola left essential infrastructure such as transport and communication networks, schools, and hospitals partially or completely devastated. By early 2002, at least one-quarter of the population was internally displaced. The influx of displaced people in cities, where urban jobs and income-earning opportunities had been limited by a depressed economy, led to serious social and political problems. Large informal settlements developed around Angola's cities and the lack of infrastructure and services intensified poverty. Services were disrupted in both urban and rural areas because social service agencies did not receive sufficient resources during the war years when most public expenditures were diverted to defence and security forces.

Following the cessation of hostilities, the government and international organizations had to provide immediate humanitarian assistance — primarily in the form of food aid — to more than 400,000 ex-combatants and their families in quartering camps and to the more than 3,000,000 displaced persons in transit camps.⁹⁷ Despite some success in providing immediate humanitarian assistance, the government's capacity to deliver basic social services remained weak. The majority of the population still lacked access to health care in 2006. HIV/AIDS remained a major problem. Low levels of educational performance were aggravated by late entries into schools and high repetition and drop-out rates. Access to schooling was further hindered by the state's inability to guarantee children's rights to birth registration, a requirement for school enrolment.

⁹⁶ World Bank, *Bosnia-Herzegovina: Post War Reconstruction and Transition to a Market Economy*, Washington: World Bank, 2004.

⁹⁷ UNDP, "Economic Report on Angola in 2002-2004: Defusing the Remnants of War," New York: UNDP, 2005, p. 51.

The government of Burundi also faced a wide range of needs for rebuilding infrastructure and extending services under adverse conditions. Following the 2002 Peace Accords, the government tried to mobilize widespread international support for financing infrastructure and restoring health and education services. At the same time the government had to find ways of safeguarding the relief, social welfare, and resettlement funds that donors provided for vulnerable communities. Priority projects included the re-integration and resettlement of internally displaced persons. As did other countries emerging from conflict in the region, Burundi had hundreds of AIDS orphans and protecting the rights of people suffering from HIV/AIDS quickly became another pressing priority. The Belgian government funded a six-year \$7.2 million programme to improve the efficiency of public institutions involved with good governance and social service delivery. The government was able to introduce free primary education in 2005, a move that led to a doubling of enrolments to over 500,000 pupils, placing burdensome financial and administrative loads on the school system. Germany provided \$20 million in 2005 to improve water and sanitation and fight HIV/AIDS. A donors' conference held in February 2006 also pledged \$170 million during 2006 and 2007 for reconstruction and development programmes.⁹⁸

The needs of post-war reconstruction in Sierra Leone were equally as diverse. Even before the conflict erupted, corruption had become so widespread and endemic in Sierra Leone that the government could no longer perform even its most basic functions of providing infrastructure and social services. In the post-war reconstruction period, Sierra Leone had the highest child mortality in the world and childbirth was the leading cause of death among women. Life expectancy fell to 37 years and the literacy rate declined to 15 per cent, the lowest in the world. The United Nations and donor countries had to support a wide array of projects and programmes in different sectors and regions throughout the country.

The Education Act of 2003 and subsequent projects aimed at rebuilding educational facilities were successful in increasing primary school enrolment by 15 per cent between 2002 and 2004. The government also began rehabilitating the health-care delivery system by rebuilding facilities and increasing accessibility to basic health services. Mortality rates for children under five years of age were reduced from a high of 284 per 1,000 live births in 1999 to 265 per 1,000

⁹⁸ UN Office for the Coordination of Humanitarian Affairs, "Burundi: Donors pledge US\$170 million for post-war recovery bid," March, 2006, accessed at <http://www.globalsecurity.org/military/library/news/2006/03/mil-060301-irin04.htm>

in 2006. The fact that Sierra Leone had a great deal of expertise in rapid response to emergency service delivery during and after the war contributed to these successes, but the availability of national and international expertise was essential to making at least modest progress on health service delivery.

In many post-conflict countries, reconstruction and redevelopment must begin by addressing the humanitarian disasters that resulted from the violence and its aftermath. This was clearly the task facing the United Nations Transitional Administration in East Timor (UNTAET). The transitional administration faced complexities in providing basic services to a population in an area where public infrastructure, communications systems, and private homes had been devastated and which also had a large refugee population.

Given UNTAET's comprehensive mandate for humanitarian relief, governance, and development, it struggled to coordinate and integrate myriad organizations to ensure that their efforts were mutually supporting and reflected the same priorities. Donors pledged more than \$522 million, of which \$148.98 million was for humanitarian activities and \$373.47 million for civil administration, reconstruction, and development.⁹⁹

Immediate humanitarian assistance focused on providing water, shelter, food and internal security. Organizations such as the Red Cross and the Australian Agency for International Development provided emergency portable water while Oxfam International focused on rehabilitating the water system with help from local engineers and technicians. Similarly, the United Nations High Commissioner for Refugees and other organizations mobilized resources for building materials to shelter refugees and rebuild private homes. Food relief services were provided by the World Food Programme and its partners, which distributed more than 10,500 metric tones of food to approximately 610,000 displaced persons in 1999 and 2000.¹⁰⁰

The Challenges of Post-War Infrastructure Reconstruction and Service Restoration

Rebuilding infrastructure and restoring services during post-war reconstruction can be a complex process in post-conflict countries, especially when sporadic

⁹⁹ United Nations Security Council, "Report of the Secretary-General on the United Nations Transitional Administration in East Timor," S/2000/53: 26 January 2000, p. 4.

¹⁰⁰ *Ibid*, p. 8.

or regional hostilities continue or when the government's administrative and financial resources are weak.

The government of Angola faced difficult challenges in rebuilding facilities and restoring education and health services in the post-conflict period due to poor coordination between central ministries and provincial health and education authorities. Faulty information management and the lack of administrative data for health and education systems compounded these problems. Furthermore, budget management in these and other sectors was fragmented, handled by distinct budget units that were not part of a unified sector budget, and the Ministry of Finance often allocated resources without consulting with the central ministries.

Following the ceasefire in 2002, the government called for a Donor Conference on rehabilitation. Disagreements over the forms of support for reconstruction and long-term development between the government and international assistance organizations complicated Angola's chances of successful transition. As a result, the expected shift of focus from humanitarian aid to development did not materialize. Although a few post-conflict recovery projects were started, Angola did not receive a large infusion of aid and the amount pledged later declined.

Weak administrative and financial capacity also undermined the ability of the government in Timor-Leste to rebuild infrastructure and deliver services. Immediately preceding and following the presidential elections, the number of returning refugees sharply increased in anticipation of better prospects for peace, security, and stability in the country.¹⁰¹ The East Timorese Reconciliation and Repatriation Liaison Team coordinated the efforts of UNTAET in encouraging refugees to return through information campaigns. Cessation of food aid to all but the most vulnerable groups and an increase in cross-border visits also increased repatriation.

While emergency humanitarian assistance continued, UNTAET and international donors concluded that strengthening public administration was imperative to providing adequate social services and rebuilding infrastructure. However, building a viable East Timorese public service was one of the most difficult aspects of UNTAET's mandate. All public records had been destroyed or removed during the conflict and many of the experienced civil servants had

¹⁰¹ By April 2002, a total of over 200,000 refugees had returned from West Timor and Indonesia. See United Nations Security Council, "Report of the Secretary-General on the United Nations Transitional Administration in East Timor," S/2000/432: 17 April 2002, p. 5.

fled the country. Nevertheless, UNTAET had to set up a transitional public administration to restore essential infrastructure, provide social services, recruit civil servants, and revive trade and commerce. Building on the immediate post-conflict efforts of international organizations, civil society organizations, the Catholic Church, and local communities worked with civil servants in strengthening education and health services, increasing enrolment in primary education to more than 240,000, and rehabilitating 64 health facilities by 2002.¹⁰²

Conclusion

Post-conflict reconstruction of infrastructure and restoration of services is another governance function that provides a foundation for achieving other recovery objectives. The ability of a government to provide adequate infrastructure and services shapes its ability to undertake other basic reconstruction functions and the progress — or lack of it — in other sectors affects the government's ability to provide infrastructure and services. Clearly, restoring transportation and communications infrastructure is a precondition for growing the economy and ensuring that the benefits of economic development reach all parts of a country. At the same time, economic growth is essential for generating income, wealth, and public revenues needed to improve infrastructure and the quality and coverage of services. Developing an effective road network, for example, can help link agricultural production areas with domestic and international markets and with input suppliers located in rural towns and cities. Reconstructing infrastructure can generate employment, promote national and regional integration, and provide opportunities for small businesses as suppliers and subcontractors.

Rural road projects in many poor and former war-torn countries have helped stimulate economic growth in the agricultural and rural non-farm sectors and to expand opportunities for rural residents. In Ghana rural road rehabilitation helped farmers obtain higher prices for their crops by selling directly in local markets rather than depending on middlemen and enabled shopkeepers to bring goods to rural villages less expensively.¹⁰³ In Viet Nam, improvements in rural roads and the provision of greater access to rural credit gave farmers the opportunity to reinvest in fertilizer, purchase livestock, and meet basic needs.

¹⁰² *Ibid.*, p. 9.

¹⁰³ World Bank, *Precis/OED*, No. 199, Winter, 1999.

The tasks facing governance authorities in post-conflict countries include making decisions about the type of infrastructure to provide, where to provide it, how to deliver it, and the level of government that should be responsible for providing it if it must be delivered through the public sector. The World Bank notes that it is important to apply commercial principles of operation, broaden competition for suppliers to compete in the market, involve users in infrastructure planning activities, and find the most effective and efficient options for ownership and provision.¹⁰⁴ Those options include public ownership and operation by a public enterprise or government agency; public ownership with operation contracted to the private sector; private ownership and operation with government regulation; or community and user provision. Restoring governance in post-conflict countries implies developing the institutional capacity of both the public and private sectors to work together in planning, designing, building, financing and operating infrastructure in order to stimulate economic growth.

Despite its importance in post-war reconstruction, rebuilding infrastructure and extending services in conflict-affected countries is often a difficult task, especially in countries where security has not been fully restored or where governments lack institutional capacity, administrative and technical capabilities, or financial resources. Governments that have not controlled corruption, developed efficient procurement and contracting systems, and ensured transparency often face difficulties in attracting private investment in infrastructure or financial assistance from international donors.

A study of infrastructure assistance in conflict-affected countries prepared for the United Kingdom's Department for International Development (DFID) reports that infrastructure development and service restoration are more likely to succeed when a government includes relevant stakeholders and intended beneficiaries in the reconstruction process, when it and international organizations make early preparations for infrastructure development before peace agreements are signed, and when implementation is assigned to credible local or national organizations.¹⁰⁵ Often, governments in post-conflict countries can mobilize stronger support for rebuilding programmes when they give priority to rapidly restoring essential services such as power supplies and water.

¹⁰⁴ See World Bank, *World Development Report 1994*, Washington: World Bank, 1994, especially pp. 8-10.

¹⁰⁵ Mott MacDonald, "Provision of Infrastructure in Post-Conflict Situations," London: Government of Great Britain, Department for International Development, 2005.

Chapter 5

Stabilizing and Equitably Growing the Economy

Maintaining peace and security in post-conflict countries requires governance institutions to move quickly, first to stabilize what are often volatile economic conditions and then to promote economic growth in ways that equitably benefit people at all levels of income, living in both urban and rural areas. These functions include reforming financial, economic, and regulatory institutions; increasing productivity; promoting domestic and international trade and investment; stabilizing the currency; promoting employment-generating activities; strengthening the private sector; reforming and extending social safety nets; strengthening human resources and skills; and addressing social and economic inequities.

Among the most important tasks of reconstruction is restoring a viable economy.¹⁰⁶ Immediate tasks in the period following the cessation of hostilities are the creation of jobs through public works programmes, the stimulation of micro and small enterprises, and agricultural and rural development. Without adequate livelihoods, economic frustrations can easily lead to further conflicts, especially in countries where former combatants have no means of earning enough income to support themselves and their families.

At the same time, in many post-conflict countries stimulating economic growth and equitable distribution of opportunities requires new macroeconomic policies or radical readjustment of existing economic policies and institutions. Macroeconomic adjustment policies encourage the development of market mechanisms that can efficiently and effectively allocate scarce economic resources and set prices for both production inputs and consumer goods. This requires financial liberalization and the reduction (and eventual elimination) of price controls. Macroeconomic adjustment policies seek to change the economy's structure of production and consumption by increasing the efficiency and flexibility of producers and consumers to respond to market signals. Liberal-

¹⁰⁶ A detailed discussion of the types of tasks involved in economic growth and stabilization can be found in United States Department of State, "Post-Conflict Reconstruction: Essential Tasks," Washington: Office of the Coordinator for Reconstruction and Stabilization, 2005, based on Robert C. Orr, *Winning the Peace: An American Strategy for Post-Conflict Reconstruction*, Washington: Center for Strategic and International Studies Press, 2004.

ization of trade laws and regulations and the enactment of more favourable investment policies have become crucial aspects of structural reforms. Reforms generally aim at developing the capacity to expand export markets and engage more effectively in foreign trade and investment. This requires liberal trade and investment policies, including programmes for export promotion, foreign direct investment, exchange rate adjustments, and the easing of investment restrictions and trade barriers.

These include basic monetary policies that stabilize prices, manage inflation, restore credibility for the country's currency, and establish stable exchange rates. Often the capacity of central banking institutions must be strengthened and financial institutions redeveloped. Banking operations that may have been disrupted during conflict have to be restored and extended and banking regulation and oversight has to be strengthened. New banking laws must often be formulated and enacted. Regulations preventing asset and money laundering and lending fraud are essential to restoring confidence in the financial system in some post-conflict countries.

In many post-conflict countries, the war disrupted both domestic and international commerce. Governments often need to help re-stimulate small-scale enterprise, identify obstacles to private sector development, and take actions to create a strong business and investment climate. Existing laws regarding property rights protection, registration of property, and settlement of property rights disputes usually need strengthening. Without a system of basic property rights, resources or assets are overused and eventually depleted because there are no limitations on their use. Without an effective system of property rights a country's resources can be allocated inefficiently, private agents can bribe officials to grant them preferential use of property, bureaucrats engage in rent-seeking behaviour, intellectual property developed through innovation can be difficult to protect by those who invested in its creation, and common property is often depleted. The lack of enforceable private property rights in many countries allows state-owned (common or collectivized) property to be misused, abused, over-used or to go unused, leading to inefficient resource allocation.¹⁰⁷

¹⁰⁷ Dennis A. Rondinelli, "Assessing Government Policies for Business Competitiveness in Emerging Market Economies: An Institutional Approach," in Robert Grosse (ed.), *International Business-Government Relations in the 21st Century*, Cambridge, England: Cambridge University Press, 2005, pp. 369-392.

The institutional components of an effective property rights system include rules for asserting claims of ownership, recording ownership, the types of property that can be publicly and privately owned, settling ownership disputes, and acquiring title to property that has been lost, abandoned, or improperly acquired. An impartial, comprehensive, stable, and efficient body of contract law must be created to institutionalize these rights.

Laws pertaining to labour rights and wage policies may need to be evaluated as the economy starts growing. Assessments are often required to identify barriers to both domestic and international trade, including barriers to entry, lack of business financing and credit, high import taxes, customs barriers, and restrictions on imports. Government must often take an active role in export promotion.

Equally important, governments must create or restore viable fiscal policies and procedures, including treasury operations, budgeting, public sector investment, tax policy and administration, customs reform, and fiscal auditing. As the economy begins to grow, governments need to reassess the social safety net — the pension system, social entitlement funds, disability insurance, social security programmes, and assistance for the unemployed, orphans and other people who cannot easily participate in economic activities.

Governments in most post-conflict countries also face strong challenges in alleviating widespread poverty. Poverty undermines social cohesion, political stability, and economic productivity. Economic growth requires a productive workforce drawn from a healthy, educated, and skilled population. In order to alleviate poverty, governments and the private sector must take actions to prepare the poor to participate effectively in the economy. This requires increasing the access of the poor to basic education and health services. Governments must enact agrarian reform policies that give the rural poor a more equitable distribution of land and agricultural resources and open access to credit for the poor by changing criteria for creditworthiness and decentralizing credit institutions. Governments can play an important role in expanding productive employment opportunities and sustainable livelihoods for those who are unemployed or underemployed and increasing the participation of the poor in the development and implementation of poverty-alleviation policies and programmes to assure that they are needed and appropriate.

In post-conflict countries it is especially important for governments to provide an adequate social safety net to protect those excluded temporarily from the

market while pursuing policies that promote economic growth and increased productivity so that new opportunities are available for the poor to improve their living standards. As economic growth accelerates, government can work closely with the private sector to increase people's capacity to use resources in a sustainable and environmentally-beneficial manner.

The Diversity of Economic Growth Tasks

The importance of strengthening government capacity to promote economic growth is well illustrated in post-conflict El Salvador. Economic recovery during the 1990s contributed significantly to the government's ability to implement the Peace Accords.¹⁰⁸ Inflows of foreign aid and private capital along with some international debt forgiveness and exchange rate reforms helped to stabilize El Salvador's economy and mobilize resources for rapid reconstruction. Economic growth policies in Central America focused on comprehensive macroeconomic adjustment and structural reforms that reduced hyperinflation in Nicaragua in the late 1980s and early 1990s and lowered inflation in other countries in the region, including El Salvador and Guatemala, from an average of 27 per cent in 1991 to about six per cent in 1999.¹⁰⁹

As with other governance functions, promoting economic growth involves a variety of inter-related tasks. The diversity of needs is well illustrated by experience in Afghanistan. Immediately after the conclusion of the Bonn Agreement in 2001, UNDP established the Afghanistan Interim Authority Fund to provide financial assistance to the transitional administration. UNDP also launched the Recovery and Employment Afghanistan Programme that provided 600,000 man days of employment for nearly 15,000 people. It injected \$1.8 million into neighbourhoods and villages that lacked economic opportunities. Additionally, UNDP helped to create employment in 11 provinces that yielded 3,000 unskilled and skilled jobs providing over 270,000 man days of employment.¹¹⁰ A donor assistance database was also set up to help the government coordi-

¹⁰⁸ H. Rosa and M. Foley, "El Salvador," in S. Forman and S. Patrick (eds.), *Good Intentions: Pledges of Aid for Postconflict Recovery*, Boulder, CO: Lynne Rienner Publishers, 2000, pp. 113-157.

¹⁰⁹ L. Cardemil, J. di Tata, and F. Frantischek, "Central America: Adjustment and Reforms in the 1990s," *Finance & Development*, 37, 1, 2000, pp. 34-37.

¹¹⁰ United Nations Security Council, "Report of the Secretary-General: The Situation in Afghanistan and its Implications for International Peace Security," S/2002/737 — A/56/1000, 1 July 2002.

nate activities and priorities among the government, the UN, and the assistance community. Other organizations initiated the National Emergency Employment Programme, the National Solidarity Programme, and the National Area Based Programme in conjunction with the Ministry of Rural Rehabilitation and Development — all of which were implemented by NGOs to provide labour-intensive employment to vulnerable groups.

In addition to these economic recovery programmes, the Interim Authority developed the National Development Framework with 12 programmes within three key pillars. The 12 programmes were given responsibility for formulating and recommending national objectives, strategies, and policies as well as ensuring that an appropriate mix of projects was available for funding. The Framework was then presented to the donor community for continued financial assistance. The Afghan Assistance Coordination Authority was subsequently created and agreements in most sectors on both short-term and long-term interventions were reached with bilateral and multilateral donors.

The government reformed currency exchange operations in order to stabilize the economy. Initially, a spurt of economic growth was fuelled by a combination of high agricultural output, a rise in public sector salaries, and an increase in demand for local construction and commercial services. However, economic benefits accrued primarily to people living in urban areas and in some provincial centres. As a result of the lack of viable economic opportunities in the other parts of the country, poppy cultivation remained an attractive option for farmers, who earned 10 times more per hectare for growing poppies than for producing cereals.¹¹¹

The importance of promoting sound and equitable economic growth in post-conflict countries is underlined by the high priority that international assistance organizations gave this function immediately after cessation of hostilities in Mozambique. The civil war in Mozambique from the 1980s to 1992 nearly destroyed the country's economy. In the mid-1980s, it suffered from shortages of production inputs, lack of foreign exchange, a precipitous fall in industrial production, growing debt, declining agricultural production, and widespread starvation.¹¹²

¹¹¹ United Nations Security Council, "Report of the Secretary General: The Situation in Afghanistan and its Implications for International Peace Security," (S/2006/145 — A/60/712), 7 March 2006.

¹¹² See Channing Arndt, Sam Jones and Finn Tarp, "Aid and Development: The Mozambican Case," Discussion Paper 06-13, Copenhagen: Department of Economics, University of Copenhagen, 2006.

The insistence of international organizations on fundamental economic reforms reversed GDP growth from minus eight per cent during the civil war to plus 7.7 per cent by 2004.¹¹³ After the end of the civil war, inflation was reduced to single digits and the currency was stabilized. Between 2000 and 2005 Gross National Income grew from \$3.8 billion to \$6.1 billion. GDP growth rose from 1.9 per cent to 7.7 per cent; inflation declined from 10.3 per cent to 6.3 per cent; foreign direct investment net inflows grew from \$139 million in 2000 to \$244 million in 2004 and during the same period total debt service as a percentage of exports of goods, services and income declined from 12.5 per cent to 4.5 per cent.¹¹⁴

Growing the economy was also a crucial task for governing authorities in Timor-Leste. When the country declared independence in 2002 it faced two years of economic decline due to the prolonged conflict and a serious draught that reduced agricultural production. Macroeconomic recovery beginning in 2004 was driven almost entirely by petroleum revenues. Immediately after the cessation of hostilities, high levels of unemployment threatened not only economic well-being but also overall security. In 2000 about 80 per cent of the population did not have visible means of support.¹¹⁵ After the conflict, humanitarian agencies became the largest employers in East Timor. For the majority of the population that lacked the requisite education and skills to work as professionals in humanitarian agencies, UNTAET launched the first Quick Impact Projects in hard-hit districts to put people to work rehabilitating their communities. Other UN agencies and international donors initiated labour-intensive reconstruction projects that provided employment to hundreds of people.

Longer-term efforts at reducing unemployment and providing people with jobs focused on improvements in education and training. The Inter-Agency Programme and the Skills Training for Gainful Employment Programme continued to assist the Secretariat of State for Labour and Solidarity in strengthening the capacity of rural and urban training organizations and to empower communities through the provision of skills, micro-enterprise development, and enterprise start-up support. Most of the large businesses were operated by foreigners, so

¹¹³ World Bank, "Post Conflict Mozambique's Reconstruction: A Transferable Strategy," Washington: World Bank, 2005; accessed at <http://www1.worldbank.org/devoutreach/september05/textonly.asp?id=337>

¹¹⁴ World Bank, "Mozambique Data Profile," Washington: World Bank, 2006.

¹¹⁵ United Nations Security Council, "Report of the Secretary-General on the United Nations Transitional Administration in East Timor," S/2000/53, 26 January 2000, p. 10.

UNTAET, in cooperation with the World Bank, supported the development of East Timorese enterprises.

Agriculture made the strongest contribution to East Timorese employment and GDP. Recognizing the critical importance of this sector in generating economic growth, UNTAET first started working with East Timorese and international agricultural experts to establish a Department of Agriculture. Measures included identifying and compiling a list of available personnel and preparing training courses. Efforts also concentrated on increasing the capacity for improving crop production and extending irrigation systems, developing income-generating activities, and providing equipment needed to ensure food self-sufficiency and security. UNDP also started a participatory rural energy development programme to identify and develop potential alternative energy sources, and an \$18 million rural development programme supporting agricultural activities, community development, vocational training and empowerment of women, and development of border areas.¹¹⁶

UNTAET and international donors also had to focus on rebuilding financial management in order to stimulate the economy. UNTAET public finance reforms immediately following the violence aimed at strengthening central bank functions as well as tax and tariff policy, revenue collection, and customs arrangements. Regulations on central fiscal authority, a central payments office, a new taxation regime, use of currencies, commercial enterprises and transitional legal tender (the US Dollar) were endorsed by the National Consultative Commission in the first months of reconstruction. UNTAET also made arrangements to allow for basic commercial banking operations and for branches of a few international banks to open in the capital.

As a result of these reforms and the capacity-building initiatives taken by UNTAET and international donors, the economy began to grow, with stable inflation rates. A downturn in 2002 resulted from the sharp reduction in the presence of international and UN personnel. The Ministry of Finance continued to receive substantial support from bilateral donors and international financial institutions to strengthen fiscal and fiduciary systems and build capacity among its staff. The International Monetary Fund (IMF) in particular provided advice and assistance on macroeconomic and revenue issues and supported a comprehensive programme of institution building in the Banking and Payments

¹¹⁶ United Nations Security Council, "Report of the Secretary-General on the United Nations Mission of Support in East Timor," S/2005/99, 18 February 2005.

Authority. The World Bank also undertook an assessment of public expenditure management systems.

The Challenges of Growing Economies Equitably in Post-Conflict Countries

In most post-conflict situations, rebuilding the economy is a complex long-term process, often inhibited by poor economic performance prior to an internal crisis and obstructed by deteriorating conditions during hostilities. For example, the economic situation in Kosovo after the cessation of hostilities was one of instability and weakness. After the end of the conflict in 1999, the United Nations transitional administration had to initiate structural adjustments to transform the economy from socialist planning to a market system. Reforms focused on macroeconomic stabilization (increasing GDP, reducing the public deficit, controlling inflation and liberalizing price constraints), reforming the public sector's administrative and financial systems, and privatizing state-owned enterprises.

Economic reforms had to be adopted and implemented during a period when the national status of Kosovo remained unresolved and political instability made it difficult to attract foreign investments and loans.¹¹⁷ Low levels of human development and high levels of poverty placed Kosovo among the poorest regions of Europe. Life expectancy and education improved after the conflict, but the percentage of people who lived in extreme poverty increased.

Unemployment was one of Kosovo's most serious problems, caused by the closing and reorganization of degraded and obsolete industrial and mining plants that were unable to compete, cuts in public budgets, and unstable political and social situations. High rates of unemployment among young workers contributed to increasing social tensions. In the absence of a strong government, international donors such as the European Union, the UNDP, USAID, and the IOM had to take on the functions of growing the economy and reducing unemployment. The European Union took the lead in Kosovo's economic development. Its objective in the short term was to create a sustainable private sector to generate employment and to stimulate growth.

¹¹⁷ Robert C. Austin, "Making Kosovo Sustainable," *Southeast European Times*, July 8, 2006, accessed at http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/articles/2006/08/07/reportage-01

However, by 2006 governing authorities still faced difficulties in promoting sound economic growth. High levels of unemployment, pessimistic economic growth estimates, and increasing fiscal pressures remained consistent obstacles.¹¹⁸ UNDP's Early Warning Report noted that the perception of high levels of corruption in government institutions contributed to a growing sense of instability in Kosovo that was exacerbated by a thriving black economy and organized crime.

Although Mozambique made progress on restructuring its economy, the government faced continuing challenges in sustaining economic growth. Almost half of Mozambique's state budget continued to be financed by international donors 14 years after the end of the conflict. Slow judicial reform and endemic corruption also continued to threaten economic growth and produced an unequal distribution of national prosperity. In 2006, per capita income still remained fairly low and nearly 70 per cent of the population continued to live in absolute poverty.¹¹⁹ Economic growth was driven mainly by foreign-financed "mega projects" and large aid inflows from which little benefit reached the rural areas, where poverty was at its worst.

Experience in Afghanistan also illustrates the challenges of strengthening the capacity of government to deal with all aspects of the economy. The biggest challenge in Afghanistan has been to transform dysfunctional sectors that Pain and Goodhand referred to as the warlord economy, the black-market economy, and the coping or subsistence economy.¹²⁰

The warlord economy was run by what Pain and Goodhand call 'conflict entrepreneurs,' that is, by regional and local armed commanders and fighters who engage in hostilities not only to protect ethnic and religious values but also, and perhaps primarily, to make profits and accumulate wealth and power. Their economy depended on smuggling consumer goods, minerals, wheat, and opium, informal taxation of both legal and illicit economic activities, arms trading, economic blockades, asset stripping and looting, and illegal currency trading. A warlord economy is primarily exploitive rather than productive. In Afghanistan

¹¹⁸ United Nations Development Programme, "Early Warning Report Kosovo," Report No. 13, 2006, accessed at http://www.kosovo.undp.org/publications/ews13/ewr13_eng.pdf

¹¹⁹ Marc De Tollenaere, "Democracy Assistance to Post Conflict Mozambique: Intentions and Outcomes," Amsterdam: Netherlands Institute of International Relations, 2006.

¹²⁰ Adam Pain and Jonathan Goodhand, "Afghanistan: Current Employment and Socio-Economic Situation and Prospects," Working Paper 8, Geneva: International Labour Office, 2002.

it disrupted markets, destroyed economic assets, redistributed resources violently, created illegal entitlements, and further impoverished vulnerable groups. In some regions, warlords drove out the better-educated population, especially those associated with minority ethnic or religious groups.

Afghanistan's black-market economy consisted in some places of warlords but more widely of non-combatant profiteers, traders in illegal goods, cross-border smugglers, poppy farmers and opium dealers, and truck drivers constituting the 'transport mafia.' Black-market economy participants benefited from continuing military conflicts, ethnic and religious tensions, and a weak state. The black-market economy thrived in the absence of other legal means of making profits and became diversionary rather than developmental. Participants derived income from unsustainable extraction of natural resources and minerals; smuggling of antiquities, rare animals, and minerals; the flourishing *hawalla* money-order and currency-exchange systems; and the 'capture' and diversion of international aid resources.

The coping economy, in which the bulk of the Afghan population participated, is characteristic of a subsistence agricultural sector and a weak system of commercial trade. In the coping economy poor families and communities often exploit the labour of children in order to survive during periods of widespread asset erosion. Those engaged in the coping economy obtain their livelihoods from diverse low-risk activities such as subsistence agriculture, petty trade, and on-and-off farm, low-wage labour. Some participants migrated to Pakistan, Iran, or other countries surrounding Afghanistan and remitted part of their earnings to dependents back home. Others survived on income redistribution and support through extended family, local ethnic and religious networks, and humanitarian assistance. The coping economy both resulted from, and reinforced, the lack of secure and steady employment and long-term investment and the deterioration in health and education standards. Pain and Goodhand point out that these three economies overlapped with each other but created distinctly different incentives and motivations for participants to continue conflicts and resist reforms.

Conclusion

The economies of many countries in crises are devastated along with productive infrastructure and livelihoods. During periods of conflict the national economy

is often destabilized when manufacturing facilities are destroyed, agricultural cycles are disrupted, and public expenditures are diverted from productive to military activities. The United Nations Development Programme concluded from its experience in post-conflict reconstruction that “macroeconomic reform and management issues are therefore of central importance to recovery and the establishment of stable institutions of governance and the re-launching of economic growth and sustainable human development.”¹²¹

Wennmann’s review of experience with post-conflict peace building emphasizes the importance of addressing the problems arising from parallel economies and the legacies of conflict financing that often undermine attempts by governments and international organizations to stimulate productive and equitable economic growth.¹²² Parallel economies such as those in Afghanistan often operate through illicit or illegal activities and drain resources from productive activities. But conflict financing through a centralized war economy that relies on exploitation of conflict goods; asset transfers from civilians through looting; robbery, extortion, and pillage; printing or forging money; protecting rackets; and diversion of external assistance and revenue from portfolio investments have equally debilitating effects on the capacity of government to promote economic growth and equitable distribution of income and wealth.

Governments in post-conflict countries face myriad challenges in rebuilding destroyed or damaged economies. They must often restore confidence in their currency, strengthen fiscal policies and revenue collection, reform tax administration, and re-establish financial institutions. Creating capacity for debt management and effective resource allocation, liberalizing trade policies and revising legal and regulatory frameworks to make doing business easier are preconditions in many post-conflict countries for stimulating economic growth.

The Food and Agriculture Organization of the UN (FAO)’s assessment of 50 years of experience with economic development led it to conclude that “development strategies that emphasize staple food production have proved to be cost effective in providing the poor with entitlements to food. For most of the undernourished that live in rural areas, extra employment and income derived from staple food production has been — and will continue to be — the

¹²¹ United Nations Development Programme, “Governance in Post-Conflict Countries,” New York, UNDP, no date; quote at p. 38.

¹²² Achim Wennmann, “Resourcing the Recurrence of Intrastate Conflict: Parallel Economies and their Implications for Peacebuilding,” *Security Dialogue*, 36, 4, 2005, pp. 470-494.

key to enhanced food entitlements.”¹²³ FAO’s experience with reconstructing and developing the agricultural sector in countries recovering from conflicts — Colombia, El Salvador, Guatemala and Nicaragua in Latin America; Angola, Burundi, the Democratic Republic of the Congo, Ethiopia, Mozambique, Somalia and the Sudan in Africa; Cambodia and Sri Lanka in Southeast Asia; and Algeria and Iraq in West Asia for example — indicates that, in these situations, a focus on agricultural and rural development not only stimulates economic growth and improves food security, but can also reduce the risks of future conflict.

The Asian Development Bank’s review of agricultural and rural development experiences both in war-torn countries such as Cambodia, Lao People’s Democratic Republic, and Sri Lanka, and in poor developing countries such as India, Indonesia and Pakistan suggests five conditions for the success of a growth policy initiated through agricultural and rural development that may prove to be useful in other post-conflict countries. First, the agricultural growth strategy must be equitable so that large numbers of rural residents obtain increased purchasing power from agricultural and related activities. Second, agricultural growth depends on well-developed infrastructure to link farms with non-agricultural sectors. Third, strong rural financial institutions are needed to mobilize resources and allocate them efficiently to promote a wide array of productive activities. Fourth, investment in rural education and human capital is needed to prepare rural workers to participate in non-farm employment. Fifth, as the agricultural sector grows and food security problems abate, countries must move quickly toward market liberalization and trade and investment promotion.

The German Aid organization, GTZ, concluded that public-private partnerships, privatization, and private sector development can all play important roles in promoting economic stabilization and growth in post-conflict countries.¹²⁴ State-owned enterprises are often inefficient, lack resources, and are unable to finance themselves without permanent subsidies. Liberalizing regulatory constraints, protecting property rights, creating a business climate conducive to investment, and supporting small- and medium-sized enterprise development are crucial aspects of economic stabilization and growth policies. At the same time, the GTZ found that economic growth policies must be coordinated

¹²³ Food and Agriculture Organization of the United Nations, “What Have We Learned?” *The State of Food and Agriculture 2000*, Rome: FAO, 2000, online version, www.fao.org, p. 2.

¹²⁴ GTZ, “Promoting Good Governance in Post-Conflict Societies,” *op. cit.*, pp. 17-18.

with security measures that constrain and transform economies of violence into legitimate productive economies. And the Asian Development Bank's experience in post-conflict reconstruction suggests that when economies begin to grow governments must adopt social protection programmes to reduce poverty and vulnerability among segments of the population that may not be able to benefit immediately, especially in areas suffering most severely from past or continuing intermittent conflict.¹²⁵

¹²⁵ Asian Development Bank, "Social Protection: Reducing Risks, Increasing Opportunities," Manila: ADB, 2002.

Chapter 6

Strengthening Justice and Reconciliation Organizations

Restoring governance in post-conflict countries depends in part on strengthening government's capacity to establish and maintain a competent, fair, and effective system of justice and to empower reconciliation organizations to begin healing ethnic, secular, or political wounds. The need to reconstruct the justice system and undertake reconciliation functions usually requires the government to find effective means of restructuring the courts and increasing qualified professional judicial and legal support personnel, reforming the prison system, protecting human and property rights, establishing oversight and supervision of police forces, and establishing truth and reconciliation organizations.

The initial response in many post-conflict countries is to develop mechanisms for dealing with past and continuing grievances.¹²⁶ This often involves recruiting, training and deploying interim justice personnel — judges, prosecutors, defence attorneys, court administrators, corrections staff, and police investigators — to supplement indigenous criminal justice systems, and enacting interim legal codes and justice procedures according to international standards. In some post-conflict countries, there is an urgent need to strengthen local capacity to prevent and combat organized crime. Indigenous police forces must often be reorganized and retrained, and procedures established to monitor and supervise police behaviour. Often police facilities must be rebuilt and communications systems extended while police forces are re-equipped.

Violent conflicts often devastate the judicial system, forcing judges and other court personnel into hiding, or to flee the country. Restoring governance and strengthening government in post-conflict countries often require recruiting and vetting judicial personnel, re-educating criminal justice personnel on new or interim legal codes, re-establishing court systems, law schools, and bar associations, and finding effective ways of guaranteeing citizen access to judicial

¹²⁶ A detailed discussion of the types of tasks involved in strengthening justice and reconciliation organizations can be found in "United States Department of State, Post-Conflict Reconstruction: Essential Tasks," Washington: Office of the Coordinator for Reconstruction and Stabilization, 2005, based on Robert C. Orr, *Winning the Peace: An American Strategy for Post-Conflict Reconstruction*, Washington: Center for Strategic and International Studies Press, 2004.

services. Sometimes the entire legal system must be reformed, with new codes, human and property rights protections, and the upgrading of laws to conform to international standards. Prison systems that were adapted to wartime needs usually need to be restructured for use in civilian criminal justice.

In many post-conflict countries, restoration of trust in government depends heavily on public perceptions of the efficacy of war crimes courts and reconciliation organizations. Governments and international organizations face complex tasks of establishing war crimes tribunals, collecting evidence and documentation of war crimes, investigating and arresting war criminals, and assuring fair trials for and appropriate punishment of those found guilty of atrocities and human rights violations. Healing the wounds of war often requires the creation of truth and reconciliation commissions that ease tensions among former combatants, assist victims of abuse, provide reparations to those who suffered unjustly, and promote ethnic, religious, and political tolerance and cooperation. Rebuilding the justice system usually depends on finding an appropriate balance between indigenous and customary judicial practices and modern justice institutions, providing continuing protection to vulnerable groups, and preventing tensions arising from the desire for revenge or retribution.

After the initial stages of post-conflict transition, governments are often advised to continue strengthening judicial institutions in order to assure that private citizens and businesses have equal access to legal procedures for redressing grievances and obtaining reasonable and timely resolution of disputes. Strong judicial institutions are needed to enforce business and civil laws offering adequate remedies for wrongs determined through litigation. Strong and independent judicial institutions must have competent and impartial judges; adequate physical facilities, management, and records maintenance for courts; and court procedures that are balanced, fair and guided by principles of due process, rules of evidence and discovery of evidence. Creating and enforcing a set of legal standards ensuring fair treatment of foreign investors, including those for rules on admission, entry, and establishment of foreign firms and general standards of national treatment facilitate a country's participation in international trade and investment.

The Diversity of Justice and Reconciliation Tasks

The importance of strengthening justice and reconciliation organizations is seen clearly in the diverse tasks that faced Rwanda's government after the cessation of

hostilities. The government and the international community channelled their energies into ensuring justice and the rule of law because of the urgent need to secure the peace and move toward a more stable governance system. At the end of the hostilities, widespread fear and uncertainty in Rwanda required the new Government of National Unity to address the difficult challenges of reconciling the two main ethnic communities, Tutsis and Hutus. The extensive loss of life and trauma that affected all social groups in Rwanda hampered national unity and reconciliation. Restoring confidence in the country's institutions and ensuring that the justice system produced desired social and political results were among the most delicate problems facing the Rwandan government. Trust in government could only be restored by creating an efficient, equitable, and transparent justice system that could protect human rights and prevent and manage conflicts.

With the end of hostilities, the government had to begin long-awaited genocide trials. However, Rwanda's judiciary had been decimated and its inability to manage the challenge of judging more than 100,000 prisoners contributed significantly to a destabilizing sense of lawlessness in the country. The process of establishing the rule of law in Rwanda, rebuilding the judiciary, and training judges, prosecutors, defence lawyers, and investigators was a long-term proposition. In 1994, the UN Security Council established an International Criminal Tribunal for Rwanda (ICTR). In 1999, the government created a Human Rights Commission as well, to monitor human rights developments and to educate Rwandans about observing human rights. As the NGO, International Alert, pointed out, "it has been estimated that it would take over 150 years to judge the 120,000 people accused of war crimes during the genocide through the regular courts. But without justice and the end of impunity reconciliation and reconstruction in Rwanda will be impossible."¹²⁷

The *Gacaca* court system, proposed in 1999, was implemented only in 2002 and operated alongside the regular court system. The *Gacaca* courts used traditional Rwandan means of resolving conflict and operated on four levels: cell, sector, municipality, and county. The *Gacaca* court model was an attempt to rebuild some degree of confidence in the justice system in a country torn apart by violence and genocide and to assuage cultural differences. The system was officially implemented in 11,000 jurisdictions by March 2005. The *Gacaca* courts had the

¹²⁷ International Alert, "Justice and Reconciliation — the Gacaca Process," International Alert 2006, accessed at http://www.international-alert.org/our_work/regional/great_lakes/gacaca_process.php

advantage of involving the community in the trial and sentencing processes in the attempt to expedite the trials of those accused of genocide crimes.

The governing authorities in Kosovo also faced complex and diverse justice reform tasks. Strengthening justice and reconciliation in Kosovo depended on the success of the International Criminal Tribunal for the Former Yugoslavia, a supranational organization established in 1993 by the United Nations Security Council as a legal answer to war crimes. Although it operated entirely outside the control of the constituents of the legal system that it addressed, this court sought to “spearhead... the shift from impunity to accountability, bringing justice to thousands of [war crimes] victims... and strengthening the Rule of Law.”¹²⁸ Despite the Tribunal’s many achievements, critics considered it a “political tool rather than an impartial judicial institution.”¹²⁹ Amnesty International, for instance, observed that some “courts’ judicial decisions appear to be made with political, rather than legal considerations in mind,” while it has been confirmed that “members of the judiciary have been subjected to undue political pressure through threats, intimidation and even violent attacks.”¹³⁰

Several donors supported UNMIK’s justice reforms for establishing the rule of law in Kosovo. The Organization for Security and Cooperation in Europe (OSCE) Mission in Kosovo helped create the Kosovo Judicial Institute, the Kosovo Law Centre, and the Criminal Defence Resource Centre. The Kosovo Judicial Institute (KJI) provided “initial training for future judges and prosecutors, basic training for lay judges, and promotional and continuous training for Kosovo’s judges and prosecutors.”¹³¹ The Institute also supported the implementation of the Standards for Kosovo, and played an important role in strengthening the judiciary and the rule of law. The OSCE Mission also created the Kosovo Law Centre (KLC) as an independent, non-governmental organization to “cultivate the professional skills of local legal talent in order to establish a locally run, independent and sustainable NGO that embodies, develops and promotes democratic principals, multiculturalism, high ethical standards, the rule of law

¹²⁸ <http://www.un.org/icty/>

¹²⁹ International Criminal Tribunal for Yugoslavia, accessed at <http://www.globalpolicy.org/intljustice/yugoinde.htm>

¹³⁰ Amnesty International’s recommendations to UNMIK on the judicial system, February 2000, accessed at <http://news.amnesty.org/library/Index/ENGEUR700062000?open&of=ENG-310>

¹³¹ OSCE, “Kosovo Judicial Institute,” accessed at http://www.osce.org/publications/mik/2005/09/16228_439_en.pdf

and respect for human rights.”¹³² The KLC became a legal think-tank providing Kosovo citizens with a greater understanding of the law and legal process. The Criminal Defence Resource Center (CDRC), also an OSCE project, was a public benefit NGO providing assistance to lawyers through direct case-related research and training in different areas of criminal law, including international human rights.

Other assistance organizations also sponsored judicial reform projects. IFES, an international non-profit organization that supports the building of democratic societies, worked to “improve the capacity of the Kosovar judicial system to enforce civil court judgments fairly and effectively.”¹³³ IFES also tried to improve stakeholder information to enhance public confidence in the legal system. A survey conducted by IFES in 2004 found that there was little understanding and less confidence in the impartiality of the judiciary in Kosovo. Among the causes of mistrust were the malfunctioning judiciary, the different legal backgrounds of international jurists, the lack of professional court interpreters, and the lack of cooperation between international and local jurists.¹³⁴ According to another survey conducted by IFES, in 2006 for the United States Agency for International Development, “citizens express trust in the impartiality of the judiciary in greater numbers than in the 2004 survey,” while continuing to doubt “the integrity and credentials of judges.”¹³⁵

In Afghanistan, the Interim Authority established the Judicial Commission of eminent Afghan scholars, legal practitioners, and jurists to rebuild the domestic justice system in accordance with Islamic principles, international standards, and Afghan legal traditions. The commission coordinated discussions among the permanent justice institutions on how to rehabilitate and strengthen the administration of justice. It began by organizing a comprehensive law reform programme, surveying the human, technical, and logistical needs of the justice sector and developing a selection and training programme for judges, prosecutors and other lawyers. A national plan for the justice sector based on consultations with relevant actors was developed as well. The Constitution also intro-

¹³² *Ibid.*

¹³³ “Judicial System Reform,” accessed at <http://www.ifes.org/rol-project.html?projectid=kosovojudicial>

¹³⁴ “Strengthening the Rule of Law in Kosovo and Bosnia and Herzegovina, The Contribution of International Judges and Prosecutors,” accessed at http://www.zif-berlin.org/Downloads/Almut_11.04.05.pdf#search=%22strengthening%20the%20rule%20of%20the%20law%20in%20kosovo%22

¹³⁵ *Ibid.*

duced several changes to the judicial system. The code of criminal procedures was reformed to provide a versatile system under which jurisdiction could be shifted to provincial courts from district courts where necessary.

The severe limitations on women's access to justice were addressed in a reform proposal, "Justice for All," that included a detailed plan setting out priorities, benchmarks, timelines and costs for comprehensive justice sector reform. Working groups from relevant ministries and international stakeholders were identified to implement the framework's priorities. The Legal Department of the Ministry of Women's Affairs also provided training for defence attorneys on legal services for women and conducted research on customary practices undermining women's human rights. The UNDP's implementation of the "Access to Justice" project focused on providing information about the justice system to rural communities and included legal awareness programmes and capacity building for religious and community leaders.

Creation of the Afghanistan Independent Human Rights Commission (AIHRC) was also a part of justice reform. The AIHRC conducted seminars and workshops on women's rights, human rights education, and transitional justice. It also initiated a dialogue on human rights issues with representatives of various regions. Based upon the information collected through its exhaustive consultation and other human rights work, the AIHRC published a report "Call for Justice," which not only described past human abuses but also documented in detail the people's expectations from the justice system regarding human rights protection. Following the recommendation of the AIHRC report, the President's Cabinet endorsed a five-pronged Action Plan on Peace, Justice and Reconciliation. However, the government never officially launched the plan although it did conduct a conference on truth-seeking, increase capacity for forensic work, conduct a forensic site assessment, and produce documentation on major human rights violations of the war.

The Challenges of Strengthening Justice and Reconciliation Organizations

The complexities of strengthening the justice and reconciliation systems in post-conflict countries pose difficult challenges for governments and international assistance organizations. For example, although the *Gacaca* courts in Rwanda and the UN International Criminal Tribunal for Rwanda (ICTR) in Arusha were able to

conduct genocide trials, both faced challenges in reaching credible and equitable legal settlements. The Arusha Tribunal had to improve the efficiency, effectiveness, and accountability of its policies in order to promote reconciliation and the rebuilding of Rwanda. The *Gacaca* system had to make trials consistent with international standards of fairness. By 2006, the lack of sufficient legal protection for the accused and problems with arbitrary arrest and unlawful detention still undermined guarantees of fair trial by international standards.¹³⁶

Experience in other post-conflict countries also illustrates the challenges of restoring justice. Despite the comprehensive plans for justice reform in Afghanistan, progress was impeded by the limited pool of professionally trained and experienced jurists as well as by weak coordination of the judicial reform mission with other elements of the justice sector. The absence of an international commitment to develop a penitentiary system was another obstacle to restoring law and order. Widespread corruption, political interference, lengthy pre-trial detentions, the scarcity of legal representation and other due process violations undermined public trust and confidence in the justice system. Human rights violations by the armed forces remained a particular concern. The Ministry of Foreign Affairs established a human rights unit and proposed a programme of annual human rights treaty reporting. Technical assistance was given to NGOs to act as watchdogs and produce their own reports. But a weak civil society and the lack of strong collective public pressure, combined with an atmosphere of intimidation and general insecurity, undermined efforts to carry out more intensive fact-finding or establish formal truth-seeking mechanisms on human rights abuses. The failure of far-reaching judicial reform also stymied prospects of criminal prosecutions.

In the post conflict period, maintaining rule of law and stability is essential, but not sufficient. Experience in Sierra Leone demonstrates that mechanisms must also be created to address past human rights abuses and deal with ongoing crimes and civil disputes so that a culture of accountability can be restored. Government capacity must be strengthened by recreating or reforming the judiciary system and adapting alternative quasi-judicial and non-judicial approaches to promoting reconciliation. Although the judiciary and security forces were able to maintain peace and stability, they were not equipped to address the human rights abuses that occurred during the war. Transitional justice mechanisms such

¹³⁶ Amnesty International, "RWANDA: Gacaca: A question of justice," 17 December 2002.

as the Truth and Reconciliation Commission and hybrid courts gained public acceptance as mechanisms for providing comprehensive legal redress in cases where the scale of offence and lack of evidence or judicial capacity made prosecution of all offenders practically impossible.

After more than a decade of bitter conflict in Sierra Leone, a Truth and Reconciliation Commission (TRC) contributed to healing a traumatized nation. The Commission was a product of the Lomé Peace Agreement, mandated to produce “an impartial record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the conflict in 1991 to the signing of the Lomé peace Agreement; to address impunity, to respond to the needs of victims and to promote healing and reconciliation, and to prevent a repetition of the violations and abuses suffered.” To that end, the TRC conducted research, held public sessions, and received testimony from victims, perpetrators, and other witnesses. It gave special attention to women, girls, and child victims who suffered from violence and atrocities during the war. Over 8,000 statements were taken in hearings held throughout the country. The hearings were also aired live on radio and summaries were presented on television. The TRC received public support from a cross-section of society, including ex-combatants from all sides.

Time and resource constraints, however, forced the TRC to reduce many of its functions. It also experienced administrative difficulties and concluded by publishing a final report in 2004 summarizing its findings and recommendations to the government. Recommendations included provisions for financial reparations for victims of the conflict (especially amputees) and symbolic reparations such as public memorials and the creation of a Special Fund for War Victims. Although after it received the report, the government issued a White Paper that accepted several recommendations, the pace of implementation was slow. The government declared its intention to establish a Human Rights Commission to follow up on the TRC’s investigations; but by 2006 it had taken no action to do so. Consequently, civil society organizations presented a draft omnibus bill to Parliament on the repeal of some of the legislation related to political and civil liberties, as recommended by the TRC’s Final Report.

Although the Truth and Reconciliation Commission was successful in developing an impartial and accurate history of what happened and in providing opportunities for national reconciliation, hybrid courts such as the Special Court for Sierra Leone (SCSL) had to be set up specifically to hold perpetrators of atro-

scious human rights violations accountable. The SCSL was established jointly by the Government of Sierra Leone and the United Nations. In many ways, it was a reaction of the UN to the blanket amnesty provided under the Lomé Peace Accord. While the UN played a role in the Court's establishment, it did not commit to funding. Thus the SCSL had to raise its own funds for operation.

The SCSL was created as a hybrid between an international and national court and included international, expatriate, and national judges and prosecutors. At the height of its operations, Sierra Leoneans comprised more than one third of the staff. Both Sierra Leonean and international law were applied. The Court was mandated to try those who "bear the greatest responsibility" for serious violations of international humanitarian law and national laws committed in Sierra Leone since 30 November 1996. Because the Court was established at a time of intense international debate on funding the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for Yugoslavia (ICTY) its budget, scope, and operations were minimized and streamlined. The lack of participation by Sierra Leoneans in the development of the SCSL also alienated it from the general public and decreased its success.

By 2006, only 13 people associated with all three of the country's former warring factions had been indicted by the Special Court. They were charged with war crimes, crimes against humanity, and other serious violations of international humanitarian law. Specifically, the charges included murder, rape, extermination, acts of terror, enslavement, looting and burning, sexual slavery, conscription of children into an armed force, and attacks on United Nations peacekeepers and humanitarian workers, among others. Indictments against two other persons were withdrawn in December 2003 due to the deaths of the accused.

The SCSL faced substantial challenges in achieving efficiency, control over the courtroom, sufficient legal support for the chambers, and interaction with the local judiciary. Its greatest challenge however stemmed from limited financial resources for its operations. In 2006, the Special Court's annual budget was about \$25 million, far lower than the \$120 million of the international criminal tribunals for Rwanda and the former Yugoslavia. Despite the relatively low cost of the court, SCSL has received only \$54.9 million of the \$104 million needed for four years of operation. Outreach also remained weak because neither victims nor the national legal community were sufficiently engaged in ongoing legal proceedings of the Court. The Court remained outside the national legal system and relations between the two remained tense.

Strengthening the rule of law in Sierra Leone was also complicated by the country's dual justice system in which Customary Law Courts operated in parallel with formal courts. Endemic poverty, competing priorities in reconstruction, and degradation of the judiciary in the post-conflict period imposed severe financial and human constraints on the government's ability to reform the justice system. In 2006, there were only four Magistrates assigned to places outside of Freetown and until November 2002 no magistrate court had sat in the Northern region — the part of the country most adversely affected in the final stages of the war — for five years. Challenges arose, in addition, from widespread corruption and the judiciary's lack of independence from the executive.

Given the financial and human constraints and the inaccessibility of the formal justice system, the country relied on remedial justice in the immediate post-conflict period. Providing remedial justice was a “stop gap” strategy to sustain basic judicial functions while efforts continued to build and strengthen the formal judicial system. With the help of UNDP and the Sierra Leone Law School, the government began training and equipping Justices of the Peace (JPs) for duty in the countryside. The Government designated 87 JPs and their respective Clerks or Bailiffs to receive training prior to their deployment. Most were retired civil servants or police officers who resided in the communities where they served, with comfortable personal incomes and good reputations in their communities. Their training emphasized problems of justice for women and children, international principles and standards of human rights, and issues of transitional justice. UNDP also supported the largest constituency-based NGO in Sierra Leone to develop and train district level full-time resident staff to begin work concurrently with the deployment of the JPs.

While the formal justice system was being reformed and strengthened, the vast majority of the population was served in cases involving domestic disputes, land and inheritance matters, issues of marriage and other civil disputes by the Customary Law Courts. These courts operated in all 149 chiefdoms. The judgments of these courts were not supposed to violate or contradict Sierra Leone statutory law even though customary law is applied at the discretion of each chiefdom court. Although the Customary Courts provided a service in delivering justice, they were not without problems. They were ineffectively regulated by the formal court system because there was only one customary law officer in the Ministry of Justice to supervise these courts throughout the entire country. Literacy requirements for court officials were not enforced and records of judg-

ments, sanctions, and fines were not accurately kept or reviewed. Although the government planned to review and reform the Customary Law court by establishing standards for court sittings, procedure, judgments and qualification for the Customary Court Officers, the process moved slowly.

Conclusion

Creating a fair and effective system of justice is crucial to building trust in government and in achieving reconciliation in post-conflict countries. Strengthening the justice system is essential to maintaining the rule of law, a fundamental requirement for effective governance. A democratic rule of law, as Guillermo O'Donnell argues, "ensures political rights, civil liberties, and mechanisms of accountability, which in turn affirm the political equality of all citizens and constrain potential abuses of state power."¹³⁷ Without an effective system of justice little can be done in post-conflict countries to uphold a rule of law. Donald Horowitz points out that governments and international organizations attempting to strengthen constitutional courts should focus on six dimensions: 1) the range of their jurisdiction and powers; 2) the parties who have access to them; 3) the mode of appointment of judges; 4) the tenure of judges; 5) the effect of judicial declarations of unconstitutionality; and 6) the ease or difficulty of reversing constitutional-court decisions.¹³⁸

As in all other aspects of restoring governance, however, the Office of the United Nations High Commissioner for Human Rights points out that "no universally accepted road map exists for strengthening the independence and effectiveness of the judiciary in a post-conflict environment."¹³⁹ Its experience with justice reform in post-conflict countries suggests some broad guidelines for assessing justice reform needs. Among the most important are that rule of law should be seen in any country as a flexible concept that involves more than just reforming courts, criminal justice systems and penal law and must address ways of dealing with important legal issues such as property disputes, juvenile justice, statelessness, corruption, and disarmament of combatants. Jus-

¹³⁷ Guillermo O'Donnell, "Why the Rule of Law Matters," *Journal of Democracy*, 15, 4, 2004, pp. 32-46; quote at p. 32.

¹³⁸ Donald L. Horowitz, "Constitutional Courts: A primer for Decision Makers," *Journal of Democracy*, 17, 4, 2006, pp. 125-137.

¹³⁹ Office of the United Nations High Commissioner for Human Rights, "Rule-of-Law Tools for Post-Conflict States: Mapping the Justice Sector," HR/PUB/06/2, New York: United Nations, 2006; quote at p. 6.

tice sector reform tends to be more effective when it is undertaken early in peacekeeping operations before ‘spoilers’ undermine changes and lawlessness destroys trust in the government’s ability to establish the rule of law and deliver fair and equitable justice.

Clearly, a justice system cannot simply be imposed on post-conflict countries by external experts or international assistance organizations. The success of reforms depends on the government’s agreement on overall strategies, priorities, responsibilities and benchmarks of performance improvement. Few of the reforms are likely to be successful without substantial training of the judiciary, police, legislators, and justice system personnel in countries where qualified legal professionals fled the country or were displaced from their positions during the war. At the same time, the effectiveness of a reformed justice system depends on public awareness of citizen’s rights and public education on accessing and using justice services.

As the Secretary-General of the United Nations reported, “Our experience confirms that a piecemeal approach to the rule of law and transitional justice will not bring satisfactory results in a war-torn or atrocity-scarred nation. Effective rule of law and justice strategies must be comprehensive, engaging all institutions of the justice sector, both official and non-governmental, in the development and implementation of a single nationally owned and led strategic plan for the sector. Such strategies must include attention to the standards of justice, the laws that codify them, the institutions that implement them, the mechanisms that monitor them and the people that must have access to them.”¹⁴⁰

The International Institute for Democracy and Electoral Assistance (IDEA) points out that experience in post-conflict countries indicates that achieving effective reconciliation is a long-term, deep, and broad process that involves “changes in attitudes, aspirations, emotions and feelings, perhaps even beliefs. Such profound change cannot be rushed or imposed.”¹⁴¹ The essential aspects of the process of reconciliation, IDEA argues, include: 1) replacing fear by non-violent coexistence; 2) building confidence and trust; and 3) moving towards empathy. Both governments and international organizations should focus on

¹⁴⁰ United Nations Secretary-General, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” Report of the Secretary-General, S/2004/616, New York: United Nations, 2004; quote at p. 4.

¹⁴¹ International Institute for Democracy and Electoral Assistance, “Reconciliation after Violent Conflict: Policy Summary,” Stockholm, Sweden: IDEA, 2003; quote at p. 4.

ensuring local ownership of the reconciliation process, promoting reconciliation in a timely manner, and developing reconciliation organizations that promote truth-telling, restorative justice, reparation, and healing. Others point out that the efficacy of the reconciliation process depends as well on developing clear objectives and specific definitions of human rights abuses, insuring impartiality both in investigations and prosecution of abuses, and informing the public of both the procedures and outcomes of war crimes tribunals and reconciliation organizations.¹⁴²

As with justice system reform and other reconstruction functions, no universal approach is likely to be appropriate for promoting reconciliation, and governments and international organizations must take into consideration critical factors — the legacy of the past, the intensity of past violence, extent of physical damage, cross-cutting issues, culture, and the type of political transition — in designing appropriate systems for each post-conflict country.

¹⁴² See, for example, Donna Pankhurst, "Issues of Justice and Reconciliation in Complex Political Emergencies: Conceptualizing Reconciliation, Justice and Peace," *Third World Quarterly*, 20, 1 1999, pp. 239-256.

Chapter 7

Alternative Approaches to Assisting Governance Capacity Building

As the review of the tasks in Chapters 2 through 6 suggests, international organizations assisting post-conflict countries use diverse approaches in helping to restore governance and strengthen the capacity of governments. In countries where no recognized government exists, a new one must be created, or a previous one must be reconstituted, the United Nations often establishes a trusteeship or a transition governing authority. Where governments already exist but may be weak or ineffective, donors often assist by rehabilitating shattered public institutions, funding salaries for all or a part of the civil service, helping with the government's operating expenses, or providing general or sector budget support. International assistance agencies frequently provide the services of expatriate experts to advise officials in resource-scarce ministries and departments and organize short- and medium-term training programmes for civil servants.

Increasingly, donors have found that they can enhance limited public management capacity by leveraging governments' resources through cooperation with private sector and non-governmental organizations. Sometimes, in the rush to meet the needs of people in crisis, they simply bypass governments and deliver assistance through parallel governance and administrative structures until critical gaps in public management capacity can be filled. Donors also fund private-public partnerships to deliver essential public services such as water, sanitation, or waste removal. In some cases, donors assist host governments with 'wholesaling' social services or work with private investors to build, operate, and transfer infrastructure or urge governments in post-conflict countries to privatize ineffective or inefficient state-owned enterprises.

When their ability to strengthen government to meet immediate needs is limited, their own staff and contractors often carry out tasks that extend the capacity of government ministries and they fund non-governmental organizations to provide public services and facilities in health, education, and other fields. Different approaches to international assistance for restoring governance and strengthening government, of course, are more or less appropriate in differ-

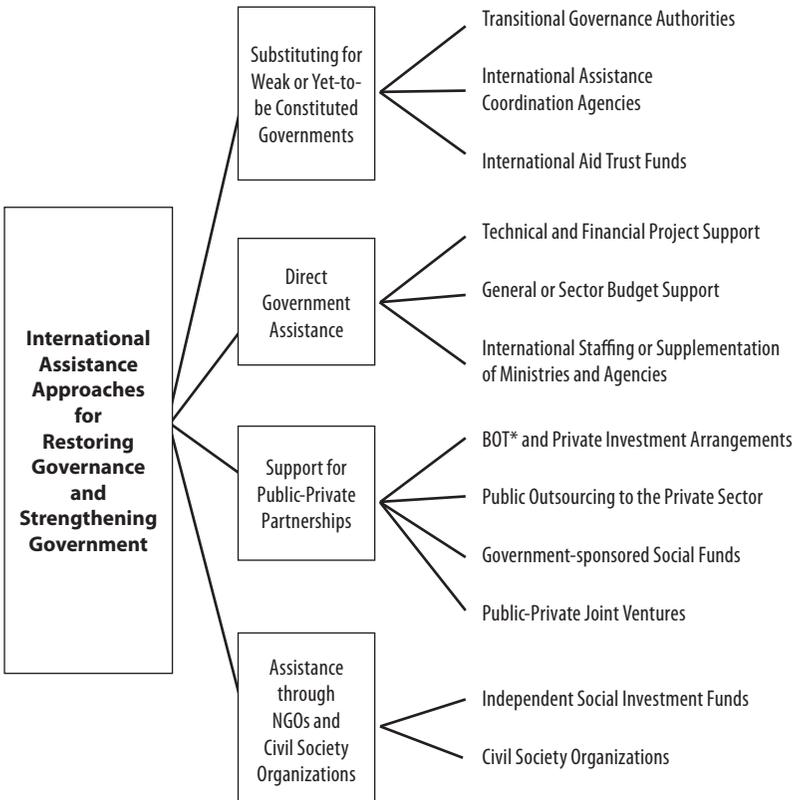
ent situations and at different stages of transition from conflict. Each of these approaches also has intrinsic advantages and limitations.

This chapter examines frequently-used approaches to assisting post-conflict countries to restore governance and strengthen governments.

Types of International Assistance for Governance Capacity Building

Among the most frequently used approaches to restoring governance and strengthening government in post-conflict countries are four broad categories of assistance: 1) substituting temporarily for weak or yet-to-be-constituted governments; 2) direct assistance for capacity-building to weak or fragile governments; 3) support for public-private partnerships; and 4) assistance through non-governmental organizations. The range of these approaches is illustrated in Figure 2.

Figure 2:
Alternative Approaches to International Assistance



*For a definition of BOT, see page 98.

Substituting for Weak or Yet-to-be-Constituted Governments

Because civil wars, internal insurgencies, and invasions by foreign military forces often overthrow existing governments or carve out territories that seek political independence or autonomy, restoring governance often calls for the creation of a new state or the replacement of a previously failed government. Between the cessation of hostilities and the creation of a new state or government, there is often a governance vacuum that the United Nations or foreign governments frequently seek to fill through assistance for ‘state building.’ State building, as Francis Fukuyama points out, “is the creation of a government that has a monopoly of legitimate power and that is capable of enforcing rules throughout the state’s territory.”¹⁴³ It usually begins in post-conflict countries with “creation of military and police forces or the conversion of the former regime’s coercive agencies into new ones.”

In many post-conflict countries, international donors have created temporary substitutes for indigenous governments, established externally-managed governance organizations, or bypassed weak governments in order to promote and maintain peace and deliver emergency or humanitarian services effectively. Among the most frequently used arrangements for supplementing the weak capacity of governments in post-conflict countries are creating transitional governance authorities, international assistance coordination agencies, and international aid trust funds.

1. Transitional Governance Authorities. In post-conflict countries where the previous government has been displaced or where a new government must be created, international organizations often create a transitional governance authority to carry out essential public functions until an indigenous government can be created. The United Nations Security Council has established transitional administrations in Kosovo, East Timor and post-conflict countries including Afghanistan and Bosnia and Herzegovina.¹⁴⁴

The United Nations established a transitional governance and administrative structure that provided most government functions in Kosovo. UNMIK was charged with performing civilian administrative functions, promoting autonomy and self-government, coordinating the humanitarian and disaster relief of all

¹⁴³ Francis Fukuyama, “Building Democracy After Conflict: ‘Stateness’ First,” *Journal of Democracy*, 16, 1, 2005, pp. 84-88; quote at p. 87.

¹⁴⁴ Henry H. Perritt, Jr. “Structures and Standards for Political Trusteeship,” *UCLA Journal of International Law and Foreign Affairs*, Fall/Winter, 2003, pp.385-472.

international agencies, supporting the reconstruction of infrastructure, promoting human rights, and assuring the safe return of refugees and displaced persons. UNMIK also maintained civil law and order and supervised the development of a Constitutional Framework establishing the Provisional Institutions of Self Government (PISG). After the creation of PISG in 2001, it and UNMIK redefined the division of responsibilities and operated as dual administrations.¹⁴⁵

Similarly the United Nations Transitional Administration in East Timor (UNTAET) created to oversee the transition to an elected legitimate government in Timor-Leste operated through a staff of 7,687 uniformed personnel, including 6,281 troops, 1,288 civilian police and 118 military observers, 737 international civilian personnel and 1,745 local civilian staff. UNTAET exercised overall responsibility for the administration of East Timor and all legislative and executive authority, including the administration of justice.¹⁴⁶

Occasionally, a foreign country that displaces a government through military incursion may also create a transitional governance authority. The United States, for example, created a Coalition Provisional Authority (CPA) as a caretaker administration in Iraq following the fall of the Saddam Hussein regime. The CPA was established and funded as a division of the U.S. Department of Defense and its American administrator reported to the U.S. Secretary of Defense. The CPA administered the Development Fund for Iraq, financed Iraq's wheat purchases, currency exchange, electricity, and oil infrastructure programmes, equipped Iraq's security forces, paid Iraqi civil service salaries, and supervised the operations of government ministries. It created and appointed members of the Iraqi Governing Council and oversaw the drafting of the temporary constitution and the Transitional Administrative Law.¹⁴⁷

2. International Assistance Coordination Agencies. International organizations also create quasi-government authorities or agencies to substitute for governments that cannot provide specific functions or carry out crucial tasks. Often, because governments in post-conflict countries are weak, unstable, or unable to extend their authority over the entire national territory, the func-

¹⁴⁵ United Nations, "United Nations Mission in Kosovo," New York: United Nations, 2001, accessed at <http://www.unmikonline.org/intro.htm>

¹⁴⁶ United Nations, "East Timor—UNTAET Mandate According to Security Council Resolution 1272 of 25 October 1999," New York: United Nations, 2001, accessed at <http://www.un.org/peace/timor/UntaetM.htm>

¹⁴⁷ Coalition Provisional Authority, *An Historical Review of CPA Accomplishments, 2003-2004*, Baghdad, Iraq: CPA, 2004, accessed at www.cpa-iraq.org

tions of aid coordination, programming and financial management must be performed by substitute or supplementary organizations set up independently of the government or in cooperation with it.

International donors in Somalia created the Somalia Aid Coordination Body (SACB) in 1994 to coordinate international assistance because of the lack of a legitimate government and the weak capacity of temporary governments to do so. The Transitional National Government (TNG) established in Mogadishu in 2000 had only limited control over the country; diverse and sometimes dissident administrations had strong influence if not outright control in cities and regions outside the capital.¹⁴⁸ Without a government counterpart with the capacity to coordinate aid, SACB became a parallel agency for aid management.

Because of security and logistics difficulties in Somalia, SACB's secretariat was located in Nairobi, Kenya. Its membership consisted of representatives of donors, UN agencies, and international NGOs. Representatives of organizations such as the Inter-Governmental Authority on Development (IGAD), the World Bank, the Organization of African Unity (OAU) and the Arab League served as ad hoc members and observers and they cooperated with autonomous organizations such as the International Committee of the Red Cross and Federation of the Red Cross. SACB provided policy guidance and technical assistance to implementing agencies and policy and operational coordination for rehabilitation and development activities, developed recommendations for the allocation of resources to different regions, and assisted with programmes for resource allocation.¹⁴⁹

Membership in the SACB was voluntary. It offered a base for information exchange for international organizations providing assistance; updated donors on political, security and humanitarian conditions and needs in Somalia; and acted as a forum for debates on important development issues and as an advocacy group for expanding social and economic aid for the Somali people. Subcommittees met regularly in and outside of Somalia to coordinate aid programmes for the country.¹⁵⁰ The SACB thus carried out many of the functions of aid coordination and programming that government ministries and agencies would ordinarily perform in countries with stronger public institutions.

¹⁴⁸ United Nations Development Programme and World Bank, "Country Re-Engagement Note: UNDP/World Bank Somalia," Washington, DC: World Bank, 2003, pp. 2-3.

¹⁴⁹ See Somalia Aid Coordination Body website: www.sacb.info

¹⁵⁰ United Nations Development Programme and World Bank, "Country Re-Engagement Note: UNDP/World Bank Somalia," Washington, DC: World Bank, 2003.

3. International Aid Trust Funds. In countries where governments are weak, lack capacity to manage large infusions of international aid, or in which donors are concerned about corruption or the legitimate use of revenues from externally-financed projects, they often set up semi-autonomous trust funds to manage aid and help strengthen government capacity. Some of the trust funds work independently of the government in countries where stable or legitimate regimes may not yet exist, or as an external parallel organization in cooperation with the national government.

For example, in the absence of a well-functioning government in East Timor, the World Bank established a trust fund in 1999 that it managed with the Asian Development Bank to coordinate the financial assistance from 12 donor countries, and with the European Commission to provide humanitarian aid and post-war reconstruction. The trust fund provided grants for infrastructure development and rehabilitation in water and sanitation, telecommunications, transport, and micro-finance. As the Government of Timor-Leste grew stronger, its ministries and agencies participated more directly in the preparation of projects for funding and in the implementation of activities financed by the trust fund.¹⁵¹

International donors set up the Afghanistan Reconstruction Trust Fund (ARTF) in 2001 to coordinate external assistance for the transitional government of Afghanistan. ARTF was funded and jointly managed by international aid agencies. It sought to provide short-term emergency funding for civil servant salaries and for projects and programmes to rebuild Afghanistan and facilitated the return of skilled expatriate Afghans to the country. ARTF promoted transparency and accountability of reconstruction assistance; supplemented the national budget for reconstruction activities; reduced the burden on limited government capacity while promoting capacity building; and helped fund the recurrent budgetary expenditures required for the government to function effectively.¹⁵²

The World Bank also uses trust funds to channel aid to low income countries under stress (LICUS), most of which are fragile states and post-conflict societies. These trust funds, administered by the International Development Association (IDA), seek to promote policy and institutional reforms, improve government

¹⁵¹ World Bank and Asian Development Bank, "Trust Fund for East Timor (TFET): Report of the Trustee," Washington: World Bank, 2005.

¹⁵² See World Bank, "Afghanistan Reconstruction Trust Fund," accessed at www.worldbank.org.af

performance, strengthen the government's ability to deliver social services, and harmonize donor activities. The trust funds support capacity building for governance reform and for enhancing government capacity for service delivery.

Where governments are weak and donors see strong risks of corruption or lack of financial management capacity, they often create special trust funds that the government cannot control alone. The trust funds seek to protect income from internationally-financed infrastructure or other revenue-producing projects from misappropriation and see that they are allocated to development activities. Increasingly, the World Bank uses trust funds or special administrative arrangements as part of its system of safeguards to assure that revenues from large-scale infrastructure projects that it supports are allocated to programmes that reduce poverty or achieve other social objectives.

For example, in supporting the Chad-Cameroon petroleum pipeline project, the Bank insisted on the creation of a special revenue management programme in which 10 per cent of Chad's dividends and royalties on oil were placed in a "Future Generations Fund." The bank insisted that 80 per cent of royalties and 85 per cent of dividends were earmarked to priority social development sectors — education, health and social services, rural development, infrastructure, and environmental and water resource management — and the remainder was allocated for regional development in the oil-producing area. Chad's revenues were deposited in an escrow account and in the Future Generations Fund at Citibank in London. The programme required the creation of a petroleum oversight committee — the *Collège de Contrôle et de Surveillance des Ressources Pétrolières* (CCSRP) — to monitor the use of petroleum revenues. The CCSRP included representatives of the Government, Parliament, the Supreme Court and civil society, who had to approve all allocations and disbursements of oil revenues.¹⁵³ Although the Government of Chad eventually undermined its trust fund commitments, the Bank was able to protect revenues for social development for a few years and to take punitive action against the government when it unilaterally changed the allocation of funds going into the general treasury. The Bank and the Government of Chad eventually reached a negotiated settlement to adjust the conditions of the trust fund arrangements.

¹⁵³ M. Edgar Barrett, "The Chad-Cameroon Oil Project: Poverty Reduction or Recipe for Disaster," Thunderbird Case # A03-04-0023, Glendale, AZ: Thunderbird: The Garvin School of International Management, 2004.

Assisting Governments Directly with Restoring Governance

Donors most often support the restoration of governance through direct technical and financial assistance to the national government and its ministries and agencies. International agencies have provided technical and financial aid in stand-alone governance reform projects and government strengthening programmes by pooling technical and financial assistance with other donors to support the government's administrative strengthening objectives, offering professional, technical, or managerial training and education, or financing the twinning of the country's civil service ministry, agency, or commission with one in another country.

1. Technical and Financial Project Support. Most international assistance organizations and bilateral donors prefer to target their assistance by strengthening specific ministries or agencies of governments in post-conflict countries, or to support the creation or expansion of development programmes that the donors believe are crucial for reconstruction.

After a transitional government was created in Afghanistan, for example, most national governments that made commitments at the Bonn Conference to assist in the country's reconstruction and development focused their assistance grants on specific programmes or interventions identified in the preliminary needs assessment undertaken by the United Nations Development Programme and the World Bank. Donor countries divided functions and tasks and assisted the new government in Afghanistan either directly or through United Nations Specialized Agencies. Japan, for example, focused its aid on resettling refugees, improving education and health care, and programmes for empowering women and removing land mines. The United States announced that its assistance would go to government programmes that would quickly create jobs, generate income, stimulate the economy, rebuild infrastructure, and resettle refugees and displaced persons. The United States also focused its financial and technical aid on government agencies that would create agricultural alternatives to poppy cultivation and the ministries rebuilding infrastructure and education and health systems.¹⁵⁴ The European Union pledged aid for rebuilding civil, social, and military structures and services, resettling refugees and displaced persons, and promoting democracy

¹⁵⁴ United States Department of State, "Powell Announces U.S. Giving \$296 Million for Afghan Aid," Press Release, 21 January, Washington, D.C.: U.S. Department of State, 2002.

and the inclusion of women.¹⁵⁵ Germany committed assistance for basic education, health care, development of the private sector and micro-finance institutions, water and sanitation services, the development of state structures, support for women's programmes, and establishing and training police forces.¹⁵⁶

Several organizations also provided direct technical and financial assistance to ministries and agencies in Mozambique. Since 1995, the Government of Denmark's foreign assistance agency, DANIDA, has been the lead donor in improving Mozambique's legal sector. It invested nearly \$15 million over a decade and financed the construction of courts and houses for judges, the formulation of a strategic plan for the Ministry of Justice, and the establishment of the judicial training centre.¹⁵⁷ It also financed a Technical Unit for Legal Reform to modernize outdated legislation. Additionally, assistance has led to the establishment of an anti-corruption unit in the Public Prosecutor's Office. UNDP also supported justice reforms in Mozambique, the first phase of which included creating legal and judicial training centres for justice personnel, modernizing the prison system, and enhancing the individual skills of justice personnel.

2. General Budget Support. Although technical and financial assistance from donors to government agencies and ministries in post-conflict countries is one of the most frequently used approaches to restoring governance and strengthening the public sector, some international agencies assist weak governments with general budget support.

The World Bank, for example, coordinated multi-donor funded grants for general support that contributed \$10 million to the national budget of Timor-Leste and was earmarked for strengthening the capacity of staff in the Ministry of Planning and Finance and line ministries and districts, particularly in planning and financial management. The United Kingdom's Department for International Development provided both general and sector budgetary support to help governments in Afghanistan, Ethiopia, Mozambique, Rwanda, Serbia and Montenegro, Sierra Leone, The former Yugoslav Republic of Macedonia and Timor-Leste to reduce poverty.

¹⁵⁵ European Commission, "The EU's Relations with Afghanistan," Brussels, Belgium: European Commission, 2002.

¹⁵⁶ Federal Republic of Germany, "Germany's Contribution to Reconstruction and Development in Afghanistan," Bonn, Germany: FRG, 2002.

¹⁵⁷ United Nations, "Background: United Nations Operations in Mozambique," 1994, assessed at http://www.un.org/Depts/dpko/co_mission/onumozFT.htm

In Mozambique, the United Kingdom and other donors provided direct budgetary support to restore governance. After 30 years of political disruption from violent conflict and economic devastation, the government faced complex challenges in carrying out post-war reconstruction and redevelopment tasks. Yet, “the state apparatus that was to address these problems was poorly resourced in several senses: a very small tax base, a centralized but vertically fragmented administration, antiquated management systems, exceedingly low levels of educated and trained staff, and a weak legislature and judiciary.”¹⁵⁸ In order to quell the civil war and achieve reconstruction and redevelopment, international donors provided budget support equivalent to about 87 per cent of gross national income (GNI) in 1992. Although international assistance declined to below 30 per cent of GNI in the late 1990s, official aid disbursements subsequently contributed more than half of all public spending and about 66 per cent of total public investment.

From 1994, a group of donor countries joined together to provide general budget support to help the government of Mozambique focus on reducing poverty. The poverty reduction general budget support programme reached nearly 19 per cent of net official development assistance to Mozambique in 2004.¹⁵⁹ Early in the process donors concentrated budget support in sector ministries — especially in health, education and agriculture — and later in the Ministry of Planning and Finance to develop capacity to manage sector support arrangements. The general budget support sought to increase the proportion of on-budget public expenditure targeted to poverty reduction programmes and to increase the capacity of the government in policy analysis, budget planning, financial management, and programme implementation. The programme also sought to increase the government’s financial accountability and transparency.

3. International Staffing or Supplementation of Government Ministries or Agencies. Lack of administrative capacity or weaknesses in public administration in many post-conflict countries require international donors either to temporarily staff government agencies and ministries or to perform functions that are normally the responsibility of government organizations. Donor staff, technical advisors, or contractors often perform public administration functions

¹⁵⁸ Government of the United Kingdom, “Evaluation of General Budget Support—Mozambique Country Report,” London: Department for International Development, 2006; quote at p. 1.

¹⁵⁹ *Ibid.*

either in conjunction with government agencies or in place of them. In some cases they play such a significant role that they become, in effect, 'shadow governments.' In Burundi, the United Nations provided technical assistance and staff to many of the government's ministries and agencies during more than a decade of civil war, "often seeming to take on more responsibility for the functioning of the country than the Government did."¹⁶⁰

In countries in conflict or in post-conflict recovery United Nations Peacekeeping Forces or United Nations Missions, for example, play strong roles in staffing and financing internal police and security forces. Once peace and stability was established in Timor-Leste, security services continued to be provided by UNTAET. During the post-conflict period, UNTAET developed plans to create the new East Timorese police and military. UNTAET international staff also provided justice services to the country while Timorese continued to be trained as judges, lawyers and support staff by the UN and its bilateral and multilateral partners. Nonetheless, by 2007 the judiciary still remained one of the weakest sectors and required continued international support. The United Nations continued the deployment of 19 international judges, prosecutors, and public defenders to the Timorese justice system. International assistance also continued for strengthening the legislature. UN civilian advisers were not only directly involved in drafting laws but also in conducting formal training of national legal officers.

In 2005, the United Nations Stabilization Mission in Haiti (MINUSTAH) provided more than 6,000 military personnel to carry out security functions that would ordinarily be a government responsibility. In addition, MINUSTAH mobilized 648 civilian police officers from 33 countries and 750 police units from four countries to supplement, supervise, and train Haiti's military and police forces.¹⁶¹ MINUSAF personnel, jointly with the Haitian National Police (HNP), restored law and order in trouble areas and moved against former soldiers attempting to carry out a *coup d'état*. UN forces carried out operations to prevent or end illegal activities of former military personnel and to protect HNP forces and facilities. Similarly, the United Nations Mission in Liberia (UNMIL) mobilized more than 14,000 international military troops to provide security

¹⁶⁰ International Crisis Group, "A Framework for Responsible Aid to Burundi," Nairobi and Brussels: ICG, 2003; quote at p. 8.

¹⁶¹ United Nations Security Council, "Report of the Secretary-General on the United Nations Stabilization Mission in Haiti," S/2005/24, New York: UN, 2005.

for a weak government during 2004 and 2005, and provided more than 1,000 civilian police to carry out security and crime prevention functions that the government could not perform.¹⁶²

Because technical capacity in the Ministry of Finance in the Democratic Republic of the Congo was so weak after years of conflict, the IMF posted resident advisors with the Ministry and with the Central Bank to take on many of the tasks of developing and implementing policies for effective management of financial institutions. The IMF also took the lead in formulating a strategy for rebuilding fiscal institutions, arranging for technical assistance, recommending policies, programmes, and procedures for financial management reforms, and assessing progress on the implementation of reforms.¹⁶³

Supporting Public-Private Partnerships

In the absence of a functioning government or because of weak administrative, technical, or financial resources within existing governments, international organizations often support partnerships between the transitional authority or existing government and private organizations to rebuild infrastructure and provide services in post-conflict countries. They encourage private investment in government-sponsored infrastructure projects, the creation of build-operate-transfer arrangements, and outsourcing or 'wholesaling' of services to the private sector. They also sponsor social funds to provide resources for infrastructure and services through private or non-governmental organizations and joint ventures between state enterprises and private companies.

1. Build-Operate-Transfer and Private Investment Arrangements. In many post-conflict countries, international donors encourage or require governments with weak administrative capacity to use private sector financing and management to build, operate, and transfer (BOT) infrastructure for ministries, agencies, and state-owned enterprises. This approach to providing assistance enhances the limited capacity of government agencies. Donors recommend build-operate-transfer arrangements most frequently in infrastructure and service provision projects, but occasionally support BOTs to establish or re-establish and temporarily operate government agencies. BOTs and other forms of private

¹⁶² United Nations Security Council, "Seventh Progress Report of the Secretary-General on the United Nations Mission in Liberia," S/2005/391, New York: UN, 2005.

¹⁶³ International Monetary Fund, "Background Paper for Rebuilding Fiscal Institutions in Post-Conflict Countries," Fiscal Affairs Department, Washington, DC: IMF, 2004, pp.11-14.

investment provide important financial resources for weak governments seeking to reconstruct post-conflict countries.

The World Bank calculated that between 1990 and 2002 private investment in infrastructure in 31 conflict countries totalled more than \$112 billion and that \$15 billion of that investment went into 'non-functioning' conflict countries.¹⁶⁴ Although the amount of private sector investment in infrastructure in conflict countries was only about 18 per cent of that in non-conflict countries, the scale indicates that under appropriate conditions governments in post-conflict countries can attract private participation in the reconstruction or extension of infrastructure. The sectors attracting the most private investment in post-conflict countries in the period immediately after peace were usually mobile telephony and electricity, followed by transport and water.

In post-conflict countries, bilateral donors support the use of private investment and BOTs in reconstructing large-scale infrastructure primarily in telecommunications, transport, shipping, airport, energy, and water and sewerage sectors, often through tied aid. Usually in a BOT project, a private sector consortium acts as the developer for the infrastructure or service network, obtains financing from international institutions and sometimes the government, seeks guarantees from donor organizations and the government, builds the project, operates it long enough to pay back loans and recoup an acceptable return on investment, then transfers the assets and operations to the government. The government buys or leases completed facilities from the private investors.

BOT arrangements have been used extensively to build telecommunications systems, highways, utilities, and water supply systems, and to operate them under a concession from the government. In Afghanistan, a BOT project undertaken by TCIL of India, funded by a \$14 million tied aid grant from the Government of India, built wireless telecommunications loop networks in 11 secondary cities.¹⁶⁵ The Government of Sri Lanka, even during a period of continuing conflict with the Tamil Tigers, extended cellular telephone service through Sri Lanka Telecom — a joint venture with the Japanese company NTT — and licensing of local loop mobile networks to private companies. Sri Lanka Telecom operated about 85 per cent of Sri Lanka's fixed line telecom market and the government relied on licenses

¹⁶⁴ Jordan Schwartz, Shelly Hahn and Ian Bannon, "The Private Sector's Role in the Provision of Infrastructure in Post-Conflict Countries: Patterns and Policy Options," Washington, DC: World Bank, 2004.

¹⁶⁵ Ken Zita, "Afghanistan Telecom Brief," New York: Networks Dynamics Associates, 2004.

to Sun Tel, a private joint venture between companies based in Sweden, Hong Kong, the Sri Lankan National Bank and the International Finance Corporation to provide Internet and ISDN voice and data services. MTN Networks, a subsidiary of Telecom Malaysia, is licensed to provide cellular telecom services along with CellTel Lanka, Mobitel and Lanka Cellular.¹⁶⁶

In Cambodia, the post-conflict Government used licensing and concession arrangements to provide a wide array of public services and infrastructure. Concessions were given to private enterprises for garbage collection for Angkor Wat and Phnom Penh, for road building and maintenance in provinces, for development of airports, for Internet Service Providers and for Voice-Over-Internet Protocol development.¹⁶⁷

2. Public Service Outsourcing to the Private Sector. In many countries recovering from conflict, limited government capacity must often be focused on the immediate needs for providing security, building the legitimacy and stability of government, and extending its authority over the national territory. Although providing public services is a crucial need in post-conflict countries, weak administrative capacity in many ministries and agencies limits their ability to extend services to large portions of the population. In countries with scarce administrative, financial, technical and logistical capabilities, international organizations sometimes support public service ‘wholesaling,’ an arrangement in which governments attempt to focus scarce administrative capacity building on implementing broad service and infrastructure policies and supervising and coordinating service provision through what Collier and Okonjo-Iweala call ‘retail organizations’ — private firms, small-scale enterprises, NGOs, ethnic or religious groups, or other civil society organizations.¹⁶⁸

Generally, governments ‘wholesale’ services through private organizations using three mechanisms: 1) service contracts, 2) management contracts and 3) lease contracts. Donors often encourage government agencies to contract with private firms to provide a specific service for a specified period of time. Governments use service contracts to provide low-cost housing, operate schools, clinics

¹⁶⁶ K. Zita and A. Kapur, “Sri Lanka Telecom Brief,” New York: Network Dynamics Associates, 2004.

¹⁶⁷ World Bank, “Cambodia Seizing the Global Opportunity: Investment Climate Assessment and Reform Strategy for Cambodia,” Report No. 237925-KH, Washington, DC: World Bank, 2004.

¹⁶⁸ P. Collier and N. Okonjo-Iweala, “World Bank Group Work in Low-Income Countries Under Stress: A Task Force Report,” Washington, DC: World Bank, 2002.

or hospitals, or provide a wide variety of other public services and utilities. Contracting has become one of the most important methods of privatizing water and wastewater treatment services in many countries. The government of Guatemala, for example, contracted for companies to procure, purify, distribute, meter, and charge for water in the larger cities. Tariffs were approved by the national government, which also monitored water quality. In Sierra Leone, after conflicts abated, the government used service contracts with small- and medium-sized enterprises for road maintenance in order to leverage its own limited administrative capacity and to redevelop local enterprises and individual contractors.¹⁶⁹

In some crisis or post-conflict situations, the governing authority not only lacks the administrative capacity to provide services directly, but may not have the managerial or technical skills to manage the service wholesaling process. At times, international donors have either provided the management expertise themselves by supervising procurement, contracting, and oversight or provided funding for the government to outsource these responsibilities to a third party. For example, from 1996 to 2000, the Palestinian Water Authority (PWA) used the Gaza Management Contract to outsource water and sanitation services in Gaza. The management fee for the contract had two components — a fixed payment and a performance-linked payment based on the operator's score on 32 performance targets. The PWA outsourced the technical and financial audits of the private operator to an international company, Deloitte and Touche Norway, with financial assistance from the Norwegian bilateral donor agency. Deloitte and Touche Norway's evaluation supplemented the contractor's audit and the PWA's assessment.¹⁷⁰ Final decisions on performance-linked fees were based entirely on the independent auditor's report.

By outsourcing this regulatory aspect of contract management, the PWA enhanced its administrative capacity to verify the contractor's performance, used the auditing organization to put pressure on the operator to perform at higher levels, and encouraged the operator to revamp its operations and management team in order to comply with all of the performance measures. Because the auditing organization was both politically and administratively independent of the PWA and the Palestinian Authority, it could enforce the quality measures objectively.

¹⁶⁹ World Bank, "Project Performance Assessment Report, Republic of Sierra Leone: Roads Rehabilitation and Maintenance Project, Freetown Infrastructure Rehabilitation Project," Report No. 29308, Washington DC: World Bank, 2004.

¹⁷⁰ Sophie Tremolet, Padmesh Shukla, and Courtenay Venton, "Contracting Out Utility Regulatory Functions," Washington, DC: World Bank, 2004.

The outsourcing arrangement created a non-political regulatory mechanism that reduced PWA's costs of developing its own regulatory procedures.

2. Government-Sponsored Social Funds. In many developing and post-conflict countries, international donors encourage governments to create social funds through which organizations of civil society channel financing to local governments and community organizations to provide services or accomplish social development objectives. Social funds usually act either independently of government (see the section on civil society organizations below) or under the auspices of a government agency. They become intermediaries that “appraise, finance, and supervise implementation of social investments identified and executed by a wide range of actors, including local governments, non-governmental organizations, local offices of line ministries, and community groups.”¹⁷¹

Between 1987 and 2003, the World Bank alone financed nearly 60 social funds, some of which were government sponsored and others of which were independent, in post-conflict countries or areas such as Angola, Cambodia, East Timor, Eritrea, Ethiopia, Kosovo, Lebanon, Rwanda, Sierra Leone, Sri Lanka, and the West Bank and Gaza.¹⁷² Most of the social funds affiliated with governments were located in the office of the Prime Minister or President, although some were in sector ministries, the Ministries of Finance or Planning, or a government bank or government foundation. They were usually organized and operated relatively independently of government and political influence, however, and when they were funded by international donors they were subject to independent audits using international standards.

For example, one of the largest government-sponsored social funds in a post-conflict country was that funded by the World Bank in Nicaragua. The Nicaragua Social Investment Fund (FISE) was created as a temporary agency by Presidential decree in 1990 and the World Bank twice extended its funding into the early 2000s. Between 1991 and 1998 FISE accounted for about 40 per cent of the total public investments in social sector infrastructure, constituting about one per cent of Nicaragua's GDP.¹⁷³ Although FISE's four-member board of directors

¹⁷¹ Mukhmeet Bhatia, “Social Funds: A Review of Public Sector Management and Institutional Issues,” Social Protection Discussion Paper Series No. 0508, Washington, DC: World Bank, 2005; quote at p. 1.

¹⁷² Julie Van Domelen, “Social Capital in the Operations and Impacts of Social Investment Funds,” Washington, DC: World Bank, 2003; quote at p. 1.

¹⁷³ World Bank, “Nicaragua Ex-Post Impact Evaluation of the Emergency Social Investment Fund (FISE),” Report No. 20400-Nt, Washington: World Bank, 2000.

was appointed by the President, the organization was run by an executive director and operated relatively autonomously from political influence. It was exempt from government budget, procurement, and personnel recruitment regulations. Financing for FISE was through a special account in a commercial bank approved by the World Bank Group's International Development Association (IDA) and audited by independent organizations using World Bank auditing standards.

In a period when Nicaragua's government was focused on recovering from conflict and attempting to stabilize governance, FISE provided a parallel means of wholesaling public services and reconstructing infrastructure. FISE provided most of its financing to extremely poor communities for water system, education and health projects, environmental, municipal infrastructure, and sanitation projects, and construction of low-cost housing for the poor and for early childhood development centres. FISE worked with national government ministries, local governments, associations of municipalities, local civil society organizations, and donors.

Assisting through Non-Governmental Organizations

The United Nations System and other international organizations assisting post-conflict countries now define governance broadly to include the actions not only of government but also of the private sector and civil society organizations. As a result, international assistance for strengthening governance is increasingly channelled through a wide range of non-governmental organizations (NGOs) and social groups. Over the past two decades, international donors have come to see a robust network of social and civic institutions — commonly referred to as 'social capital' — as essential to the effective operation of markets and to economic development. In many developing countries social capital has powerful consequences because civic networks and norms ease the dilemmas of collective action by institutionalizing social interaction and reducing opportunism, by fostering norms of social reciprocity and social trust, and by facilitating political and economic transactions. Well-developed networks of civil institutions also amplify the flows of information and help transmit knowledge of people's reputations that lower economic and social transaction costs.¹⁷⁴ They offer channels for reliable political, economic, and social collaboration.

¹⁷⁴ See Robert Putnam, "The Prosperous Community: Social Capital and Public Life," *The American Prospect*, 4, 13, 1993, pp. 35-42; and Khalid Malik and Swarnim Wagle, "Building Social Capital through Civil Engagement," in Dennis A. Rondonelli and G. Shabbir Cheema (eds.), *Reinventing Government for the Twenty-First Century*, Bloomfield, CT: Kumarian Press, 2003, pp. 143-160.

In post-conflict countries where governments lack the capacity to extend services throughout the country donors often attempt to 1) support independent social investment funds as social service wholesalers, or 2) strengthen independent civil society organizations as parallel suppliers of social services.

1. Independent Social Investment Funds. As pointed out earlier, international donors have increasingly used Social Investment Funds to support NGOs in providing social services in developing countries. Although some social funds emerge indigenously many are created by encouragement and support of international assistance agencies in countries where public administration capacity is weak or inadequate. Independent social funds are “agencies or programs that channel funds in the form of community grants for small-scale development projects that are identified, prepared and implemented by local actors, such as community groups, local governments and non-governmental organizations.”¹⁷⁵ Unlike government-sponsored social funds, independent social funds operate outside of the government structure as parallel organizations.

Like government-sponsored ones, independent social investment funds finance public infrastructure and services such as water supply systems, local roads, schools and health centres, provide micro-financing for income-generating projects, run nutrition or literacy campaigns and youth programmes, furnish support for the elderly or disabled, and train members of local NGOs and civil society organizations. Usually they simply fund other organizations — local governments, NGOs, and community organizations — to implement programmes rather than delivering services directly. Thus, in some sense, they are parallel non-governmental ‘public service wholesaling’ organizations that use other NGOs to extend services to citizens. Donors see social investment funds as a means of creating temporary organizations that can act quickly to extend services during or following a crisis or in countries where public administration capacity is limited.

2. Civil Society Organizations. In many crisis and post-conflict countries, international donors encourage and support government efforts to strengthen civil society organizations as permanent independent and parallel providers of social services. Although they may have no formal contract or arrangement with government agencies, they either supplement limited public administration capacity or substitute for government in providing serv-

¹⁷⁵ Julie Van Domelen, “Social Capital in the Operations and Impacts of Social Investment Funds,” Washington, DC: World Bank, 2003; quote at p. 1.

ices. While the definition of civil society organizations varies from country to country, among the most important institutions of civil society are employers' organizations; industry associations; commercial associations; labour unions; employee groups; professional associations; policy and advisory groups; the media; gender, language, religious, and other social-interest groups; and community and neighbourhood groups.

The use of this approach in Rwanda resulted in promoting civic participation at the district level, particularly in strengthening civil society organizations' involvement in organizing local elections and monitoring their processes and outcomes.¹⁷⁶ International assistance channelled to civil society organizations in Rwanda increased their capacity to provide health and education services, training programmes, and special assistance to vulnerable groups, especially women. Women in parliament, civil society, and government created 'cross-sector' initiatives to play a more significant role in economic, social and political development during the transition years after the cessation of hostilities. Assistance to the media allowed news organizations to expand information available to the public about the operations of government and to increase transparency and accountability within public and private institutions.

In Rwanda, NGOs and international organizations worked together with government agencies attempting to restore agriculture. The United Nations Children's Fund (UNICEF), the Food and Agriculture Organization of the UN (FAO) and other UN Organizations, USAID, and several bilateral donors funded the nationwide "Seeds of Hope Initiative," providing seeds and tools for rural households in order to increase agricultural production and food security. Although the Rwandan Ministry of Agriculture and FAO provided some coordination for the programme, it was largely implemented by NGOs such as CARE, Catholic Relief Services, Lutheran World Federation, World Vision, and *Action Nord-Sud*.¹⁷⁷ CARE, for example, carried out large-scale surveys of rural households to determine needs and to better understand the problems in delivering agricultural inputs, and *Caritas Internationalis* in conjunction with Catholic churches delivered thousands of metric tons of vegetable seeds to farm households. World Vision provided seed and tool packages, helped rehabilitate

¹⁷⁶ "Rwanda Decentralization Assessment," USAID, July 2002.

¹⁷⁷ David Tardif-Douglin, "Rehabilitating Household Food Production After War: The Rwandan Experience," in Krishna Kumar (ed.), *Rebuilding Societies After Civil War: Critical Roles for International Assistance*, Boulder, CO: Lynne Rienner Publishers, 1997, pp. 265-285.

the seed multiplication programmes and paid the salaries of some government extension agents until the government could take over the responsibility.

Also, many of the donors' commitments to assist with post-war reconstruction in Afghanistan were through NGOs such as the International Committee of the Red Cross, the Red Crescent Society, CARE, Oxfam, *Médécins Sans Frontières*, the Islamic Relief Agency, and Handicap International. These organizations provided a variety of social services that the Afghanistan transitional government simply did not have the administrative or financial capacity to perform.¹⁷⁸ Both international and local civil society organizations in Mozambique took an active role in developing the country after the cessation of hostilities, especially by extending services and promoting economic development in rural areas. Many NGOs worked in partnership with the government at both the central and local levels, and the government encouraged and enabled NGOs to become involved in reconstruction.¹⁷⁹

Conclusion

Because the challenges facing governments in crisis and post-conflict countries are complex and varied, international organizations can rarely, if ever, rely on universally-applicable approaches to assisting them in restoring governance. Each country has a unique history, a different political tradition, culture, and society, and different levels of capacity to recover from hostilities, making the needs and conditions for restoring governance quite varied. Each country requires a different combination of financial and technical aid. Although post-conflict countries may share similar problems, in no two countries will those problems manifest themselves in exactly the same way. Policies and programmes that were successful in one country have to be modified and adapted if they are tried in others. The complex process of restoring governance and strengthening government requires different time horizons to accomplish similar tasks in different countries and, in all of them, the time horizon is usually long.

¹⁷⁸ Dennis A. Rondinelli, "International Goals and Strategies for Afghanistan's Development: Reconstruction and Beyond," in John D. Montgomery and Dennis A. Rondinelli, (eds.), *Beyond Reconstruction in Afghanistan: Lessons from Development Experience*, New York: Palgrave Macmillan, 2004, pp.11-31.

¹⁷⁹ United Nations Economic Commission for Africa, "Countries Emerging from Conflict: Lessons on Partnership in Post-Conflict Reconstruction, Rehabilitation and Reintegration," Addis Ababa, Ethiopia: UNECA, 2003.

International assistance organizations have learned that improving the capacity of government to carry out their post-conflict functions and responsibilities requires choosing among different combinations of approaches. The United Kingdom's Department for International Development (DFID) found from its experience in Nepal, for example, that for countries in conflict or in post-conflict recovery it is important to be flexible and fluid in the use of aid instruments as circumstances change, and to use a mix of aid instruments including grants, sector support, and assistance to non-governmental organizations.¹⁸⁰ Assessments of reconstruction efforts in East Timor found that international assistance programmes that used an appropriate combination of approaches were essential to progress after hostilities ended. Rohland and Cliffe found that "a focus on community-driven reconstruction and the deployment of private sector and NGO capacities in the initial stages can achieve rapid results on the ground while the capacity of the public administration is building up."¹⁸¹

Each of the international assistance approaches has both strengths and weaknesses in restoring governance and strengthening governments in post-conflict countries. Assistance for restoring governance is likely to be successful only if international assistance organizations carefully assess the appropriateness and feasibility of alternative approaches in preparing aid plans and programmes. Chapter 8 discusses the factors that international organizations should take into consideration in determining the appropriateness, feasibility, and timeliness of assistance to restore governance and strengthen governments in post-conflict countries.

¹⁸⁰ J. Armon, C. Berry, and D. Duncan, "Service Delivery in Difficult Environments: The Case of Nepal," London: Department for International Development, 2004.

¹⁸¹ K. Rohland and S. Cliffe, "The East Timor Reconstruction Program: Successes, Problems and Tradeoffs," World Bank Conflict Prevention and Reconstruction Working Papers, No. 2, November, 2002; quote at p. ii.

Chapter 8

Lessons for International Assistance: Delivering Appropriate, Balanced and Timely Aid

Although restoring governance and strengthening government are essential to sustaining peace and reconstructing post-conflict countries, they are complex and difficult processes. The record of success in restoring governance in post-conflict countries is mixed. The governance indicators reviewed in Chapter 1 clearly point out that even those countries that have been undergoing post-conflict reconstruction for more than a decade are still weak in all six categories of World Bank measures.

Without efficient, effective, and competent governance, however, the challenges of carrying out essential reconstruction activities and performing all of the other functions that lead to political stability become nearly impossible to overcome. Because governments are often so weak in the immediate post-conflict period, international assistance organizations play a leading role in mobilizing financial and technical assistance for restoring governance and increasing the capacity of all governance institutions — government, the private sector, and organizations of civil society — to carry out the tasks of reconstruction effectively.

Two decades of experience now yields lessons that can provide guidelines for improving the efficacy of international assistance. The large number of countries still in crisis or in recent post-conflict recovery guarantees that the need for international assistance will continue for the foreseeable future.

Placing the Challenges in Context: Conditions in Crisis Countries

Addressing the complexities of restoring governance and strengthening government requires international assistance organizations to take account of the specific, and often dynamic, conditions in post-conflict countries. Choosing appropriate approaches to restoring effective governance depends on understanding the stage of transition that the country is in, the status of its government and governance system, and the conditions of conflict resolution.

Stage of Transition

Establishing effective governance in crisis countries requires different approaches in three distinct but related stages of transition that may require different types of governance functions and reconstruction tasks: 1) immediate post-crisis reconstruction; 2) a transition period from immediate recovery to basic stability; and 3) a period of stabilized governance beyond transition.¹⁸²

A recurring lesson from the experience with reconstruction in post-conflict countries is that no universal set of reforms — and especially those usually prescribed for strengthening governance in more advanced economies and in politically stable countries — is likely to be appropriate or feasible in many of the countries in the immediate period after cessation of hostilities. The approaches to external technical assistance and the prescriptions for restoring governance must be tailored to the specific conditions in, and needs of, conflict-torn societies. Often, the feasibility of interventions is limited by the social, political, economic, and military conditions in the country and by the weak absorptive capacity of the government. In order to succeed, proposed changes have to focus on increasing the capacity of government to perform those roles and functions that are most urgent during a five-to-ten year (or longer) period of reconstruction and transition. Once the country has recovered from conflict and has become more economically and politically stable and the legitimacy of government has been better established, political leaders can begin to think about more extensive reforms.

Although it is not always easy to do, it is important for international assistance organizations to think about restoring governance in post-conflict societies in three distinct but related stages, each of which may require different types of administrative capacity and government personnel. First, in the immediate post-conflict reconstruction period, often lasting from five to ten years, the government must address fundamental and urgent issues of maintaining peace and security, re-establishing governance, redeveloping the economy, and reintegrating society. Second, in the transition period, of from an additional five to ten years, the government needs to stabilize the country's economy and governance structure and the civil service must move toward performing the types of functions usually carried out in more stable political systems and societies. Third, in a period of stabilized governance beyond transition, government approximates in

¹⁸² Dennis A. Rondinelli, "Rebuilding and Reforming Public Administration in Post-Conflict Societies: Implications for International Assistance," Washington, DC: U.S. Agency for International Development, 2006.

its functions and should be able to perform, those roles normally identified with growing economies and institutionalized governance in more mature political systems. Each period requires of governance institutions somewhat different functions and responsibilities and may require government personnel who differ as well, in their orientations, perceptions of the roles of government, competencies, and needs for support systems during the processes of reconstruction, transition, and stabilization.

Status of Government

Assessing the need for restoring governance in post-conflict societies is further complicated by the fact that such countries differ substantially in terms of the status of government after the cessation of hostilities. In some cases, such as those of Afghanistan, East Timor and Iraq, the creation of an entirely new government based on a new constitution along with a partially or wholly new civil service system was required. Other societies, such as those in Bosnia and Herzegovina and Kosovo, required that a new state be fashioned during a transition from a UN Trusteeship or externally controlled governing authority, involving the recruitment of new government officials and the reorientation of officials working for the previous governing authority. In countries such as Cambodia, a restructured coalition government had to be formed among opposing factions, which sometimes required a balancing of the civil service by recruiting new public officials from dissident groups. In yet other countries, such as Ethiopia, it was necessary to strengthen an existing government in order to establish its legitimacy with and extend its authority to territories or groups that militarily opposed the ruling regime. Each case required a different set of governance reforms.

Moreover, in many post-conflict countries, the government must also be transformed from a totalitarian, authoritarian, dictatorial or elite-controlled system to a more representative or democratic one.

Status of Hostility Conditions

The most appropriate types of governance reforms may also be affected by the status of the resolution of violent conflict. As UNDP points out, three types of post-conflict situations require different responses by government: 1) The cessation of hostilities brought about by a decisive victory by one side that creates a self-enforcing peace (e.g. Eritrea, Timor-Leste); 2) a mediated conflict cessation

agreed to by two or more warring factions, but not including other dissident groups or some elements of society that are unable to participate or voice concerns (e.g. Cambodia and Mozambique); and 3) conflicted situations in which one side achieves military victory without a comprehensive peace settlement (e.g. Afghanistan and Rwanda).¹⁸³

In a self-enforcing situation, government can often focus more quickly on reconstruction and restoration activities and on transition to a more stable governance system. In mediated and conflicted situations, the government may have to focus more intensely on building trust and legitimacy, providing security, dealing with intermittent outbreaks of violence, peace building, and integration of dissident groups into the governance process, all of which can delay both reconstruction and transition to stability.

In post-conflict countries, the challenges facing international assistance organizations are: first, to find and use **appropriate** approaches to assistance that fit different and often rapidly changing needs and conditions; second, to **balance** complex and sometimes countervailing objectives and pressures; and, third, to act in a **timely** manner and to properly sequence aid in achieving goals over time. In order to be successful in assisting post-conflict countries with restoring governance, international organizations must use financial and technical assistance approaches that not only increase the capacity of government, the private sector, and civil society organizations to take responsibility for complex reconstruction and development, but also to sustain them when foreign assistance declines or finally ends (see Figure 3).

Appropriateness: Formulating Approaches that Meet Country Needs

Determining the most appropriate and feasible ways of restoring governance and strengthening governments in post-conflict countries, especially in the period immediately following the cessation of hostilities and in the transition from reconstruction to a more stable political system, can only be done by understanding the needs and conditions in each country. Careful diagnosis of the requirements and needs of government to perform recovery and reconstruction tasks is essential in designing appropriate assistance policies and for successfully implementing them.

¹⁸³ United Nations Development Programme and Chr. Michelsen Institute, "Governance in Post-Conflict Situations," Bergen, Norway: Chr. Michelsen Institute, 2004.

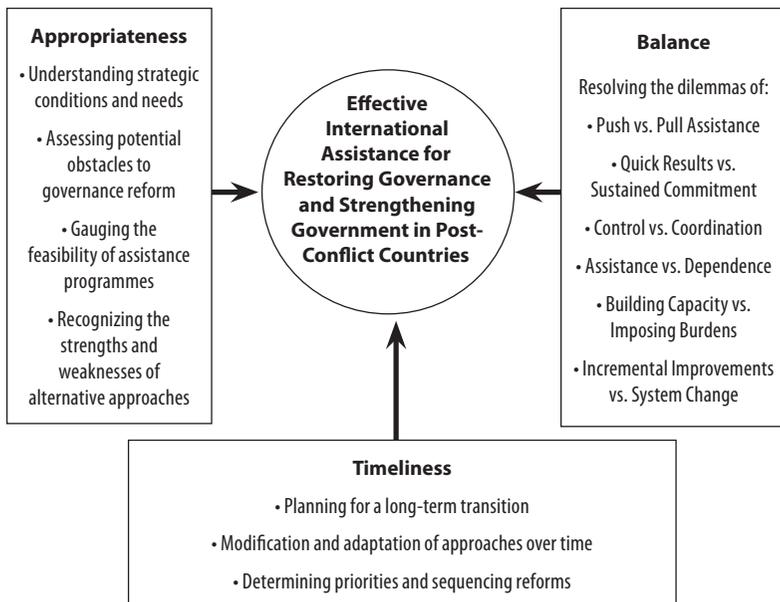
Experience with post-conflict reconstruction and development suggests that international assistance organizations need not only to formulate appropriate, balanced, timely, and effective approaches, but also to integrate three crucial sets of factors into their plans and programmes. International assistance for restoring governance is likely to be more successful if it clearly reflects:

1) an understanding of **strategic conditions and needs** within post-conflict societies, including the challenges that governments face, their strengths and weaknesses in meeting those challenges, the most critical tasks and functions that governments must carry out in a five-to-ten-year time frame, and the deficiencies in government capacity for providing services and implementing reconstruction policies;

2) a recognition of **potential obstacles to reform**, including the potential for overcoming or preventing the most frequent bottlenecks or hurdles to restructuring government;

3) an assessment of the **feasibility** of approaches to international assistance, including the ability to implement an assistance programme that meets all or most of the donors' principles for preventing aid dependency; and

Figure 3:
Components of Effective
International Assistance Approaches in Post-Conflict Countries



4) a clear recognition of the **strengths and weaknesses of alternative assistance approaches**, and of the conditions under which they are likely to be feasible.

Understanding Strategic Conditions and Needs

Diagnosis of the needs and conditions for reconstruction and redevelopment in post-conflict countries and of the comparative strengths and weaknesses of government in carrying out essential governance functions is the first step in designing an appropriate assistance programme. Although it was not always the case in the past, international assistance organizations are now more frequently basing their technical and financial aid for post-conflict countries on comprehensive needs analyses.¹⁸⁴

The failure to understand strategic conditions leads not only to inappropriate interventions, but also to a higher probability that any proposed governance reforms will fail. The World Bank's evaluation of its civil service reform assistance during the 1990s, for example, found that only about one-third of the interventions achieved satisfactory outcomes and noted that inadequate information on civil service performance, limited attention to cultural change and strategic management, the failure to appreciate important contextual constraints, and the failure to create checks and balances on arbitrary government action all undermined assistance for strengthening public administration.¹⁸⁵

The UNDP, the World Bank, and individual country donors increasingly collaborate or prepare formal needs assessments in formulating plans for post-conflict recovery assistance. In Afghanistan, for example, the UNDP and the World Bank explored the requirements for immediate recovery assistance in seven areas where the new government faced weaknesses, and that were required for broader reconstruction: 1) governance; 2) community empowerment and participation; 3) the return and reintegration of refugees and internally displaced populations; 4) strengthening the capacity of women's organizations to participate in political and social activities; 5) drug control; 6) peace building

¹⁸⁴ D. A. Rondinelli, "International Goals and Strategies for Afghanistan's Development: Reconstruction and Beyond," in J. D. Montgomery and D. A. Rondinelli (eds.), *Beyond Reconstruction in Afghanistan: Lessons from Development Experience*, New York and London: Palgrave Macmillan, 2004, pp. 11-31.

¹⁸⁵ World Bank, "Civil Service Reform: A Review of World Bank Assistance," Operations Evaluation Department Sector Study No. 19599, Washington, DC: World Bank, 1999; quote at p. 2.

and conflict prevention; and 7) human rights. The UNDP assumed a coordinating role in bringing donor assistance to nearly all of the activities identified in the preliminary needs assessment.

Creating governance capacity was seen as a fundamental condition for carrying out other assistance programmes in Afghanistan. The UNDP noted that “effective governance is built on sound economic policy, transparent and accountable public institutions, a free media, robust and independent legal frameworks and judicial mechanisms which, *inter alia*, protect and promote the rights of all citizens.”¹⁸⁶ The needs analysis allowed donors to prioritize and sequence programmes to strengthen the government in Afghanistan.

The World Bank’s analysis suggested that, in the short-term, external assistance to the new government in Afghanistan should focus on: 1) agricultural recovery and food security; 2) providing basic services and small-scale development programmes in communities; 3) generating livelihoods for returning refugees and displaced people; 4) rehabilitation of the main road networks; 5) public works programmes for generating short-run employment; 6) re-starting and expanding education and health programmes, especially for girls and women; 7) building human capacity in areas of social service delivery, infrastructure development, and public administration; and 8) expanding the programme to remove land mines.¹⁸⁷

Although international assistance organizations have improved their needs analysis, realistic assessments of conditions under which the needs will be met often fall short of the mark. An inadequate understanding of local conditions can often result in overlooking complexities and latent factors that can undermine assistance plans and programmes. For example, in Angola, following the signing of the Lusaka Protocol in 1994, dialogue between the government and UNITA led to the formation of joint armed forces and the national police force. At that time, the United Nations established the Angola Verification Mission III and later the United Nations Observer Mission (MONUA). MONUA planned to gradually withdraw UN military personnel as State administration was extended throughout the country. MONUA’s civilian police component would continue to verify the neutrality of the Angolan National Police, the integration of UNITA personnel into the national police, as well as the quartering

¹⁸⁶ United Nations Development Programme, “Immediate and Transitional Assistance Programme for the Afghan People 2002,” New York: United Nations, 2002; quote at p. 12.

¹⁸⁷ *Ibid.*, p. 2.

and occasional deployment of rapid reaction police. The unit would also monitor the demobilization and disarmament process.

But this original plan of demobilization and extension of state administration into all parts of Angola never came to fruition. Despite the efforts of both the UN and the government, the situation in the country continued to be tense following the Lusaka Protocols. Continued military actions by UNITA resulted in deteriorating security, humanitarian, and human rights conditions. Events in the Democratic Republic of the Congo and disputes over control of the diamond-producing areas also contributed to an escalation of tensions in the provinces on the Angola-Congo border. A United Nations Security Council resolution condemned UNITA and held its leaders responsible for the failure to implement fully its obligations under the Lusaka Protocol and other Security Council resolutions. As a punishment and incentive, the Security Council imposed sanctions on UNITA, including restrictions on travel by its leaders. It requested all UN Member States to freeze funds and property belonging to UNITA, and cease all official contacts with the UNITA leadership in areas still under the rebel group's control.

The peace process in Angola continued to be stalled throughout the mid-1990s because of mutual mistrust between the government and UNITA. By 1998, four years after the signing of the Protocol, no progress had been achieved in normalizing State administration throughout the country. Observing that the peace process in Angola had collapsed and that the country was again in a state of war, MONUA had no other option but to further reduce its presence and proceed with the orderly repatriation of UN personnel and property.

Assessing Potential Obstacles to Governance Reform

Decades of experience in both conflict-ridden and non-conflict developing countries reveals myriad obstacles to effective implementation of governance reforms.¹⁸⁸ Too often international assistance organizations — in the rush to provide humanitarian and emergency relief and to deliver support to transitional or interim governments after the cessation of hostilities — focus heavily on assessing reconstruction needs, but overlook or ignore the potentially strong obstacles to restoring governance and strengthening government capacity.

¹⁸⁸ See, for example, C. Wescott, "Guiding Principles on Civil Service Reform in Africa: An Empirical Review," *The International Journal of Public Sector Management*, 12, 2/3, 1999, pp. 145-170.

In neither poor countries nor wealthy ones have governance reforms been enacted and implemented easily. In his assessment of the failures of public administration reforms, Palidano emphasizes that “they do not fail because, once implemented, they yield unsatisfactory outcomes. They fail because they never get past the implementation stage at all. They are blocked outright or put into effect only in tokenistic, half-hearted fashion.”¹⁸⁹ The reasons for the disappointing results, he points out, include lack of political commitment and bureaucratic support, attempts to undertake too many changes simultaneously, the tendency of donors to push reforms on recipient governments, the limited absorptive capacity to make significant changes within countries, and attempts by international assistance organizations inappropriately to transfer reforms adopted in Western countries to developing countries. Often, governments that do pursue reforms run into problems arising from conflicts among ministries and agencies with different objectives and bases of power, fear among ministry officials of losing personnel or budgetary resources, and widespread inertia because no organization within government has overall coordinating responsibility for implementation of reforms or because the reforms lack a sufficient number of ‘champions’ within government to sustain their momentum.

In post-conflict countries, international assistance organizations may encounter even more complex and difficult obstacles if they rely on purely technocratic prescriptions that view government reform merely as ‘organizational re-engineering’ rather than as a political issue, or where there is insufficient public pressure or support for change. Other obstacles can arise from the lack of ownership by the government of externally prescribed reforms, weak political commitment to implement them, or the administrative or financial inability of existing ministries and agencies to make the changes needed to restore or strengthen governance. ‘Silo’ mentalities among officials in bureaucracies, especially if ministries or agencies are controlled or dominated by rival political factions, often prevent them from sharing information or cooperating with each other across organizational boundaries. Opposition to governance reform from those benefiting from corruption or political privilege in the current governing structure can also undermine prescriptions for change.

¹⁸⁹ C. Palidano, “Why Civil Service Reforms Fail,” IDPM Public Policy and Management Working Paper , No. 16, Manchester, England: University of Manchester, 2001; quote at p. 1.

International assistance organizations must analyse these and other potential obstacles to restoring governance carefully before supporting projects or programmes in post-conflict countries. Either the obstacles need to be overcome prior to embarking on reform projects or they need to be taken into consideration in designing reforms and planning for their implementation. Failure to adequately assess these potential obstacles can result in international organizations prescribing approaches to governance reform that governments in post-conflict countries do not have the capacity to carry out.

Assessing the Feasibility of International Assistance Programmes

Appropriate interventions by international assistance organizations in post-conflict countries depend not only on a clear understanding of local needs and conditions and of the potential obstacles to implementation, but also on selecting feasible approaches to international assistance. International assistance organizations should support programmes for the restoration of governance and strengthening government only when they meet both the government's and the donor's criteria for sound technical and financial assistance. The diagnosis should assess both the substantive needs of governments in post-conflict countries to carry out immediate and transitional tasks and the ability to meet most or all of the donor's criteria for feasible interventions. Experience indicates that international plans for restoring governance and strengthening government in post-conflict countries are likely to be feasible only if they meet indigenous needs, fit national economic, social, and political conditions, and have the support of 'champions' among political and bureaucratic leaders.¹⁹⁰

International organizations and bilateral donors should assess the potential feasibility of assistance to crisis and post-conflict countries based on the following considerations:

1. **Level of commitment and support.** At the highest level, are there political and bureaucratic leaders who are willing to take ownership of plans and programmes for restoring governance and strengthening government? Do they have the resources and commitment to successfully implement the programmes? Is there sufficiently strong leadership in key ministries and agencies to support and willingly participate in reform activities? Is a large enough

¹⁹⁰ See, for example, K. Berhanu, "The Changing Features of Public Administration in Ethiopia: The Challenges," *Development Policy and Management Forum*, VII, 3, 2000.

group of personnel in the civil service willing to accept reforms and abide by changes in the system?

2. Appropriate conditions for sustaining government reform. What conditions affecting government reform are likely to change over the next five years? What potential changes in the country are likely to create new opportunities for reform? What potential changes within or outside the country are likely to threaten the feasibility and sustainability of reform? What contingency plans do donor organizations and governments need to address these threats or opportunities should they arise? How should donors respond to risks and opportunities in reform policy and programme implementation?

3. Existing and potential capacity for reform. Which public agencies and ministries are most in need of strengthening to carry out government policies and programmes and deliver services that are most urgently needed in the immediate post-conflict and transition periods? How effective is the executive branch in carrying out these tasks? What types of personnel are needed to increase capacity? What types of managerial, financial, and technical skills need to be developed?

4. Durability of proposed reforms. How should governance reforms be designed to ensure that their impact endures? What political, economic, social, and administrative factors will determine the sustainability of the reforms? What conditions need to be established to support and sustain the reforms after implementation? What are the short-term and long-term goals and objectives of reform? What resources will be needed to achieve these goals? How will progress and performance in achieving the goals be measured? How can poor performance in achieving reform goals be reversed or improved?

5. Priority and sequencing. In which areas of government are the priorities for strengthening the highest in order to carry out urgent reconstruction and redevelopment tasks? In which ministries or agencies are the needs the greatest over the next three to five years in order to promote transition from hostilities to greater stability? In which ministries or agencies is commitment to reform the strongest?

6. Analytical requirements. What types of studies, surveys, and research are needed to determine the conditions under which government strengthening programmes are most likely to succeed? How can best practices from governments in similar situations be adapted to local conditions and needs? How

would the design of reform programmes ensure compatibility with local conditions and needs?

7. Potential for coordination and collaboration. What types of collaborations are needed between international assistance organizations and the government in order to promote capacity building? What types of partnerships between government, local communities, NGOs, the private sector and other organizations are likely to make the design and implementation of government reforms more effective and sustainable?

8. Monitoring, assessment and evaluation. What types of accountability systems need to be created to ensure the proper use of donor funding for restoring governance and strengthening government? How can transparency be built into the aid package to ensure effective use of external and internal resources for reform and to guard against diversion of funds for other purposes or from corruption? What types of monitoring and evaluation should donor agencies require to maintain government accountability in the reform process?

Stakeholder analysis is especially important in providing assistance for restoring governance because changes in institutions, organizations, and personnel systems inevitably create both 'winners' and 'losers' within and outside government. The potential winners from reforms may not always see the benefits clearly enough to support changes and the potential losers may be able to mobilize strong opposition to them. In addition, conditions within countries that have been in conflict for many years may not be easily predictable and without a detailed stakeholders' analysis the feasibility of international assistance can be undermined or weakened.

When support by stakeholders for governance reforms is weak, international organizations meet strong obstacles to change. For example, donors supporting the Disarmament, Demobilization and Reintegration (DDR) programme in Afghanistan through the UNDP encouraged systematic voluntary disarmament and demobilization. They worked with the government to offer a range of options for reintegrating ex-combatants into the economy and society, focusing on agriculture, vocational training and job placement, small business opportunities, de-mining, teaching, government jobs, wage labour, and joining Afghan national army or police. The Second Phase of the DDR programme sought to disband illegal armed groups in order to overcome the ban precluding individuals with links to illegal armed groups from standing as candidates in Afghanistan's elections.

From the outset, the DDR programme faced complex challenges because of resistance from powerful political factions. The actual strength of many of the militias, their protection and patronage by political interests within the government, and the international community's fear of destabilizing vulnerable areas contributed to the uneven and slow progress on disarmament. Efforts to minimize the imminent security threat with minimal investment in an international force and in security sector reforms resulted in entrenching ex-combatants who had long records of human rights abuse and war crimes and who were involved in drug trafficking and other crimes in their new positions in the emerging government. Resistance was also fuelled by mistrust among ethnic factions and scepticism about the impartiality of any internationally-driven process of reintegration. Furthermore, local pressures resulted in the use of incentives that provided for voluntary disarmament by the handover of heavy weaponry but left small arms largely untouched.

Other challenges to reform came from some commanders who tried to extort soldiers' severance benefits and from the close bond between former commanders and their soldiers that resulted in a strong social network of dependency. Although the DDR programme gave increasing attention to the demobilization and reintegration of former commanders with financial opportunities, training, study tours abroad, and even government positions, by 2006 the overall feasibility of the programme remained in doubt when armed groups continued to threaten security and political stability.

Similarly, the feasibility of plans by the United Nations Mission in Liberia (UNMIL) to provide support for legal and judicial system reform was brought into question by the complexity of traditional legal systems and the conflicting interests of those seeking to preserve them. UNMIL achieved modest reforms as did the Foundation for Human Rights and Democracy (FORHD), Amnesty International, the United Kingdom's DFID, the Locally Initiated Networks for Community Strengthening (LINCS), the U.S. Agency for International Development, and the Association of Female Lawyers of Liberia (AFELL). Significant restructuring of the legal and judicial systems was slowed, however, by conflicting interests of stakeholders.

Progress was limited by those groups who opposed modernization of the legal system and by those with vested interests in existing arrangements, making it difficult to amalgamate statutory law and the state-sponsored customary laws. Liberian customary law operated beyond state oversight. In some cases,

customary chiefs abused the rights of detainees in contravention of international standards. Magistrates' Courts often applied civil procedure in criminal cases because they lacked legal texts.¹⁹¹ Internally, competition over jurisdiction of customary and state judicial officers made change more difficult and there was little collaboration between influential officers in the judiciary and the UNMIL's Legal and Judicial Systems Support Division. Beyond jurisdictional challenges, interference by government officials in the work of the judiciary compromised its independence. Influential officials exploited loopholes in the law for political reasons and to protect their power, thereby undermining public trust and confidence in the judicial system.

Conflicts among stakeholders with different political interests not only made judicial reform difficult but threatened to reverse even modest gains in police reform and in the few judicial changes that had already been made. Customary leaders opposed attempts to abolish customary law, and doing so before statutory law is operational could completely undermine the legal system in Liberia.

Recognizing the Strengths and Weaknesses of Alternative Assistance Approaches

Given the complexities of and variations in conditions in crisis and post-conflict countries, international organizations and bilateral donors must take into consideration the strengths and weaknesses of alternative approaches to providing support for restoring governance and strengthening governments. All of the approaches to delivering assistance that were reviewed in Chapter 7 have potential advantages and disadvantages. Recognizing strengths and weaknesses and choosing those approaches that are most appropriate and feasible for a country at a particular time and under existing conditions determines to a large extent how successful they will be in helping post-conflict countries.

A comprehensive and detailed assessment of the strengths and weaknesses of each of the international assistance approaches described in Chapter 7 is beyond the scope of this book. A brief review, however, illustrates the types of potential advantages and drawbacks that international assistance organizations should assess in determining the feasibility and effectiveness of the approaches they use to deliver assistance for restoring governance.

¹⁹¹ International Crisis Group Africa Report No. 107, "Liberia: Resurrecting the Justice System," April 6, 2006.

1. Substituting for Weak or Yet-To-Be-Constituted Governments. International organizations substitute for indigenous governments when they are not fully constituted or have been displaced by civil war or external invasion. They supplement the resources of weak governments that are struggling to gain popular legitimacy or are unable to extend their authority over the entire national territory. UN Trusteeships or transitional authorities fill a void where governments must be reconstituted or re-established. International assistance coordination agencies also provide some degree of planning and integration of donor activities, and international trust funds can help manage financial resources effectively so that they are not diverted or misallocated by weak governments. For international donors seeking to help people quickly in war-torn countries, approaches that bypass or substitute for weak governments may be the only options available.

Critics of internationally-established governance arrangements such as UN Trusteeships or foreign-controlled Transitional Administrations argue that such approaches may be the only immediate options available, but they are inconsistent, inadequate, and inappropriate for long-term nation building.¹⁹² They argue, for example, that benevolent autocracies are weak bases for developing legitimate and stable national governance, that post-conflict aid delivered through them is often supply-driven rather than demand-driven, and that external assistance tends to decline or disappear after the immediate crises fade from worldwide attention. Moreover, externally-controlled transitional authorities often impose unrealistic expectations, overlook or dismiss as ineffective indigenous sources of governing competence, rely too heavily on one political faction to form a new government, or prescribe overly complex standards of governance in fragile states.

For example, initiating the constitution-making process in East Timor required creating a political body that could effectively and legitimately oversee drafting of a new government charter. When the United Nations Transitional Authority for East Timor (UNTAET) became the *de facto* temporary successor of Indonesia as the government in East Timor, it operated under two assumptions: first, that there was imminent threat of an outbreak of conflict, and second, that there was a political vacuum in the country. However, while there

¹⁹² The arguments are made most forcefully by Simon Chesterman, "You, the People: The United Nations, Transitional Administration, and State-Building," Washington, DC: New York: International Peace Academy, 2003.

was both an administrative and legal vacuum, in reality there was no political vacuum. The resistance movement in East Timor had developed political as well as military skills and was able to mobilize and use political support. Failing to recognize indigenous capacity, the UN administration appointed a 15-member National Consultative Council (NCC), which was responsible for reviewing and commenting on UNTAET's proposed policies and regulations, but without the power of initiation or veto. The glaring contrast between the resources of UNTAET's international staff and those of the Timorese, combined with UNTAET's apparent failure to do much more than provide emergency relief, led to a crisis of legitimacy.

UNTAET's success in promoting constitution making relied, ultimately, on aggressive political actions by the rebel group, Fretilin, and its leader Xanana Gusmão. However, promoting a constitution-writing process that relied almost entirely on a privileged political party marginalized other stakeholders in East Timor. UNTAET made no formal attempt to consult most of the ex-combatants or to involve NGOs or youth groups in the process. NGO participation was rebuffed. As a result, NGOs created informal monitoring groups who attended the debates of the assembly and issued regular reports to the public. Not all Timorese were able to participate in the constitution-drafting process because as many as 10 per cent of the population remained in refugee camps.¹⁹³ Also, those who did not initially support the independence of Timor-Leste found it difficult to participate in drafting the constitution. The devastated transportation and communication infrastructure limited participation of those outside the capital. And although women were represented in the process, attempts to advance the interests of women as a group generally failed.

Other attempts to bypass governments or establish arrangements that protect resources from corruption or misallocation have not always worked as intended in fragile states. Although in creating a trust fund to channel revenues from the Chad-Cameroon pipeline for social development the World Bank placed strong emphasis on building skills and capacity in Chad's government to manage oil revenues effectively, on maintaining transparency and accountability, and on strengthening the Ministry of Finance through training in public resources management, the trust fund approach did not fully achieve the intended objectives. The Government of Chad undermined the process by enacting a law diverting the oil revenues

¹⁹³ IDEA, *op. cit.*, p. 11

to the national treasury in 2005, creating a conflict with the World Bank that was only resolved after months of negotiation.¹⁹⁴

The dangers of approaches that substitute for or bypass governments have been known for more than a quarter of a century. The tendency of the World Bank, regional development banks, and bilateral aid programmes to create autonomous Project Implementation Units (PIUs) or Project Management Units (PMUs) for large-scale projects during the 1970s and 1980s in order to avoid government weaknesses often created as many problems in developing countries as they solved.¹⁹⁵ They continued to set up PMUs in post-conflict countries such as Bosnia and Herzegovina where the central government was weak. Because these autonomous PMUs often paid higher salaries than did the civil service and were not constrained by bureaucratic regulations and procedures, they often attracted away from governments some of countries' most talented public administrators. Because they had large amounts of resources, many PMUs did not need to coordinate or integrate their work with government ministries and agencies and became powers unto themselves.

Although PMUs were created as temporary project implementation organizations, they often perpetuated their existence by seeking continued international funding for increasing numbers of new projects, often competing with regular government agencies for funding. They often responded more willingly to donor criteria and objectives than they did to the development plans of the host country governments and had minimal incentives to respond to the needs of the people who were the intended beneficiaries of their projects. Few autonomous PMUs contributed to developing administrative capacity within the government; many of their employees took jobs with the private sector, international donors, NGOs, or multinational corporations after gaining skills and knowledge while working on internationally-funded projects.

2. Direct Technical and Financial Support to Governments. Most international organizations and donors use direct technical and financial assistance projects and programmes to help ministries and agencies of recipient countries build capacity for reconstruction and development. Direct assistance allows donors to target their contributions to what they consider to be high-prior-

¹⁹⁴ Lydia Polgreen and Celia W. Dugger, "Chad's Oil Riches, Meant for Poor, Are Diverted," *New York Times*, February 18, 2006, p. A.1.

¹⁹⁵ See Dennis A. Rondinelli, *Development Projects as Policy Experiments: An Adaptive Approach to Development Administration*, 2nd Edition London: Routledge, 1993.

ity needs within post-conflict countries, to maintain some degree of control over the use of aid, and to provide technical assistance in functions in which they have developed expertise. By working with specific ministries and agencies, donors can build capacity in the organizations directly responsible for carrying out governance or redevelopment functions they support. Direct assistance allows them to influence policy changes needed to improve capacity, and to monitor and evaluate progress toward intended goals.

However, direct technical and financial assistance to governments in post-conflict countries can also have negative impacts. Multiple donors providing assistance to a weak government in a post-conflict country can overwhelm whatever administrative capacity exists to absorb and coordinate a large influx of funds, technical experts, and donor design, supervision and evaluation teams. Too much technical and financial assistance from too many donors can increase the burdens on weak governments' administrative capacities, making it difficult for them to manage aid and comply with the reporting requirements of multiple assistance agencies. Donors may work at cross purposes, focus their aid on what the government considers inappropriate functions, or pressure governments to attend to functions that political leaders believe have low priority within the country. Technical and financial assistance projects often come with stringent recipient country conditions that reduce or eliminate the government's flexibility in using the funds, require the government to use consultants or contractors from the aid-giving country, and impose requirements for enacting donor-prescribed policy changes. Foreign aid projects and programmes are often staffed by recruiting the more talented officials in the recipient government, who are lured by higher salaries and benefits than they could receive in the civil service, thereby draining weak governments of their most qualified personnel.

General Budgetary Support (GBS) can be an effective way of providing more flexible funding to assist governments in equipping and supplying ministries and agencies to carry out their functions, make financial management more efficient, focus resources on high-priority service improvements, and increase the capacity of public servants to do their jobs more effectively without the constraints and conditions that often come with donors' project assistance.¹⁹⁶ Through general budgetary support, international organizations can give gov-

¹⁹⁶ Oxford Policy Management and Overseas Development Institute, "General Budget Support Evaluability Study Phase I: Final Synthesis Report," Report to the UK Department for International Development, Oxford and London: OPM and ODI, 2002.

ernments the financial resources they need to prepare for, design, and implement reforms without intervening directly in the process.

Yet, as with direct technical and financial assistance for specific projects or programmes, general budgetary support can distort the recipient government's priorities toward those of most importance to donors. In some cases, it allows the government to divert its own expenditures from crucial tasks to less important ones by substituting external funds for national revenues. If post-conflict governments have weak financial management systems or are plagued by corruption, external budget support can be diverted to non-productive uses or for illegal personal gain. Sustained external financial assistance can create aid dependence, relieving pressures on the government to make needed economic and financial reforms or improve public finance systems. Experience suggests that general government support should only be used if donors believe that the government has adequately skilled staff to manage the infusion of financial resources effectively, has adequate financial management systems to ensure that external resources will not be wasted or diverted to non-productive uses, and can assure financial integrity and control of corruption.¹⁹⁷

3. Supporting Public-Private Partnerships. In post-conflict countries where governments are weak or lack managerial and financial resources to reconstruct infrastructure and deliver services effectively, international organizations often support public-private partnerships or outsourcing of service delivery through the private sector. By outsourcing to or working in partnership with the private sector, governments in post-conflict societies can benefit from the private sector's management capacity, experience in service delivery, and incentives to keep costs down.¹⁹⁸ Cooperating with the private sector also allows governments to adjust the size of programmes incrementally as demands or needs change. Partnerships that partially or completely displace inefficient state enterprises can help reduce government subsidies or losses and relieve fiscal pressures on the national treasury. Through public-private partnerships, governments can take advantage of the private sector's ability to respond more flexibly to 'market

¹⁹⁷ J. Lieberman, "What Conditions Favor the Success of General Budget Support? Mozambique Country Case Study," Evaluation Brief Number 11, Washington, DC: U.S. Agency for International Development, 2004.

¹⁹⁸ For a detailed discussion see D.A. Rondinelli, "Partnering for Development: Government-Private Sector Cooperation in Service Delivery," in Dennis A. Rondinelli and G. Shabbir Cheema (eds.), *Reinventing Government for the 21st Century: State Capacity in a Globalizing Society*, Bloomfield, CT: Kumarian Press, 2003, pp. 219-239.

signals,' more easily procure modern technology, and develop stronger capacity to maintain infrastructure than can public agencies. Public-private sector cooperation can also generate jobs and income while meeting demand for public goods and services.

In Nicaragua, for example, in the absence of strong public administration capacity in the post-conflict period, private medical services filled the gap, eventually overtaking the public sector as a major provider of health care in most of the country. As the government became more stable, it began to partially privatize portions of the public health system. As one observer notes, "the government has introduced the provision of private services within public hospitals as well as the contracting of specialized private medical services. The supply of pharmaceuticals for the entire public system has been contracted with private firms, and some donors like AID and the World Bank have suggested the privatization of some or all public hospitals."¹⁹⁹

Public service outsourcing through private and non-governmental sectors can help to overcome weak or limited capacity in government ministries and agencies to provide services to poorer communities or to more remote geographical areas. Public-private joint ventures, BOTs, and private investment can more quickly mobilize financial resources and managerial capacity to reconstruct infrastructure and extend services than depending on revenue raising by governments still struggling to establish their legitimacy. The World Bank Group's encouragement of BOTs and private investment in infrastructure provides some financial guarantees against the high levels of political and financial risk, corruption, and weak public administration capacity that can hamper the undertaking of projects by multinational corporations in post-conflict societies.

Often, private firms can avoid the bureaucratic problems that plague government agencies, and they can also experiment with new technologies and procedures. Outsourcing or public-private partnerships allow governments to extend services without increasing the number of public employees and without making large capital investments in facilities and equipment. Private firms can often obtain higher levels of labour productivity than can civil service systems, use part-time labour where appropriate, and use less labour-intensive methods of service delivery. Partnering with the private sector gives local governments

¹⁹⁹ Tilman Bruck, Valpy FitzGerald and Arturo Grigsby, "Enhancing the Private Sector Contribution to Post-War Recovery in Poor Countries, Part II," QEH Working Paper Series, QEHWKPS 45(2), London: Queen Elizabeth House, 2000, p. 22.

the ability to take advantage of economies of scale. By contracting with several suppliers, governments can assure continuity of service. By contracting competitively for services, they can determine the true costs of production and thereby eliminate waste.

Although they offer governments in post-conflict countries the means of expanding services and infrastructure and private enterprises the opportunity to expand their businesses, public-private partnerships are complex arrangements that can create potential problems for both the public and the private sectors if they are not properly designed and administered. They often displace public workers, thereby generating political opposition among labour unions, public employee associations, and important ethnic, religious, or political factions seeking representation in a post-conflict government's civil service. If contractual relationships between government and the private sector or civil society organizations are not well designed and supervised, their services can become more expensive than those provided by government alone.

Poorly designed and inadequately analysed public-private partnerships have failed in both rich countries and fragile states. Corruption can undermine public trust in the private sector if the contracting process is not transparent and carefully supervised. In a study of international private investment in post-conflict countries, Bray points out that multinational corporations willing to explore public-private partnerships or BOTs in countries emerging from conflict face high corruption risks. "In Sierra Leone, political leaders' exploitation of the diamond industry was one of the main factors that led to conflict," he points out. "Post-war Bosnia-Herzegovina has had to cope simultaneously with the challenges of physical reconstruction, the transition from socialist economics, and the complexities of the national constitution established by the 1995 Dayton accord. These complex political structures have in themselves provided opportunities for high levels of corruption."²⁰⁰

In Cambodia the effectiveness of public-private partnerships was hampered by lack of transparency, the failure of the government to negotiate openly its contracts with private investors, gaps and weaknesses in the legal framework for telecommunications, water supply, and transport, and the tendency of government officials to bypass laws and administrative processes in awarding contracts

²⁰⁰ John Bray, "International Companies and Post-Conflict Reconstruction: Cross-Sectoral Comparisons," Social Development Paper No. 22, Washington, DC: World Bank, 2005; quote at p. 6.

to favoured companies. Moreover, government agencies did not pay sufficient attention to assessing or documenting the liabilities they assumed in contracts negotiated with the private sector for infrastructure projects. Because the government's planning processes were inadequate, private firms made and the government often accepted unsolicited offers not identified in sector plans. The government sometimes approved new contracts that conflicted with existing concessions. The Government of Cambodia did little or no auditing of concessions either before or after implementation.²⁰¹

Public service wholesaling through the private sector or through NGOs can go awry and the cost of contract management can be substantial if there is insufficient administrative capacity within government to supervise and oversee the process effectively. Outsourcing can be beneficial only if governments have the capacity to compare carefully the costs of contracting out with the costs of providing services directly. The involvement of the private sector in providing services that were formerly free or that were subsidized by the government can also increase their price and place the poor at a significant disadvantage.

4. Assisting through Non-governmental and Civil Society Organizations. In some post-conflict countries with weak governments that cannot be strengthened quickly, it may be necessary, temporarily at least, to use independent service authorities or semi-autonomous social funds to ensure that essential functions are carried out until public capacity can be built.²⁰²

The advantages of supporting NGOs and civil society organizations are numerous. They played a decisive role in de-mining during the period immediately following the ceasefire in Angola. They brought relief services into some remote areas, under difficult logistical conditions and to people who were highly vulnerable. NGOs also supported the reintegration of ex-combatants into civilian life by distributing agricultural kits. As a result, under the ceasefire agreement, more than 8,000 ex-combatants were absorbed into the Army and the health services.²⁰³

By providing assistance through NGOs and CSOs, international assistance organizations can sometimes bypass political and bureaucratic com-

²⁰¹ See World Bank, "Cambodia Seizing the Global Opportunity," *op cit.*, p. 60.

²⁰² See Collier and Okonjo-Iweala, *op. cit.*, pp. 29-30.

²⁰³ United Nations Development Programme, "Economic Report on Angola in 2002-2004: Defusing the Remnants of War," New York: United Nations, 2005.

plexities and constraints in the delivery of public services until the government becomes more stable and capable. Perhaps more beneficially, using this approach international assistance organizations can leverage limited public administration capacity and also mobilize the financial and human resources of NGOs and civil society organizations.

World Bank studies show that independent social investment funds in Bolivia, Nicaragua, and Honduras played important roles in strengthening the administrative capacity of local governments.²⁰⁴ One lesson of the World Bank's experience in post-war Mozambique was that "...during the transition from war to peace, given the weak state of local institutions, the use of NGOs, community-based groups, and other private sector intermediaries to assist implementation while simultaneously building counterpart capacity is a critically important strategy."²⁰⁵

Although channelling aid through independent, private, or non-governmental organizations can be a viable means of supplementing weak public administration capacity in post-conflict countries, international assistance organizations must build in transition procedures whereby functions are transferred back to the government as its administrative capacity becomes stronger. The UNDP established the CARERE Programme in Cambodia in 1991, for example, as a joint UNDP/UNHCR social fund using an area-based decentralization programme of social and economic recovery, repatriation and reintegration to overcome the lack of government capacity to carry out these essential functions. It worked with local organizations and developed the capacity of local governments and civil service personnel to assume many of the functions so that by 2000, the Government of Cambodia could assume leadership and ownership of the programme.

Balance: Resolving Potential Dilemmas

In the fragile, unstable, and sometimes volatile circumstances in which governments in post-conflict societies find themselves, donors must resolve potential dilemmas that can undermine the success of interventions to restore governance and strengthen government. Experience with international assistance for restoring governance suggests that achieving an appropriate balance between potentially conflicting tendencies is crucial in providing effective support.

²⁰⁴ See Van Dormelen, *op. cit.*, pp. 5-6.

²⁰⁵ World Bank, "War- to-Peace Transition in Mozambique," *op. cit.*, p. 4.

Push vs. Pull Assistance

International assistance organizations face a ‘push vs. pull dilemma’ in post-conflict countries. Although external analyses may indicate the fundamental importance of restoring governance and strengthening government, supply-driven assistance accompanied by stringent conditions may be far less effective and more prone to failure than assistance that responds to indigenous demand. Governments that undertake reform because donors push them into it or simply because financial and technical assistance is available, are far less likely to implement it successfully than governments that seek assistance from donors because they are committed to strengthening administrative, financial, or technical capacity.

International assistance organizations need to balance supply-driven assistance with more selective forms of technical and financial aid that governments seek because there is strong demand in the country for services or functions that the government cannot provide. Although the World Bank reconstruction programme for Bosnia and Herzegovina was successful in rebuilding infrastructure and promoting private sector expansion, for example, it was based on what the Bank considered to be essential for the country. Plans for the programme were developed with little consultation or approval of a fragmented and weak government. As a result, the supply-driven programme of infrastructure development largely ignored the needs for restoring governance and strengthening government. The Bank pushed privatization of state-owned enterprises despite the fact that there was little support for it within the government or among most stakeholders in the country. As a result, the Bank itself evaluated the outcomes of the programme as unsatisfactory, later admitting that there was opposition to privatization “because of concerns about the fate of workers and the local community, as well as because of the popular perception that state assets are being stripped by managers.”²⁰⁶

Quick Results vs. Sustained Commitment

Donors also face another dilemma — their impatience for quick results within a two-to-three-year programme budgeting cycle versus the reality that restoring governance and strengthening government is a complex, politically sensitive,

²⁰⁶ World Bank, *Bosnia and Herzegovina: Post-Conflict Reconstruction and Transition to a Market Economy*, *op. cit.*, p. 23.

long-term process that may need decades to accomplish. Programmes, projects or support for governance reform in post-conflict countries must be designed flexibly and through instruments that recognize the inevitably slow process of change. In order to achieve sustainable outcomes, international organizations must balance the need for quick results with a sustained commitment to long-term changes that provide a strong foundation for effective government.

The Canadian International Development Agency (CIDA) found from its experience in providing assistance to Haiti, for example, that it had to redefine its strategies to take into account the extremely difficult circumstances within a country suffering from the results of more than 30 years of violent conflict and crisis. Any assistance strategy that Canada undertook in Haiti, CIDA discovered, had to “re-conceptualize the notion of ‘sustainable results’ to align criteria for engagement with expectations. This requires adopting short to medium term objectives with long-term commitment.”²⁰⁷

The Asian Development Bank identified assistance for rebuilding water supply and sanitation infrastructure in East Timor in the early post-conflict period as an urgent need and a way of showing rapid response. The projects were designed and implemented with little input from the government. As a result, the ADB itself later evaluated the projects’ sustainability as dubious. In order to sustain the projects ways had to be found of generating adequate funds for operation and maintenance, primarily through cost recovery from users. However, there was little motivation or interest on the part of the Government of East Timor to impose user charges for water. Although the ADB convinced the government to pass enabling legislation for user charges, the ADB found that “many are sceptical about the political feasibility of actually introducing user fees, particularly given the current and declining service standard in most cases. The second problem with the introduction of user fees is that the costs of collection would fall on the Water and Sanitation Service (WSS), but the fees would go to the central government, with no guarantee that they would be returned to WSS to meet its operation and maintenance expenses.”²⁰⁸ The lack of sustained commitment by the government, the WSS, and local communities undermined the efficacy of attempts to achieve quick results in this aspect of post-conflict reconstruction.

²⁰⁷ Canadian International Development Agency, “Canadian Cooperation with Haiti: Reflecting on a Decade of ‘Difficult Partnership,’” Ottawa: CIDA, 2004; quote at p. 9.

²⁰⁸ Asian Development Bank, “Water Supply and Sanitation Rehabilitation Projects Phase I (Grant 8185-TIM [TF]) and Phase II (Grant 8189-TIM [TF]) in Timor-Leste,” Report PPA: TIM 8189, Manila: ADB, 2004; quote at p. 13.

Control vs. Coordination

Both multilateral and bilateral international assistance organizations face the control vs. coordination dilemma. In order to be effective each donor must find a balance between the need for ensuring accountability and the necessity of collaborating effectively with all of the other organizations providing external assistance in a post-conflict country.

One of the challenges that donors faced in post-conflict Bosnia and Herzegovina was coordinating the more than 14 multilateral development agencies, 60 bilateral aid programmes, and 400 NGOs that pledged support and sought to participate in recovery and reconstruction in the mid-1990s. No formal process for coordination existed and the World Bank feared that “insufficient donor coordination risked duplication of efforts and funding, national rivalries, conflicting agendas, and bureaucratic logjams,” and therefore informally attempted to keep communications open among major assistance organizations. Although this informal networking did provide some coordination, ultimately, “some duplication and conflict did arise within the crowded field of donors.”²⁰⁹

An assessment of international assistance for rebuilding health services and infrastructure in Kosovo found that participation of multiple international organizations with little coordination among them led to a “lack of clearly defined responsibilities [that] created difficulties, especially in relation to politically sensitive issues such as infectious disease outbreaks.”²¹⁰ The report noted that the lack of clarity in roles resulted in “confusion, misunderstandings, conflict and delays in responses,” that undermined the effectiveness of international assistance and slowed post-war reconstruction activities in this sector.

When each aid organization or donor country attempts to maintain control over its own programmes at the expense of effective coordination or harmonization, the results are usually ineffective. Countries that provide aid to post-conflict countries have to find ways of coordinating their programmes internally and with other donors to lessen the burdens on recipient countries.²¹¹

²⁰⁹ World Bank, “Project Performance Assessment Report: Bosnia and Herzegovina,” Report 28288, Washington: World Bank, 2004; quotes at p. 3.

²¹⁰ R.J. Brennan, C. Valderrama, W.R. MacKenzie, K. Raj, and R. Nandy, “Rehabilitating Public Health Infrastructure in the Post-Conflict Setting: Epidemic Prevention and Preparedness in Kosovo,” *Prehospital and Disaster Medicine*, 16, 4, 2001, pp. 244-251; quote at p. 250.

²¹¹ J. D. Montgomery and D. A. Rondinelli, “A Path to Reconstruction: Proverbs of Nation-Building,” *Harvard International Review*, 26, 3, 2004, pp. 26-29.

Assistance vs. Dependence

International organizations face the complex task of balancing their plans for assistance that may be desperately required in post-conflict countries with policies to avoid aid dependence. Aid dependence has been defined as “a situation in which a country cannot perform many of the core functions of government, such as operations and maintenance, or the delivery of basic public services, without foreign funding and expertise.”²¹² Generally, countries are considered aid dependent when development assistance reaches 10 per cent or more of GNI. Many post-conflict countries became dependent on foreign assistance for long periods of time following the cessation of hostilities. In 2003, Nicaragua was still receiving official development assistance that was nearly 21 per cent of GNI and Mozambique’s assistance was 25 per cent of GNI. Countries in crisis or recently recovering from hostilities had relatively high levels of aid dependence: the Democratic Republic of the Congo, 98.6 per cent; Timor-Leste, 42 per cent; Burundi, 39 per cent; Afghanistan, 35 per cent, Liberia, 28 per cent; Sierra Leone, 32 per cent; Eritrea, 24 per cent; Lao P.D.R., 15 per cent; and Cambodia, 13 per cent.²¹³

The dangers of dependence are that governments will not take on the difficult tasks of restructuring their economies, reforming their financial management systems, and restructuring their tax policies to increase public revenues needed to perform governance functions. Aid-dependent governments may be under less pressure to strengthen indigenous institutions and to be accountable to their citizens when they can rely on large external infusions of financial assistance.²¹⁴ They sometimes allow foreign experts to perform functions that should be done by civil servants, permit project management units to substitute for government agencies, and let international assistance organizations make policies, which should be the responsibility of government. When governments depend on large numbers of donors, they lose control over public finances or budgeting becomes fragmented and uncoordinated.

²¹² Deborah Brautigam, *Aid Dependence and Governance*, Stockholm: Almqvist & Wiksell International, 2000; quote at p. 2.

²¹³ Development Assistance Committee, “ODA Receipts and Selected Indicators for Developing Countries and Territories,” Paris: DAC, 2004, Table 25.

²¹⁴ T. Moss, G. Patterson and N. van de Walle, “An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa,” Working Paper No. 74, Washington: Center for Global Development, 2006.

In East Timor the volume and complexity of development assistance and of aid financing mechanisms in a place with low absorptive and administrative capacity “created barriers to national ownership of the reconstruction planning process in the initial period, and prevented the integration of all funding sources into the national budget,” Rohland and Cliffe point out.²¹⁵ Of notable concern were the difficulties in “synchronizing infrastructure rehabilitation and service delivery with the recruitment of civil servants to manage and maintain these facilities and services.”

Building Capacity vs. Imposing Burdens

Experience with aid to post-conflict countries suggests that donors should plan, coordinate, and manage their assistance activities in ways that do not overburden weak administrative capacities in post-conflict countries, divert the government’s scarce technical, financial and managerial capabilities from meeting essential reconstruction needs to managing external assistance programmes, or entice capable officials from government service to consultancies or positions in international assistance projects.

As happened in Mozambique following the peace settlement there in 1992, international assistance organizations can impose heavy burdens of managing aid on governments with weak capacities to do so. One observer pointed out that in the early 1990s, Mozambique’s Ministry of Health alone had to manage 405 donor-funded projects, all with different management and budgeting requirements, conditions, and reporting protocols, imposing both high administrative costs (30 per cent to 40 per cent of project funds) on the ministry and stretching its limited staff, while at the same time attracting away the most skilled civil servants into higher-paying project consultancies for the donors.²¹⁶

The World Bank pointed out in its evaluation of assistance to Eritrea, for example, that “inevitably the Bank’s substantial effort has strained GOE capacity. The number and frequency of Bank missions absorb a great deal of the valuable time of senior officials. When missions were productive this was accepted. However, the frequent, unproductive missions associated with some early

²¹⁵ Rohland and Cliffe, *op. cit.*; quote at p. iii.

²¹⁶ M. Wuyts, “Foreign Aid, Structural Adjustment and Public Management: The Mozambican Experience,” DPP Working Paper No. 36., Milton Keynes, UK: Development Policy and Practice, The Open University, 1996.

projects were irritating to Government, not least because they compromised the productivity of the few key decision makers.”²¹⁷

Donors must be sensitive to the fact that building capacity requires capacity. The World Bank learned through experience to include capacity-building components in large-scale assistance in post-conflict countries so as not to place heavy administrative, financial or technical requirements on weak government ministries and agencies. As a part of its support for the Nam Thuen 2 hydro-power project in the Lao People’s Democratic Republic, for example, the World Bank created a Decision Framework in which the government had to meet major milestones and the Bank provided extensive capacity-building assistance in financial management. The Bank identified serious weaknesses in the GOL’s budget preparation, execution and control systems. The World Bank supported improvements in the government’s expenditure management, including fiscal planning and budget preparation, treasury, accounting and reporting, the development of information systems and the legislative framework for public expenditure management.²¹⁸

Incremental Improvement vs. Systemic Change

International assistance organizations must also balance their tendency to prescribe broad systemic changes in governance systems and government policies with incremental actions that build capacity over time. Although conditions in many post-conflict countries indicate the need for systemic changes, many governments have neither the resources nor the motivation to adopt anything but focused interventions that address a few specific weaknesses in administrative capacity.

Most post-conflict countries clearly require systemic changes in their governance systems. Experience in Cambodia and Tajikistan illustrate the broad range of public management weaknesses that usually face post-conflict countries. In Cambodia, the civil service performed poorly in the years following the cessation of hostilities. It had weak capacity to deliver public services and

²¹⁷ World Bank, “Eritrea: Country Assistance Evaluation,” Report No. 28778, Washington: World Bank, 2004; quote at p. 23.

²¹⁸ World Bank, “Project Appraisal Document, Proposed IDA Grant to the Lao People’s Democratic Republic and Proposed IDA Partial Risk Guarantee and Proposed MIGA Guarantees to the Nam Theun 2 Power Company Limited for the Nam Theun 2 Hydroelectric Project,” Report No. 31764-LA, Washington, DC: World Bank, 2005.

the services that it did deliver were of poor quality and uneven distribution. Although the Cambodian civil service was not extraordinarily large, it suffered from ineffective deployment of government officials to priority sectors and rural areas and from understaffing in social services such as health and education. Indeed, the government did not even have an accurate census of the number of civil service employees or accurate information on grades, functions or assignments of government officials. The World Bank points out that the performance ranking of Cambodia's civil service was poor even among comparable low-income countries. Many civil servants had little or no education or training and because of low salaries many took external employment resulting in high levels of absenteeism from government jobs and poor job performance.²¹⁹ The civil service system was plagued by high levels of rent-seeking and corruption, and the government had little financial management capacity.

The ability to recruit and retain the types of government personnel needed to provide even basic services during the post-conflict period in Cambodia was hampered by political patronage appointments, deviations from the formal merit-based recruitment requirements, inflexible and constraining staff categorization, automatic progression to higher grades based on time in service rather than on job performance, and weak incentives for career development.

Having gone through conflicts associated with its independence from the Soviet Union in the mid-1980s and a civil war in the early 1990s, Tajikistan struggled for more than 20 years with deficiencies in public administration. Tajikistan adopted a new constitution in 1974, with the cessation of hostilities, but continued to face incursions by renegade commanders, confrontations with former warlords, and corruption, inefficient administration in government, and economic deterioration.²²⁰

Weaknesses in government capacity in Tajikistan arose from structural and managerial problems, including a lack of transparency that allows high levels of corruption; confusion about the roles of central and line ministries, local governments and self-governing bodies; and lack of accountability for strategic planning, budgeting, and financial management. Tajikistan has both a civil service system and a public service system, leading to confusion about recruitment and to ineffective career management for government personnel. Despite a for-

²¹⁹ World Bank, "Cambodia: Enhancing Service Delivery through Improved Allocation and Institutional Reform," Report No. 25611-KH, 2003.

²²⁰ International Crisis Group, "Conflict History: Tajikistan," Brussels: ICG, 2004.

mal Labour Code, many public and civil servants continue to be hired through personal networks and political patronage.²²¹

Yet, in neither Cambodia nor Tajikistan could international assistance organizations succeed in strengthening government by pushing comprehensive reforms all at once. They had to adapt their plans and accept the reality of slow, incremental changes, some of which succeeded and others that did not. From its experience with support of reform in places such as the West Bank and Gaza, Kosovo, and East Timor, the World Bank discovered the importance of keeping a strong emphasis on affordability to avoid creating management and financial burdens on governments with limited absorptive capacity, seeing government reform as an iterative and evolutionary process rather than as a rapid comprehensive programme of change, and focusing on the basics of sound administration — the nuts and bolts of management needed for post-conflict reconstruction — rather than on sophisticated human resource practices that governments may not have the capacities to implement.²²² Despite the fact that public administration reforms were urgently needed in Cambodia, for example, the government's plan focused on gradual approaches to increasing civil service salaries as more resources became available, decompressing the wage structure over time and, as conditions allowed, increasing the competitiveness of civil service recruitment.²²³

Timeliness: Delivering the Appropriate Assistance at the Right Time

To succeed in restoring governance and strengthening government in post-conflict countries international organizations must deliver the appropriate assistance at the right time. They must deliver assistance in a timely manner, yet be flexible enough to adapt to changing conditions over a long period of transition. Reforming governance and strengthening government inevitably turns out to be a slow and complex process and its success in part depends on receiving the right type of assistance when it is most needed. Timeliness involves planning for a long-term transition, modifying at different stages of transition the types and combinations of assistance approaches, and determining the highest priorities

²²¹ Asian Development Bank, "Country Governance Assessment of the Republic of Tajikistan," Manila: ADB, 2004; quote at p. xi.

²²² World Bank, "Rebuilding the Civil Service in a Post-Conflict Setting," *op. cit.*, pp. 3-4.

²²³ World Bank, "Cambodia: Enhancing Service Delivery through Improved Resource Allocation and Institutional Reform," Report No. 25611-KH, Washington, DC: World Bank, 2003.

and proper sequence of reforms needed as conditions change during the post-conflict reconstruction period.

Planning for a Long-Term Transition

Post-conflict reconstruction depends on re-creating a strong state quickly, but international assistance organizations often fail to realize, or choose to ignore, that the process can take a long time and that it requires sustained political commitment by both donors and the government to succeed.

Governments in transition need different types of assistance at different times in the process. In many countries, post-conflict recovery and transition may take several decades. After more than a decade of United Nations supervision of post-conflict transition in the Balkans, for example, the Centre for European Policy Studies pointed out that by 2004 in Bosnia and Herzegovina “government at the State level remained under-developed and that public administration reform had just begun.”²²⁴ Despite the fact that the former Yugoslavia had disintegrated nearly 15 years earlier, the European Commission reported in 2004 that “many challenges still lie ahead, whether on decentralization, good governance, reform of the security sector, or the rule of law. Implementing the reforms will also imply strengthening administrative capacity, by transforming the public administration into a modern and accountable public service.”²²⁵

In the final stages of transition from a UN Protectorate to an independent state — after more than a decade under the supervision of an externally-controlled governance authority — Kosovo still experienced strong ethnic tensions between the Albanian majority and the Serb minority in 2004. The Provisional Institutions of Self-Government were still weak, ethnic differences impeded the creation of a state structure acceptable to both the Albanians and Serbs, and the civil service still required substantial strengthening.²²⁶

Experience with post-war assistance in the former Yugoslavia, in Central America, and in Afghanistan indicates the need for international assistance

²²⁴ Council of the Stabilization and Association Process for South East Europe, “2004 Annual Council Review of the SAP for South Eastern Europe,” *Europa South-East Monitor*, 55, May 2004; quote at p. 3.

²²⁵ European Commission, “Stabilization and Association Reports 2004,” *Europa South-East Monitor*, 55, 9, May 2004; quote at p. 6.

²²⁶ *Ibid*, pp. 7-8.

organizations to make long-term plans for delivering aid as needs and conditions change.

Modification and Adaptation of Approaches over Time

Post-conflict countries in transition from reconstruction to more stable governance need different types of assistance at different stages of the process. To succeed, international assistance organizations should be willing and able to tailor their support to the specific needs of each post-conflict country that requests help in undertaking governance reform and at each stage of the process of transition.

The timeliness of prescriptions for government reforms such as downsizing or ‘right-sizing’ the civil service, for example, have to be examined, monitored, and modified in the sometimes rapidly changing environment of post-conflict transition. Although the World Bank and other international organizations have found that inappropriately large civil service systems often need to be downsized by consolidating or eliminating redundant departments, by not filling vacant positions, by offering incentives for early retirement, or by reductions in force in many post-conflict countries still suffering from economic and political instability, it may be politically difficult to reduce the size of the civil service immediately after the cessation of hostilities. The World Bank’s experience in Kosovo, and in eight post-conflict countries — Afghanistan, Burundi, the Democratic Republic of the Congo, the Republic of Congo, FYR Macedonia, Sierra Leone, Timor-Leste and Serbia and Montenegro — led to the conclusion that although governments in many of these places must eventually find ways of downsizing the public service, in the immediate post-conflict period governments often have too few staff with appropriate skills, training, and competencies.²²⁷ Indeed, in Cambodia, the World Bank pushed too soon for downsizing the civil service before it was stabilized and despite the fact that the “peace accords that ended the conflict required the political coalition that ran the country to expand the size of the civil service in order to absorb more functionaries of the incoming parties.” This led to the realization later that “the Bank’s position was not politically realistic from the outset.”²²⁸

After governments in post-conflict countries become more stable, international assistance organizations may be able to focus on more comprehensive gov-

²²⁷ World Bank, “Recent Bank Support for Civil Service Reconstruction in Post-Conflict Countries,” *PREM Notes*, No. 79, October 2003.

²²⁸ World Bank, “The World Bank’s Experience with Post Conflict Reconstruction,” Operations Evaluation Department Report 18465, Washington, DC: World Bank, 1998; quote at p. xvi.

ernance reforms. But experience indicates the importance of monitoring changes in conditions in needs and modifying aid programmes in a timely manner.

Determining Priorities and Sequencing Reforms

Because strengthening governance often requires difficult and complex changes that may take a long time to implement, international assistance organizations need to determine the highest priorities and focus initial efforts on strengthening those governance capacities most needed for post-conflict stabilization and reconstruction. The basic functions and tasks described in Chapters 2 through 6 — establishing safety and security, strengthening governance and participation, providing for emergency humanitarian needs and social well-being, stabilizing the economy and providing infrastructure, and strengthening justice and reconciliation organizations — are usually the areas of governance needing enhanced capacity most urgently.

While recognizing that all post-conflict countries have somewhat unique conditions and needs and that no specific sequence of actions will fit all countries, the German foreign aid programme, Deutsche Gesellschaft für Technische Zusammenarbeit and the Federal Ministry for Economic Cooperation and Development found that three types of governance — security, political-administrative, and social and economic — need to be strengthened in different ways over time. Table 3 provides one perspective on priorities for and sequencing of governance reforms in post-conflict countries.

International assistance organizations need to re-identify priorities periodically as conditions change and determine the proper sequence of the reforms they support. From its experience with post-conflict assistance, the World Bank warns of the dangers of not prioritizing and sequencing aid effectively: overloading governments with too many or too complex reforms too soon and of undermining commitment to urgently needed institutional and policy changes. Its evaluation of operations in post-conflict societies led to the conclusion that weak implementation capacity and the “political environment in which a new post-conflict government finds itself may still be very fragile and unstable, limiting its ability to win acceptance of a reform programme that goes beyond stabilization.”²²⁹

²²⁹ World Bank, “The World Bank’s Experience with Post-Conflict Reconstruction,” *op. cit.*, p. 34.

**Table 3:
Priorities and Sequencing of Post-Conflict Assistance**

	Phase 1 (year 1-3) Stabilization, Identification of priorities	Phase 2 (year 4-7) Reorganization and Institution- building	Phase 3 (year 8-10) Consolidation and Return to “Normality”
Security Governance	<ul style="list-style-type: none"> • Recover the monopoly of force • Set up a police force and community policing • Demobilize and re-integrate ex-combatants • Control small arms 	<ul style="list-style-type: none"> • Reduce military spending and increase transparency • Distinguish tasks in the security sector (military, police, intelligence and security services) • Professionalize security services 	<ul style="list-style-type: none"> • Ensure civilian leadership of armed forces • Create more efficient (legal) provisions for controlling the security sector
Political- administrative Governance	<ul style="list-style-type: none"> • Establish a basic social consensus • Introduce temporary power-sharing arrangements • (Re-)establish functioning courts and administrations • Build local institutions • Reach agreement to combat corruption 	<ul style="list-style-type: none"> • Secure the rule of law • Open up participation and control opportunities for the population • Start reconciliation measures • Institutionalize anti-corruption measures 	<ul style="list-style-type: none"> • Advance democratization (elections) • Constitutional and judicial reform • Ensure a reliable and impartial administration • Reform media law, strengthen the media sector
Socio-economic Governance	<ul style="list-style-type: none"> • Provide basic humanitarian needs • Identify and prioritize development challenges • Rebuild physical and social infrastructures • Repatriate and integrate refugees 	<ul style="list-style-type: none"> • Regulate ownership • Dismantle economies of violence • Define development strategies in a participatory fashion • Stimulate the economy • Establish a tax system • Invest in education, health and income security 	<ul style="list-style-type: none"> • Establish effective macroeconomic management • Improve tax system • Provide legal security for foreign direct investment • Invest in education, health and income security

Source: Deutsche Gesellschaft für Technische Zusammenarbeit, "Promoting Good Governance in Post-Conflict Societies," Discussion Paper, 2004, p. 21

Conclusion

Restoring governance, strengthening government, and reconstructing the economies and societies of post-conflict countries are emerging as crucial roles for international assistance, second in importance only to international efforts to prevent violent conflict and strengthen peacekeeping. Because governments are often displaced during crises or must be constituted anew, and because they often emerge from hostilities without the legitimacy, trust, and capacity they need to meet the complex and varied challenges of reconstruction, international assistance is essential to the restoration of governance. International assistance organizations and bilateral donors have been learning for more than two decades — and are continuing to learn — how to provide that assistance most effectively. Although the strengths and weaknesses of many of the approaches that international organizations use to restore governance in post-conflict countries are already known, more needs to be learned about how they affect governance capacity building in crisis and post-conflict countries.

Learning how to provide assistance for restoring governance to those countries in crisis and recovering from hostilities is a continuing process and one of the most important tasks for international organizations and bilateral donors in an age of violent conflict. It is likely to remain a challenge for the international community until people in all countries learn to perform an even more fundamental task of preventing social and economic disagreements, ethnic differences, and political rivalries from becoming violent conflicts.

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