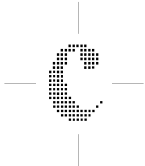


**Strengthening Governance
in Post-Conflict Fragile States**
Issues paper
Louise Anten

9 June 2009



Desktop publishing: *Fadime Koç*

Netherlands Institute of

International Relations

'Clingendael'

Clingendael 7

2597 VH The Hague

P.O. Box 93080

2509 AB The Hague

Phonenumber: +31 (0)70 3245384

Telefax: +31 (0)70 3282002

Email: cru-info@clingendael.nl

Website: <http://www.clingendael.nl/cru>

© Netherlands Institute of International Relations *Clingendael*. All rights reserved. No part of this book may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the copyright holders. *Clingendael* Institute, P.O. Box 93080, 2509 AB The Hague, The Netherlands.

Contents

- Contents i**
- 1. Background and policy relevance i**
- 2. Summary..... iv**
- 3. The concepts 1**
- 4. Governance: the basic social contract and interest and incentive structure 4**
- 5. Foundational causes of state fragility 7**
 - 5.1. The history of state fragility in Africa in the late 20th century 7
 - 5.2. Persistent horizontal inequalities 10
 - 5.3. Hybrid political orders and ‘ungoverned’ spaces..... 13
 - 5.4. Low level of institutionalisation 14
 - 5.5. Natural resource wealth 15
 - 5.6. External (foreign) influences and interventions 16
 - 5.7. Other factors 18
- 6. Factors relating to the war and the peace agreement 19**
 - 6.1. The type of conflict 19
 - 6.2. Ways to end civil wars 21
 - 6.3. Types of international intervention 23
 - 6.4. Transformations of society through war 24
 - 6.5. Post-conflict transition regimes 25
- 7. Operational implications 29**
 - 7.1. To intervene or not to intervene: ambitious but realistic objectives 29
 - 7.2. Integrated approach including stability as strategic objective 31
 - 7.3. Strategic governance objectives: focus on interests and incentives 31
 - 7.4. Constitution-making: from elite pact-making to citizen participation? 32
 - 7.5. Constitution-making: governance choices for the political system..... 35
 - 7.6. Addressing horizontal inequalities 40
 - 7.7. The hybrid state: supporting state and non-state actors 41
 - 7.8. The rule of law, and reconciliation versus transitional justice issues 43
 - 7.9. Effective economic management 44
 - 7.10. Institutional and capacity-building of government institutions 45
 - 7.11. Gender issues 46
- Annex I: Definitions of legitimacy..... 48**
- Annex II: Collective action problems..... 50**
- Annex III: List of literature consulted..... 52**

1. Background and policy relevance

In the last two decades, the number of international post-conflict operations has substantially increased. These operations have proved to be complex and results have been mixed. Important policy lessons are beginning to be learned, e.g. that policies are most effective when they are integrated, striking the right balance between security, governance and socio-economic development. Lessons learned by Organisation for Economic Co-operation and Development (OECD) member countries are reflected in the ‘Principles for Good International Engagement in Fragile States and Situations’, accepted by OECD Development Assistance Committee (OECD-DAC) members in 2007.

The Netherlands supports these principles and has intensified its own support to fragile states, as outlined in the policy document *Our Common Concern* and the strategy paper *Security and Development in Fragile States, Strategy for Dutch activities 2008-2011*.¹ This research project is undertaken as part of a cooperation project between the Dutch Ministry of Foreign Affairs and the Clingendael Conflict Research Unit (CRU), in which CRU provides the Ministry with policy-oriented research on issues of security and development. The views expressed here are those of the author and do not necessarily reflect those of the Ministry.

Translating the OECD-DAC principles into more operational guidance has not proved simple and is part of ongoing international work. A central place in the work of the OECD International Network on Conflict and Fragility (INCAF)² is allocated to Principle 3, that advises a focus on **state-building** as the central objective of engagement in fragile states, through engagement in two main areas: **legitimacy and accountability** of states, and **capability** of states to fulfil their core functions.³ In a research paper commissioned by INCAF, state-building is defined as purposeful action to build capacity, institutions and legitimacy of the state in relation to an effective political process to negotiate the mutual demands between the state and the citizen. The opposite of state fragility is considered to be not stability but ‘resilience’. Resilience refers to the ability of state and society to manage state–society expectations and to keep expectations and capacity in equilibrium. Considering this focus on state–society relations, the *first priority of state-building must be a form of political governance* and the articulation of a set of political processes through which the state and society reconcile their expectations of one another. A focus on governance structures that

¹ Ministry of Foreign Affairs (Development Cooperation) (2007), *Our Common Concern, Investing in development in a changing world, Policy Note Dutch Development Cooperation 2007-2011*, The Hague, October 2007; and (2008), *Security and Development in Fragile States, Strategy for Dutch activities 2008-2011*, November 2008.

² The INCAF was formed recently by merging the Fragile States Group (FSG) and the Network on Conflict, Peace and Development Cooperation (CPDC).

³ OECD-DAC (2007), *Fragile States: Policy Commitment and Principles for Good International Engagement in Fragile States and Situations*, DCD/DAC(2007)29, March 2007.

address inequities and inequalities, and promote accountability, are likely over time to promote stability.⁴

This research project aims to contribute to evidence-based operational guidance on the setting of realistic objectives in the domain of political governance in post-conflict states, and on operational strategies to achieve those objectives. It will follow a two-phase approach to achieve its aims. The first phase is the drafting of this Issues Paper, identifying the main issues, lessons learned and remaining questions, on the basis of an analysis of international experiences and academic insights. In the second phase an effort will be made to assess to what extent concepts developed and lessons identified in the first phase of the project can be applied to four concrete country studies (Afghanistan, Burundi, Democratic Republic of Congo and Kosovo; see below), in an attempt to arrive at practical recommendations on how to contribute to the strengthening of governance in these four countries.

The background to and relevance of this research project relate to recent international experiences in which the Dutch government took part, and the dilemmas, bottlenecks and operational questions that emerged in relation to efforts to restore governance. In some of these post-conflict situations armed conflict has not been fully controlled and the resilience of governance has remained weak. In fact, some situations could be more aptly described as protracted crises. In line with the OECD-DAC study cited above, the first priority of state-building in such protracted crises should be a form of political governance and the articulation of a set of political processes through which the state and society reconcile their expectations of one another.

Some of the experiences can be linked to tensions between peace-building and state-building: an overemphasis on or a too narrow concept of stability/peace-building may stifle governance reform and state-building, while an overemphasis on governance reform/state-building may endanger stability. Other issues relate to trade-offs between restoring legitimacy and effectiveness of governance: if governance lacks legitimacy, it may or may not be effective in the short run but it is unlikely to be resilient and effective over the long term. Conversely, if governance does not deliver, it will soon lose what legitimacy it had. Moreover, the two dilemmas tend to be related: narrow stability/peace-building considerations tend to prioritise effectiveness of governance, while state-building/resilience considerations tend to stress the need for legitimacy.

The literature is quite clear on the importance of context. What will work in a specific situation is highly dependent on a number of historical and current country-specific context factors in the domains of governance, socio-economic development and security, both nationally and internationally. The research project will unpack the elements of context that are most relevant, and explore what they mean for governance approaches.

⁴ Cf. NYU CIC & IPA (2007), *From Fragility to Resilience: Concepts and Dilemmas of State-building in Fragile States, A Research Paper for the OECD Fragile States Group*, January 2007.

A meeting of international experts, held on 23 January 2009, contributed to sharpening the focus of this Issues Paper. As already said, it provides the basis for four country studies that will form the second phase of the research project. These countries will be Afghanistan, Burundi, DR Congo and Kosovo, being post-conflict countries that are prioritised by the Dutch international cooperation programme. The country studies aim to translate the general findings of the Issues Paper into more operational guidance on governance approaches in these countries. Results of the country studies and the Issues Paper will be aggregated in a Synthesis Report.

2. Summary

Since the 1990s an international consensus has emerged on the international right – and, more recently, the responsibility – to intervene. But this genuine success on the level of the normative basis for intervention has not been matched at the level of outcome. Many interventions have been largely failures, especially those aiming to end long-running or recurring wars, so-called ‘protracted crises’ (e.g. Haiti, Liberia, DR Congo, Lebanon, Timor-Leste, Sudan, Bosnia-Herzegovina, Kosovo, Cyprus). The key policy question, therefore, is no longer whether to intervene, but how?⁵

This Issues Paper sets out to assess recent academic and practitioners’ answers to this question of how to intervene, with a view to determining the operational implications for international interventions in protracted crises. The focus is on how to enhance forms of political governance that would allow the state and society to reconcile their expectations of one another. It draws on various discourses (humanitarian, constructivist and realist) and tries to identify evidence-based lessons learned and outstanding issues. In a sense, it is an effort to complement political economy-based context analyses for individual countries, such as those based on the Fragile States Analysis Methodology (FSAM), adding general insights into what worked where and why.⁶ As in the FSAM, the structure of interests, incentives and power of all actors involved (national and international) is taken as the lead variable for assessing the scope and directions for change.

In the 1990s the main explanations for the failures of intervention focused on the lack of coordination among external actors who intervened, and on the failure to match resources to the complexity and needs of a particular conflict. A third explanation was that interventions failed to address the ‘root causes’ of the conflict.⁷ Woodward argues that addressing the root causes is not the right line of thought to follow when seeking ways of ending civil wars more successfully, since earlier cross-national research on various ‘root causes’ as causes for civil war has largely been discredited and superseded. However, her argument seems to be targeted primarily at the search for mono-causality across countries. That argument does not discredit the value of analysing the interplay of causal factors in individual protracted crises, which could influence the structural interest and incentive structure of protagonists. This Issues

⁵ Woodward, Susan L. (2009), ‘Do the root causes of civil war matter?’, in: Chandler, David (Ed.) (2009), *State-building and Intervention, Policies, practices and paradigms*, Routledge, London and New York, pp. 42–44.

⁶ Clingendael Conflict Research Unit (2008), *Fragile States Assessment Methodology*, The Hague. See also: Initiative for Peace-building (2008), ‘State-Society Analytical Framework’, working draft, http://www.initiativeforpeace-building.eu/pdf/State_and_Society_Analytical_Framework.pdf

⁷ Woodward (2009), p. 63.

Paper will explore the relevance of specific causal factors for various fragile post-conflict situations.

Woodward adds two further important aspects of achieving a definitive end to a war: “(1) the changes wrought by the war itself (the transformation of society, economy and interests, and the effect of violence itself regardless of initial motivation on lines of political cleavage and patterns of behaviour) and thus the conditions that exist in the post-conflict phase, and (2) the political arrangements that can reduce the extreme uncertainty over power – who has it, who has a right to it, how access is regulated – that is the primary characteristic of civil war, and that can restore local capacity, whether social, cultural, or governmental, to impose socially tolerable limits on the use of violence.” In line with this argument, this Paper will also explore the relevance of specific factors in the post-war context, reflecting changes wrought by a war. Foundational factors explored are the history of state fragility (the interplay of formal political systems and neo-patrimonial political culture, and its effects on economic development), persistent horizontal inequalities, hybrid political orders and ‘ungoverned’ spaces, low levels of institutionalisation, natural resource wealth and external (foreign) influences and interventions. The medium-term post-conflict factors focus on the effects of the type of armed conflict, the way the conflict ended, post-conflict transition regimes, the nature of international intervention, and other more general transformations of society through civil war. The focus on this relatively small number of factors is not to imply that the other factors of fragility and conflict examined in the literature are unimportant. Factors such as size, geographic accessibility (especially in the case of landlocked countries), gender inequality, urbanisation, demography (especially a large pool of unemployed young men), do play a role in causing armed conflict and do influence the scope for statebuilding. What seems likely, however, is that the factors discussed in this paper are the most relevant in relation to governance issues in post-conflict fragile states.

From these explorations of how the more foundational factors and the medium-term factors define the post-conflict context and what scope for reform they offer, the paper goes on to propose some general operational implications seen from the perspective of a medium-sized international partner such as the Netherlands. For 11 operational areas the scope for strategic international support to peace- and state-building are sought, by identifying situations where the post-conflict context and the interests and incentives of key actors could offer opportunities to reform rules and institutions in such a way that they will be implemented. An important focus is to ground strategic objectives in a realistic analysis of the local and international context. Another area is constitution-making – in other words, the political arrangements. The opportunities offered by constitution-making – as a precondition for elections – are discussed, in relation to both process and substance. In a further approach to increasing legitimacy of governance, the integration into governance of non-state institutions that carry legitimacy with the population (e.g. customary-traditional institutions) is advocated.

The paper starts in Chapter 3 with an overview of the concepts used. In Chapter 4 the focus is on two essential characteristics of a basic governance model: the social contract and the basic interest and incentive structure in relation to governance, in general and in neo-patrimonial states. In Chapter 5 the historical, foundational causes of weak governance and state fragility

in post-conflict states are discussed against the background of the basic model of political (dis)order, followed in Chapter 6 by a discussion of some medium-term characteristics of the post-conflict context. Finally, in Chapter 7, some operational implications for post-conflict states in general are proposed, seen from the perspective of a medium-sized bilateral partner such as the Netherlands.

3. The concepts

Before exploring these issues more fundamentally it is helpful to consider the relevant concepts in relation to conflict, state, fragility, resilience, peace-building, state-building, governance, legitimacy, effectiveness and democracy. The following concepts and definitions are used in this paper:

Conflicts are considered inherent to any society and especially to processes of societal transformation. They need not be innately negative, despite sometimes very harmful effects of violent conflicts on citizens and institutions. Armed conflicts may be part of a transformation towards a political order that is felt to be more legitimate and effective: think of decolonisation and liberation wars. However, wars, especially when they continue over long periods, acquire their own dynamic and may degenerate into protracted crises that are not easily seen as leading to more legitimate and effective political orders. A definition of armed conflict that is useful for this paper is the one given by the Uppsala Conflict Data Program (UCDP): “Armed conflict is a contested incompatibility that concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths in one calendar year.”⁸

State in this paper is defined as the institutions of government consisting of both those making political decisions and those acting on political instruction.⁹ The state thus encompasses the head of state, president, cabinet of ministers and the administration, at both central and peripheral levels. In cases where the legislative (parliament) and judiciary are effectively controlled by the government, they could be considered part of the state.

Governance in this paper “concerns the rules, institutions, and processes that form the nexus of state-society relations where government and citizens interact. This domain combines public administration and state structures, politics and the exercise of power and authority, and policy-making and implementation”.¹⁰ In other words, governance has three legs: political, administrative and economic. Political governance is the process of decision-making to formulate policy. Administrative governance is the system of policy implementation. Economic

⁸ UCDP, UCDP Code Book, http://www.pcr.uu.se/database/definitions_all.htm

⁹ Cf. DFID – Whaites, Alan (2008), *States in Development: Understanding state-building*, a DFID working paper.

¹⁰ Brinkerhoff, Derick W. (2005), ‘Rebuilding Governance in Failed States and Post-Conflict Societies: Core concepts and cross-cutting themes’, *Public Administration and Development*, Vol. 25, No 1, p. 2.

governance includes decision-making processes that affect a country's economic activities and its relationships with other economies.¹¹

The term **political system** is used to indicate the body of formal regulations and institutions of governance, often codified in a constitution.

Political culture is taken to be the set of fundamental values, norms, attitudes, beliefs and expectations of various groups within society that give form and substance to political process.

Fragility of states and situations is understood as a situation where weaknesses in the dynamic political process obstruct the matching of citizens' expectations of the state with the state's capacity to deliver. It is the opposite of **resilience**.

Resilience can be defined in relation to a state (and society), or to governance. Resilience in relation to a state is defined as the ability of state and society to manage state-society expectations and to keep expectations and capacity in equilibrium. Together, capacity, institutions, legitimacy and effective process combine to produce state resilience.¹² Resilience of governance refers to the extent to which the governance arrangements contribute to resilience of the state.

Peace-building refers to "actions undertaken by international or national actors to consolidate or institutionalise peace".¹³ If peace is taken in the too-narrow sense of 'absence of armed conflict', tensions may arise in practice between peace-building and state-building.

State-building refers to "purposeful action to build capacity, institutions and legitimacy of the state in relation to an effective process to negotiate the mutual demands between state and citizen".¹⁴ Defined as such, state-building is virtually equivalent to strengthening governance with the aim of achieving resilience. The terms will be used interchangeably.

Legitimacy can be defined as "the normative belief of a political community that a rule or institution should be obeyed". Governance is legitimate "when key political elites and the public accept the rules regulating the exercise of power and the distribution of wealth as proper and binding. Legitimacy implies that the political community views the goals pursued by the state, the means selected to pursue them and the decision-making process leading to both goals and means as proper. Empirically, legitimacy is observed when rules and the decisions of the rule-making and rule-applying institutions are observed. Furthermore,

¹¹ UNDP, 'Good Governance – and sustainable development', a UNDP Policy Document, <http://mirror.undp.org/magnet/policy/chapter1.htm>

¹² NYU CIC and IPA (2007), p. 4.

¹³ Call, Charles T. and Vanessa Wyeth (Eds) (2008), *Building States to Build Peace*, a project of the International Peace Institute, Lynne Rienner Publishers, Boulder (Colorado), 2008, p. 5.

¹⁴ NYU CIC & IPA (2007), p. 4

deference to the rules, even by violators, demonstrates the legitimacy of the rules.”¹⁵ The grounds for legitimacy can be multiple and various, as is explored in Annex I.

Legitimacy of governance in the eyes of the local leaders and citizens may differ from its legitimacy as perceived by international actors.

Effectiveness of governance is understood as the level of capability of the state and society to meet their mutual expectations.

Democracy can be defined in a shallow (‘thin’) and a deep (‘thick’) version. A shallow type of democracy is a system for arriving at political decisions in which individuals have the power to choose their representatives in government by regular, free and fair elections.¹⁶ This type of democracy will be referred to in this paper as electoral democracy. A deep type of democracy is a system that ensures substantial civil and political rights, legal equality, rule of law, institutional checks on elected officials, real pluralism and civilian control over the military and state security apparatus.¹⁷ There is no one-on-one relationship between democracy and resilience. Resilient governance need not meet all the characteristics of deep democracy, although it would realise some of its essential elements since by definition it manages to reconcile citizens’ expectations, voiced in one way or another, with the state’s ability to deliver. The concept of resilience thus leaves the door open to more autocratic political systems, as long as these achieve and manage over time a mutually accepted balance between state’s functions and citizens’ expectations. On the other hand, electoral democracies may not be able to achieve or maintain this balance, in which case they are not resilient.

¹⁵ Papagianni, Katia (2008), ‘Participation and State Legitimation’, pp. 49–50, in Call and Wyeth (2008).

¹⁶ Diamond (2008), p. 21.

¹⁷ See Diamond (2008), p. 22, for a more extensive description of the attributes.

4. Governance: the basic social contract and interest and incentive structure

The basic social contract

Governance, as defined above, is about the way state and society interact. In a stylised model of governance, groups of citizens delegate power to rulers (states) if they expect the rulers to better cater for their (collective) needs than the citizens would be able to do on a group or individual basis. As Robert Bates explains, political order on a given territory can reign if the ruler – who is a specialist in violence – agrees to protect the citizens and support them in their economic efforts without preying on them, while the various groups of citizens agree to produce wealth, not use violence and pay the ruler for his protection.¹⁸ This model presents the basic social contract between groups of citizens and the state.

The basic interest and incentive structure

This political order has actually functioned in certain places in the past, and indeed still functions in many countries. But it is a fragile equilibrium, since the risk of the rulers turning to predation, or of (groups of) citizens turning against each other or the ruler is ever present. It will function only if the interests of rulers and citizens provide them with incentives to preserve the order. Bates argues that the basic interest and incentive structure is defined by three variables: the level of public revenues, the rewards from predation and the ruler's rate of discount.¹⁹ These variables work according to the following mechanism:

In a condition of political order, the ruler will have access to public funds generated by taxes. However, if the rewards from predation are high, he may turn to predation, which will yield him an immediate high benefit. This will break the political order, and citizens will withhold taxes and may turn to fighting. As a consequence, public revenues will drop below the original level of public revenues. So in the end the ruler may be worse off unless he knows that he cannot remain in his position for very long or is unsure of his position. In that case the ruler will assess the present value of the future pay-offs from both options – political order versus predation. Depending on his level of insecurity and the ratio of revenues from political order to rewards from predation, he may find the prospect of predation more attractive than if he were patient, prosperous or secure.²⁰

¹⁸ Bates, Robert H. (2008), *When Things Fell Apart, State Failure in Late-Century Africa*, Cambridge University Press, New York.

¹⁹ Bates (2008), p. 20.

²⁰ The model assumes a rational ruler. It is recognised that in reality this assumption may not be, or may be only partly, valid. Rulers may, e.g., develop distorted views of reality, becoming paranoid or megalomaniac.

In a complementary analysis, De Waal argues that in countries where state institutions are subordinate to patronage networks, political life is best seen as organised according to a patrimonial²¹ marketplace.²² The basic characteristic is that political loyalty is for sale and will go to the highest bidder. The simplified model focuses on elites/leaders at metropolitan (national) and provincial level.²³ Provincial elites seek to extract from national elites (mostly governments) the best price for their allegiance. They do this using the tools at their disposal, which include votes, extending or withdrawing economic cooperation, and the use of violence. National elites want to minimise the price they have to pay. They, too, have economic tools alongside the option of violence. The two sides strike a bargain. It is rare for any political bargain between metropolis and provincial elite to last for more than two or three years without renegotiation. The rules of the political marketplace allow for bargaining to be reopened when market conditions shift, though to try to do so within a year would be considered bad practice.

Many Africanist scholars argue that states can function in this different way indefinitely ('Africa works'²⁴), albeit with less desirable outcomes for most of their citizens. This political order is patently male-dominated, under-utilising the political, social and economic potential of women. In many countries the marketplace is largely domestic and mostly non-violent (Senegal, Tanzania); in others it is turbulent but manages ongoing disorder in such a way that it does not threaten an elite compact (Nigeria). But the system is prone to very rapid descent into competition that is both violent and unmanaged (Ivory Coast, Kenya). In some cases the political market is plainly dysfunctional, not managing to reach enduring bargains and contain violence, as in the DRC and Sudan.²⁵

Woodward emphasises that "the essence of civil war, regardless of substantive goals, is a contest for power – over who rules, who gets to define policies for their group or goals, and above all, the very rules over who rules. The issue at stake in ending a civil war and its violence

²¹ 'Patrimonialism' as defined by Max Weber describes a system of rules based on administrative and military personnel, who are responsible only to the ruler. 'Neo-patrimonialism' describes a form of organisation in which relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines (Clapham, Christopher [1985], *Third World Politics: An Introduction*, Croom Helm, London). According to these definitions, De Waal is talking about neo-patrimonialism.

²² Waal, Alex de (2009), 'Mission without end? Peacekeeping in the African political marketplace', *International Affairs*, 85:1 (2009) pp. 99–113.

²³ But the model also works at higher and lower levels. National boundaries do not matter in the model; e.g. Kinshasa, Kigali and Kampala compete for the loyalties of elites in eastern DR Congo. Also, the marketplace of loyalties operates at sub-national level, whereby provincial elites secure the support – including votes and guns – of their constituents in return for money, jobs and licences to trade or pillage. The model allows for intermediate elites, which both buy and sell loyalty in the marketplace, e.g. warlords with sufficient private funds (at the time, Jean-Pierre Bemba in the DRC, or currently various Somali warlords). (De Waal 2009).

²⁴ Cf. Chabal, Patrick and Jean-Pascal Daloz (1999), *Africa works: disorder as political instrument*, James Currey, London.

²⁵ De Waal (2009). The article illustrates in more detail how the marketplace works in Sudan.

is not *who* wins [...] but *what* rules will reduce that power uncertainty and gain sufficient legitimacy over alternatives to end the ongoing contest.”²⁶

In the foregoing the interests of revenue, (government) power, certainty (of position) and physical security were central. Other interests may provide additional incentives for specific courses of action, such as status, recognition, legitimacy, independence/autonomy, amnesty, etc.

In the following chapter some historical, foundational causes of weak governance and state fragility will be discussed against the background of these basic models of political (dis)order. The argument of this paper is that the factors discussed still shape the potential for political order and governance reform in current individual post-conflict situations. Potential implications of these factors will be shown in Chapter 7.

²⁶ Woodward (2009), p. 58.

5. Foundational causes of state fragility

5.1. The history of state fragility in Africa in the late 20th century

Bates has shown how the basic relations between public revenues, rewards from predation and certainty of position have played a large role in the historic emergence of fragility in many African states – especially the more resource-rich – in the decades since decolonisation. Non-productive use of government revenues has played a major role in these processes.

After decolonisation, the states generally started with a legal-institutional democratic political system based on European institutional models. However, in the African patrimonial political culture where votes were won by sharing out the revenues of power, it soon became too expensive for the rulers to outbid their political competitors. As a consequence, rulers started to curtail opposition and governments became increasingly autocratic and militarised. In this patrimonial logic, they catered primarily for easily accessible urban voters by promoting urban industrialisation, to the detriment of rural development. But this industrialisation largely failed, since in the same logic they tended to increasingly control the economy, restricting economic benefits and functions to political clients, disregarding competency requirements. Political survival was a stronger incentive than the need to raise the level of production. These economic policies stifled economic growth and public revenues fell. From the 1970s a global economic recession aggravated the downturn in public revenues. In the late 1980s the ‘third wave of democratisation’ swept the continent. Governments that in the 1980s had been immune to political challenges now faced organised political opponents. Both the downturn in public revenues and the increased insecurity of the rulers’ position increased the temptation for rulers to engage in more extreme forms of predation, and quite a few rulers gave in to it. They increasingly used military means for predation, which groups of citizens countered by themselves becoming militarised. Bates’s findings suggest a close relation between democratisation and the militarisation of civic society, with both sharply rising from 1980 onwards. However, he does not suggest that political reform provoked political disorder. Rather, he argues that it is the authoritarianism of the post-colonial period that lay the foundation for this process of state failure.

Historical examples from Asia and elsewhere show that the process could have followed another path, which has been characterised as the ‘developmental state’ model. A number of post-colonial Asian countries managed during that same period to achieve enduring political order and sustained wealth production. In these countries, rulers took the lead in investing in economic production capacity, raising levels of technology and human capacities.²⁷ The so-called Asian Tigers (Hong Kong, Singapore, South Korea and Taiwan) succeeded between

²⁷ Fritz, Verena and Alina Rocha Menocal (2007), ‘Developmental States in the New Millennium’, *Development Policy Review*, 25 (5) September 2007, from p. 534.

the 1960s and 1980s in fundamentally transforming their poor agrarian societies into producers of high-technology and high value-added goods in the 1990s. Since the 1980s, developmental states in China and Vietnam have also overseen a remarkable process of social transformation.²⁸ A major incentive for state and society to take this path was possibly a severe national crisis that threatened the survival of the state, which reinforced the resolve of leaders and citizens to overcome this threat by aligning themselves behind a ‘national project’.

More limited examples of state-led development can be found in countries such as Brazil, India and Mauritius. Also, post-conflict Uganda (in the first decade after 1986) and Rwanda (after 1994) show some of the characteristics of these developmental states, with strong governments that were relatively successful in maintaining stability and enhancing growth, although the transformation of society seems less fundamental and inclusive here than in the other cited developmental states.

Three important questions arise from this historical comparison:

- First, why the post-colonial experience could have led to fragility in some cases and to sustained political order and economic growth in others;
- Second, whether the model of the developmental state is an option for present-day fragile states; and
- Third, whether the model of the developmental state is compatible with democracy.

As to the first question, the crucial difference seems to be the **non-productive use of government revenues** in the African examples compared with their productive use in the developmental states. In the African states the revenues are primarily used for directly buying clientelistic political support, while in the developmental states the revenues are invested in the economy through targeted support of profitable, export-oriented sectors. This analysis corresponds to work by Mustaq Khan.²⁹ Khan argues that states can achieve higher levels of development only if they invest in increasing levels of productivity through technology. All states are confronted with varying levels of neo-patrimonialism and related corruption, but the way in which its revenues are put to use differentiates between states that are on their way to economic development, and those that are not.

There are other conditions that serve to characterise developmental states. One condition is **leadership** that not only is strongly committed to developmental goals, but also places national development ahead of personal enrichment and/or short-term political gains. A second condition is that the **societal context** needs to allow political survival of leaders. In late 20th-century Africa, there were strong neo-patrimonial demands for spoils, and tribal rivalries needed to be managed. A third condition may be **existential threat**. Historically, many of the examples of the emergence of such leadership have been associated with a severe crisis, a period of conflict and war, regime trauma and a sense of urgency (the perceived threat that Japan posed to South Korea, for example), and the response that political elites have

²⁸ Fritz and Rocha Menocal (2007), p. 534.

²⁹ Khan, Mustaq H. (2004), ‘Corruption, Governance and Economic Development’, in Jomo, K.S. and B. Fine (Eds) (2004), *The New Development Economics*, Zed Press, New Delhi, Tulika Press and London.

designed to overcome the threat. Partly related to this is a ‘national project’ shared between elites and citizens. Development generally requires commitment among the state elite, but elite commitment is not enough. It is usually necessary for the elite to expound a vision that connects the state and society in a mutually binding way, through some form of **shared national project**.³⁰ Lastly, it should also be kept in mind that, to a greater degree than in any other region of the world, the economies of Africa are based on the production of precious minerals, gemstones, petroleum and other valuable commodities, clearly raising the level of rewards from predation.³¹ Even if the revenues from these **rich resources** were not used for outright predation but to satisfy clientelistic demands and ensure political survival, they sharply diminished the need for rulers to facilitate and protect wealth creation by citizens.

The second question – whether the model of the developmental state is an option for present-day post-conflict fragile states – is more difficult to answer, and is outside the scope of this paper. Yet the question is relevant, since it will be very difficult to strengthen governance in the absence of economic growth. A cautious answer is that in contemporary post-conflict fragile states the combination of conditions for a developmental path, as outlined above, is unlikely to be found. Only one factor is likely to be present: a perception of existential threat due to a recent history of conflict and war. This factor may have played its role in post-war Uganda and Rwanda. But the other factors may well be absent in contemporary fragile states. In addition, the global economic context has changed, and it is not certain that the path of industrialisation is open to fragile states yet, given that China and India have emerged in the industrial products market segment that early industrialising countries typically seek access to.

The third question – whether the model of the developmental state is compatible with democracy – is also hard to answer in general. Historically, the transformations in developmental states were led by strong states, which were in many cases based on various non-democratic political systems: capitalist dictatorships in South Korea and Japan, communist authoritarian states in China and Vietnam, ‘no-party’ system in Uganda. But states need not be non-democratic in order to have a developmental orientation and success in development, as shown by countries such as Brazil, India, South Africa and Botswana. Nevertheless, the developmental state model is not easily applied in a democratic context. For one thing, democracy has an inherent tendency to disperse power and slow down decision-making processes, and it also makes the state less autonomous and less insulated from societal demands.³² These weaknesses would be all the more prominent in fragile post-conflict states, where democracy (if restored at all) may still be weak, and powerful spoilers may be around. The cautious answer to the third question would be that only an (electoral) democratic system with a strong executive (presumably a power-concentrating democratic model; see section 7.5) could conduct a policy based on the developmental state model. Present-day Bangladesh and Rwanda could be examples.

³⁰ Fritz and Rocha Menocal (2007), pp. 534–535.

³¹ Cf. Bates (2008), p. 27.

³² Fritz and Rocha Menocal (2007), pp. 536–537.

5.2. Persistent horizontal inequalities

Horizontal inequalities (HIs) have increasingly been identified as important deep-rooted causal factors of conflict and fragility. Horizontal inequalities are defined as inequalities in economic, social or political dimensions or cultural status between culturally defined groups.^{33,34,35} Many of today's conflicts are overtly conducted along identity lines, with explicit or implicit ethnic and racial undertones. Data on conflict show a major increase in the proportion of conflicts that are labelled as 'ethnic': from 15 per cent in 1953 to nearly 60 per cent by 2005.³⁶ Some analysts hold that these identity conflicts have also acquired global dimensions, with Islam versus the West replacing the ideological divisions of the Cold War. Today, then, mobilisation along group identity lines is considered an important source of violent conflict, with the majority of internal conflicts being organised group conflicts; they are not primarily a matter of individuals committing acts of violence against others. However, this reading of the data does not go unchallenged. Woodward concludes from an analysis of recent research that ethnic diversity does not incline a country to violence, and that ethnically heterogeneous societies are less inclined to civil war than homogeneous ones. She sees no decline since the end of the Cold War in wars that scholars label as based on 'ideological' conflict in favour of those labelled as 'ethnic'. She also points to the poor quality of the available data.³⁷

Whatever the exact causal relations, practical experience confirms that civil wars are often waged on a group basis, so this paper will further explore the role of group inequalities in group mobilisation. What could be the origin of group identities, and especially of group identities that are so strong that people are willing to fight for them? The view of social constructivists and instrumentalists is that group identity is largely developed instrumentally, to be used by groups and their leaders in order to achieve political or economic goals. Only a part of an individual's group identity is a given that cannot be changed, while ethnic or religious consciousness can be either mobilised or made irrelevant. Differences may be emphasised, and even invented, by leaders ('ethnic entrepreneurs') in order to construct social groups, and group boundaries are made and remade.³⁸

Group identities potentially can provide the basis for violent conflict, either when they are used by leaders to mobilise 'their' people to rebel, or when they are used by the 'others' (the

³³ Horizontal inequalities are often a feature of neo-patrimonial systems, since the various neo-patrimonial leaders only reward their own followers. Where some leaders have more power and means than others, HIs are likely.

³⁴ Vertical inequalities refer to inequalities between individuals, e.g. in income or socio-economic class. Gender inequalities are a form of vertical inequalities. Within horizontal groups, vertical inequalities, among which gender inequalities, exist.

³⁵ Stewart, Frances (Ed.) (2008), *Horizontal Inequalities and Conflict, Understanding Group Violence in Multiethnic Societies*, Palgrave Macmillan, Basingstoke, ch. 1.

³⁶ Stewart (2008), ch. 1.

³⁷ Woodward (2009), p. 52.

³⁸ Stewart (2008), ch. 1.

state or other groups) to discriminate against particular groups. Large-scale group mobilisation is unlikely to occur in the absence of serious grievances at both leadership and mass level. Mobilisation is particularly likely where political exclusion of the leaders coincides with economic and social grievances among the followers.³⁹ In a neo-patrimonial political marketplace (see Chapter 4) where leaders compete for power, leaders may utilise (or even manipulate) group identities in order to enlarge their constituencies. Group identities can be forged by leaders to a certain extent to serve their purposes, exploiting ever-present economic and social grievances.

In many cases horizontal inequalities persist over long periods. Many HIs have colonial origins, having been caused by colonial powers privileging particular groups or regions, and sustained by a variety of ongoing factors. In Latin America, inequalities were caused by the privileged settlers taking the best resources for themselves, and sustaining their privilege through discrimination and unequal access to every type of capital. Post-colonial policies have done little to correct these inequalities.⁴⁰ In Africa, colonial powers often privileged one group above others (e.g. the Tutsi above the Hutu in Rwanda and Burundi, or coastal areas above the hinterland), with far-reaching effects that have lasted into our times. As Bates has shown, the post-colonial political model with its neo-patrimonial culture led to exclusion of political competitors (and their followers), creating situations in which the group that is affiliated with government monopolises the access to all political and economic resources. This situation still persists in many of the fragile African states,⁴¹ although the groups at the helm may change from time to time. It could be said that the African heads of state recognised the importance of HIs, when in the 5th African Peer Review forum of June 2006 – held within the framework of the African Peer Review Mechanism (APRM) – they identified ‘managing diversity’ as the major challenge. The APRM reports on Rwanda and Kenya contributed to this conclusion.⁴² The relevance of persistent HIs to conflict and governance is clear from a summary of the main findings of a large research project conducted by the Centre for Research on Inequality, Human Security and Ethnicity (CRISE):

1. The probability of conflict occurring rises where socio-economic HIs are greater, and the intensity of conflict is related to HIs (with larger HIs leading to more intense conflicts).
2. Conflict is more likely where political and socio-economic HIs are large and run in the same direction, or are consistent. Where they run in different directions, conflict is less likely.

³⁹ Stewart (2008), ch. 1.

⁴⁰ Stewart (2008), ch. 13.

⁴¹ McCoy, David (2008), ‘Rectifying Horizontal Inequalities: Lessons from African Conflict’, African Centre for the Constructive Resolution of Disputes, *African Journal on Conflict Resolution*, http://www.humansecuritygateway.info/documents/ACCORD_RectifyingHorizontalInequalities_Africa.pdf

⁴² Gruz, Steven (2008), ‘Adding value to African Peer Review’, 22 September 2008, http://www.saiia.org.za/index.php?option=com_content&view=article&id=837:adding-value-to-african-peer-review&catid=78:diplomatic-pouch

3. Inclusive (or power-sharing) government tends to reduce the likelihood of conflict. Where power is shared, political HIs are lower, hence making peace likely even where there are severe socio-economic HIs (this point will be developed in section 7.5).
4. The presence of natural resources can be a significant cause of separatist conflict, as well as of local conflict, often working through the impact this has on HIs (this point will be developed in section 5.5).
5. The nature of the state is of very great importance in determining whether serious conflict erupts and persists. Harsh and aggressive state reaction to rebellion can sustain conflict for years. Campaigns of state terror, one-sided state action but also late and negligent state action may make conflicts more severe than they need have been. Also, it is increasingly recognised that the widespread advocacy of multi-party democracy can lead to exclusionary politics in heterogeneous societies, if it leads to majorities excluding minorities. In some obvious cases power-sharing arrangements have been supported, as in Bosnia-Herzegovina and Lebanon.
6. International policies and statistics are often blind to the issue of HIs, though national policies are often more progressive in this respect. Where the international community recognises inequality as a growing concern, the attention is mostly focused on vertical inequalities (i.e. inequalities between individuals, particularly in income), e.g. in Poverty Reduction Strategy Papers (PSRPs). However, more attention is beginning to be devoted to HIs in analysis of conflict-prone situations. A dearth of international statistics on the issue reflects this lack of focus, with a notable exception being the Demographic and Health Surveys (to date covering 77 countries) funded by USAID with contributions from other donors. As far as national policies are concerned there is often a much greater awareness of the importance of HIs, although this does not automatically lead to effective policies to reduce them.⁴³ This lack of effectiveness could easily be explained by looking at the interest and incentive structure of leaders (e.g. in a neo-patrimonial society as described by De Waal), which generally would require emphasising and manipulating HIs.

This school of thought has links with what Woodward calls the cultural argument (although Stewart focuses more on socio-economic and political inequalities than on cultural). For proponents of the cultural argument the root cause of civil war is cultural difference and especially political discrimination against minorities, defined in cultural terms. Recent work by the US Political Instability Task Force has much in common with the branch of this school that focuses on the dangers of violence-provoking nationalism in the course of democratisation. It finds a very strong predictive value of 'factionalism'.⁴⁴

⁴³ Stewart (2008), ch. 13.

⁴⁴ Goldstone, J.A., R.H. Bates, T.R. Gurr, M. Lustik, M.G. Marshall, J. Ulfelder and M. Woodward (2005), 'A Global Forecasting Model of Political Instability', paper presented at the Annual Meeting of the American Political Science Association, Washington, DC, <http://globalpolicy.gmu.edu/pitf/PITFglobal.pdf>

5.3. Hybrid political orders and ‘ungoverned’ spaces

Another approach stresses that in many (fragile) countries the formal state has never effectively controlled its whole territory. Boege and his colleagues critically review the state-building discourse and introduce the concept of ‘hybrid political orders’ to indicate that some states combine formal Weberian/Westphalian state institutions with more traditional-customary ones. They argue that these more hybrid models might (grow to) provide legitimate and effective (and thus resilient) political order, if the role of the customary-traditional institutions is recognised and built upon.⁴⁵ They refer mainly to societies (many of them in the Pacific) where in large parts of the territory only outposts of the state can be found. The state has not yet permeated society and extended its effective control to the whole of society. Statelessness in these parts of the territory does not mean anarchy, however, and nor does it imply absence of governance and institutions. In many places, customary non-state institutions of governance that had existed prior to the area of colonial rule have survived the onslaught of colonialism and national liberation. They have, of course, been subject to considerable change and have had to adapt to new circumstances, yet they have shown remarkable resilience. Customary law, traditional societal structures (extended families, clans, tribes, religious brotherhoods, village communities) and traditional authorities (such as village elders, headmen, clan chiefs, healers, ‘bigmen’, religious leaders, etc.) determine the everyday reality of large parts of the population in developing countries even today, particularly in rural and remote areas. They often have far greater legitimacy and effectiveness than state institutions, even if they are part of the same culture and suffer from some of the same weaknesses – such as limited (gender) equality, voice and accountability.⁴⁶

In these parts of the state, where the state agencies are incapable of delivering (or uninterested in delivering) security and other basic services, people have turned to other social entities for support. In this situation, the actors perceived as powerful and effective include warlords and their militias in outlying regions, gang leaders in townships and squatter settlements, vigilante-type organisations, ethnically based protection rackets, religious movements, transnational networks of extended family relations, organised crime or new forms of tribalism. Occasionally, these new formations have seized power in certain parts of a state, effectively breaking the state’s monopoly of violence. There are often combinations of forces from the customary sphere – such as chiefs or religious authorities – and these new formations, with both sides trying to instrumentalise the other for their own purposes. For example, warlord systems are embedded in the local societal structure of clans and tribes (as witnessed in Afghanistan and Somalia) with the warlords replacing the traditional elders as the most powerful leaders. Or criminal gangs that control squatter areas are linked to kinship-based entities and common localities of origin. In addition, these locally embedded orders increasingly link into the globalised market and global society, for example via drug trafficking,

⁴⁵ Boege, V., A. Brown, K. Clements and A. Nolan (2008), ‘On Hybrid Political Orders and Emerging States: state formation in the context of “fragility”’, Berghof Research Center for Constructive Conflict Management, in *Berghof Handbook Dialogue No. 8*, October 2008, www.berghof-handbook.net

⁴⁶ Scheye, Eric (2009), *Pragmatic Realism in Justice and Security Development: supporting improvement in the performance of non-state/local justice and security networks*, CRU Clingendael paper, (forthcoming)

migration, remittances, trade networks or religious affiliation. It is evident that citizens – men and women in different ways – may pay a price for the protection these entities offer, having to conform to the demands of the protectors. Nevertheless, these structures help people to cope.

Recent work by the University of Ghent likewise showed that African populations in localised ‘ungoverned’ spaces are able, to a great extent, to cope with the problems of weak statehood and violence, especially in zones of so-called limited statehood, thanks to a great deal of creativity and mobility.⁴⁷

5.4. Low level of institutionalisation

Where Boege and Vlassenroot emphasise the partial spatial control of the formal state, others point to its partial institutional control, and especially to the imperfect functioning of formal institutions. This argument is in line with the analyses made by Bates, De Waal and Chabal, outlined in Chapter 4. The basic argument is that where formal institutions do not match well with the existing informal norms, values and ‘rules of the game’, they will not take root. They will be bypassed by informal institutions or be instrumentalised to serve informal rules of the game. The effects of an imperfect blend of legal-rational institutions with neo-patrimonial rules of the game have already been well illustrated in Chapter 4 and sections 5.1–5.3.

The reason for returning to this point is that weak formal institutions easily lead to a low level of institutionalisation, which in itself contributes to state fragility and a weak position for citizens. Low institutionalisation means that government, civil society and private sector organisations scarcely follow public, transparent, known and constant rules and procedures (institutions). The effect is that their behaviour is unpredictable. Even if, as De Waal argues, the informal rules are so strong that they in fact define the rules of the game, the workings of these rules in concrete decision-making by elites have very little transparency and predictability for citizens (and international actors). Many weaker countries tend to suffer from highly personalised government and political systems that are both weak and arbitrary. The lack of institutionalisation constrains the governments’ power to achieve things. Likewise, it turns every interaction into a negotiation, with the weaker party (often the citizen) generally losing out. Greater institutionalisation is likely to contribute to state-building and improve the quality of governance.⁴⁸ Grindle has argued that the level of institutionalisation is strongly correlated with other characteristics of state resilience, such as legitimacy, effectiveness and the types of policies in place.⁴⁹ This argument corresponds well with the newest research findings of the US Political Instability Task Force that both consolidated democracies and authoritarian

⁴⁷ See Vlassenroot, Koen and Timothy Raeymaekers (Guest Eds) (2008), ‘Dossier Governance without government in African crises’, *Afrika Focus*, Vol. 21, No. 2, 2008.

⁴⁸ Clingendael Conflict Research Unit (2008), *Fragile States Assessment Methodology*, The Hague. See also Initiative for Peace-building (2008), ‘State-Society Analytical Framework’, working draft, http://www.initiativeforpeace-building.eu/pdf/State_and_Society_Analytical_Framework.pdf

⁴⁹ Grindle, Merilee S. (2007), ‘Good Enough Governance Revisited’, *Development Policy Review*, 25 (5) September 2007, p. 564.

governments are the least prone to civil war and instability,⁵⁰ and the hybrid forms are the most prone. Practice, however, has amply shown that merely changing the formal rules and institutions, by institutional development and capacity-building, will not do the job when the interest and incentive structures of major players are pointing in another direction. We will return to this point in section 7.3.

5.5. Natural resource wealth

Natural resource wealth is intimately linked to issues of governance and fragility, although the debate is still ongoing about what the exact relationship is.

One discussion addresses whether there is a causal relation between resource wealth and fragility or conflict. Collier and Hoeffler reported in 2004 that “dependency upon primary commodity exports” constitutes “a particularly powerful risk factor” for the outbreak of civil war.⁵¹ But Bates and others refute these findings. Bates fails to find a significant relationship between the value of natural resources and the likelihood of state failure (with the exception of a fragile relationship between the value of petroleum deposits and political disorder), and so do Fearon and Woodward.⁵²

Whatever the eventual conclusion reached in the debate between econometricists, it is evident that the management of high-value exportable natural resources poses major challenges to states with weak institutions, especially if these are guided by neo-patrimonial rules of the game. The availability of high levels of rent income relieves the ruler – in Bates’s model – of the need to earn government revenues by protecting the citizens and supporting their economic activities. Furthermore, the attraction of very substantial revenues leads to strong competition between state and non-state competitors, including foreign states and companies, further complicating the game. At the same time the resources provide the financial means for armed competition over access to the resources. This combination of incentive and opportunity could easily increase the risk of prolonged armed conflict, unless the ruler has a very strong position.

On the other hand, the availability of sufficient resources might, in a neo-patrimonial marketplace, provide the opportunity for a buy-in of all competitors/intermediary elites, enabling a fairly stable order. Nigeria could be an example, and possibly Angola. All intermediary elites have sufficient interest in the present bargain of sharing out the resources for them to not challenge (fundamentally) the order. Again, such an order does not depend on effective state–society interactions and interdependency. Citizens are not likely to benefit much beyond the price they can demand for their allegiance, though this price might be raised since the competitors can afford higher prices.

⁵⁰ Woodward (2009), p. 53.

⁵¹ Collier, P., and A. Hoeffler (2004), *Greed and Grievance in Civil Wars*, Oxford Economic Papers, New Series 56(4), pp. 563–595.

⁵² Bates (2008), pp. 10–11; and in Bates (2008): Fearon, J.D. (2005), ‘Primary Commodities Exports and Civil War’, *Journal of Conflict Resolution* 49(4): 483–507; also: Woodward (2009), p. 53.

In addition to these political risks, the economic management of large rent incomes is a governance challenge for any government. The risk of ‘Dutch disease’⁵³, damaging the growth process by crowding out export activities that otherwise would have the potential to grow rapidly, is still considered important by economists. To this risk can be added concerns about potential shocks: natural resource revenues tend to be highly volatile, and volatile revenues are obviously difficult to manage.⁵⁴

A full assessment of the implications of the above for economic governance is beyond the scope of this paper. Suffice to conclude that natural resource endowment does increase risks for conflict and war, but it can also provide the means for political order – even of a patrimonial type.

5.6. External (foreign) influences and interventions

State fragility may be enhanced or even caused in the first place by long-standing external influences. An extensive analysis of these factors is outside the scope of this paper, but a number of relevant factors may be recorded here.⁵⁵

- colonialism, decolonisation and the history of state formation;
- the state-based international system;
- lasting effects of geopolitics;
- regional instability;
- lasting effects of the global economic order.

Colonialism, decolonisation and the history of state formation

Most fragile states are post-colonial states. Colonialism, decolonisation and the history of state formation may have had a number of lasting consequences. For example, if state power was forged/enforced by a colonial authority, this may have resulted in a weak sense of political community or of national identity; weak state legitimacy; a dominant political elite and permanent exclusion of certain groups; language barriers; major political divisions; and a lack of broadly based interest groups that could challenge the private use of public power.⁵⁶ Colonialism has, as we saw in section 5.2., in a number of countries shaped lasting HIs, e.g. in Rwanda-Burundi (Tutsi – Hutu) and Sudan (North – South). (De)colonisation has led to boundaries that cut across major ethnic groups (e.g. in the Great Lakes Region) and are

⁵³ ‘Dutch disease’ refers to the potential effects of any large increase in foreign currency in a country. The foreign currency inflows cause a rise in the value of the affected country’s currency. This has two main effects: a decrease in the international price competitiveness, and thus the exports, of its manufactured goods, and an increase in imports. In the long run, the end result may be that non-resource industries are hurt by the increase in wealth generated by the resource-based industries.

⁵⁴ Collier, Paul (2007), *The Bottom Billion*, Oxford University Press, ch. 3.

⁵⁵ Cf. Woodward, who cites as potential international root causes: changing global economic context, the instability of a neighbourhood, the strategic policies of major powers, the economic policies supported by donors and banks, and the conditions for aid or trade. (Woodward, 2009:53)

⁵⁶ Clingendael Conflict Research Unit (2008), *Fragile States Assessment Methodology*, The Hague.

sometimes contested (e.g. the ‘Durand Line’ between Afghanistan and Pakistan, cutting through the Pashtun population). Other boundaries resulted in countries being landlocked or cut off from their main access to trade routes (e.g. eastern DR Congo’s trade routes run eastwards rather than through Kinshasa). Finally, as described from Chapter 4 to section 5.4, the introduction of European political models at the time of decolonisation in states with a strong patrimonial political culture has led to hybrid political orders with strong neo-patrimonial overtones. What political systems and states – if any – these societies would have developed had they been left to themselves remains an intriguing, but unanswerable, question.

The state-based international system

The model that Bates has proposed as the basic system of governance could be considered to lack an important factor, namely that his ‘ruler’ – being a government of an internationally recognised state – would have access to a number of external benefits that other groups and their leaders would not have. Since the end of the second world war, the international system has increasingly been based on states, and (governments of) states dominate access to benefits such as international representation in multilateral organisations, bilateral agreements, bilateral aid, commercial contracts for the exploitation of mineral resources, etc. This means that capture of the state has become a major additional incentive for competing intermediate elites in a country. The struggle to gain control of the government has contributed to fragility in many fragile countries. An example is Somalia, where a peaceful coexistence of fairly egalitarian ethnic groups is disturbed time and again by the efforts of one or other group to create and capture a central government.

Lasting effects of geopolitics

Geopolitics is a large category that could include foundational causes for state fragility in many individual fragile states. Two more general factors are briefly mentioned here. One is the Cold War. The Cold War led to proxy wars in various states, which could be ended only after the end of the Cold War (e.g. Angola). In some countries the Cold War and its aftermath contributed substantially to state fragility. In DR Congo an authoritarian ruler (Mobutu) was supported (by the USA) during the Cold War, and this support was abruptly ended after the end of the Cold War. Both the support during, and the abrupt cessation after, the Cold War contributed greatly to fragility in DR Congo and the Great Lakes Region. Another example is Afghanistan, where the proxy war between the Soviet Union and the USA led to the Russian invasion of Afghanistan and US support for the Taliban, with lasting effects to this day. Another general factor is the global demand for natural resources, primarily oil. As a background paper for the UK Prime Minister’s Strategy Unit (PMSU) noted: “... where energy security strategies involve financial, military and political support for authoritarian regimes, external involvement can be profoundly destabilising over the medium to long term”.⁵⁷ Resource strategies of major powers have played a lasting role in the fragility of Sudan, for example.

⁵⁷ Bassford, Matthew and Nick Mabey (2005), *Countries at Risk of Instability: Future Risks of Instability*, PMSU Background Paper, p. 31. <http://www.cabinetoffice.gov.uk/~media/assets/www.cabinetoffice.gov.uk/strategy/3future%20pdf.ashx>

Regional instability

Civil war tends to affect neighbouring countries and draw them into the war. This may be reinforced where boundaries cut across major ethnic groups or economically interdependent regions. Regionalisation of conflicts in turn may make them harder to solve. Many of today's most fragile states are found in regions that have been unstable for decades (Horn of Africa, Great Lakes Region, Afghanistan-Pakistan, Middle East).

Lasting effects of the global economic order

Fragile states are generally found at the bottom of the global economic rankings. While there are many interrelated causes for this situation, some are directly related to the global economic order itself. Fragile states have generally been disadvantaged in the global economic system and are hit disproportionately by its vagaries. Economic shocks can precipitate state fragility. In the 1980s the general decline of prices of primary commodities and rise of oil prices contributed to the spread of state fragility (cf. section 5.1). Other effects of the global demand for scarce natural resources have already been described in sections 5.5 and 5.6 above. Terms of trade have generally been disadvantageous for weaker states. The imposition on developing countries of the 'Washington consensus' economic policies ('stabilise, privatise, and liberalise') did not work out the way they were intended.⁵⁸ In African neo-patrimonial political systems these policies sometimes critically undermined the position of the rulers, with increasing fragility as a result. The aid effectiveness debate of the 1990s further marginalised countries that did not meet the criteria for 'good governance' since they were largely excluded from aid. If countries were not supported for other (geopolitical) reasons, they risked becoming 'aid orphans' (e.g. Burundi).

5.7. Other factors

This focus on a relatively small number of factors is not to imply that the other indicators of fragility examined in the literature are unimportant. Factors such as size, geographic accessibility (especially in the case of landlocked countries), gender inequality, urbanisation, demography (especially a large pool of unemployed young men), do play a role in causing fragility. What seems likely, however, is that the six factors discussed in this chapter are the most relevant foundational causes related to governance issues in post-conflict fragile states. In the following chapter the focus will shift to the post-conflict situation in which a number of fragile states find themselves, and especially to situations of protracted crisis where no satisfactory political solutions to major conflicts have yet been agreed. A number of medium-term factors will be discussed that shape the potential for governance reform.

⁵⁸ Rodrik, Dani (2006), 'Goodbye Washington Consensus, Hello Washington Confusion? A Review of the World Bank's Economic Growth in the 1990s: Learning from a Decade of Reform', *Journal of Economic Literature*, Vol. XLIV (December 2006), pp. 973–987; Hippler, Jochen (2009), 'Democratisation after Civil War – Key Problems and Experiences', in: Merkel, Wolfgang, and Sonja Grimm (Eds) (2009), *War and Democratisation – Legality, Legitimacy and Effectiveness*, Routledge, London and New York, p. 96: "The free-market fundamentalism and anti-statist leanings of the so-called 'Washington Consensus' on economic policy began to weaken during the 1990s, and the World Bank and other key actors re-discovered the state as an important agency of development."

6. Factors relating to the war and the peace agreement

Post-conflict situations are characterised by a change in their political order as compared with the pre-war situations. Both the war and the peace (agreement) have changed society, affecting the power and interest structures. For one thing, the former belligerents have decided to conclude a peace agreement and henceforth compete in the political arena. This change and the incentives for it may offer opportunities for more fundamental change. However, the foundational causes of conflict and fragility usually are still largely present, and the risk of resumption of hostilities – either large-scale or low-key – is still substantial. The crucial question is whether the war, the peace agreement and the post-conflict context have fundamentally changed the interest and incentive structure of the former belligerents, so that a more sustainable political order can be built. And if so, the next questions are what these changed incentives could be and how they could be reinforced, by internal or external actors. Woodward's argument is that it is in the changes inflicted by war that one can find bases for its successful termination. War transforms society, the economy and interests.⁵⁹ The position taken in this paper is that both foundational causal factors – to the extent that they still have an impact in the post-conflict phase – and the changes brought about by the war and the peace (agreement) have to be taken into account.

In this chapter a number of these changes brought about by the war and the peace (agreement) will be discussed. The focus is on medium-term factors that would be likely to affect the interest and incentive structure of major protagonists, and thus the potential for peace- and state-building. The next chapters will then investigate the possible implications for peace- and state-building opportunities of both the foundational factors described in Chapter 5 and the more medium-term factors described in Chapter 6.

6.1. The type of conflict

A first factor is the type of the conflict that has ended. Political alignments or confrontations that might be important after the war are often formed during the time of violent confrontations, as are perceptions and mindsets. Also, most civil wars are basically struggles over the control, creation or destruction of states. A helpful overview of causes and dimensions of civil war distinguishes:⁶⁰

- conflict over resources;
- conflict over territory;

⁵⁹ Woodward (2009), p. 55.

⁶⁰ Hippler (2009), p. 98.

- conflict over autonomy, secession;
- conflict over type of rule, system of government;
- conflict over governance (degree of repression, corruption, rule of law);
- conflict over personnel or personalities; between formal or informal networks of solidarity or clientelism;
- conflict over identity (national, ethnic, religious, political);
- conflict to achieve or maintain independence from external control.

The causes of civil wars often overlap and are difficult to distinguish. For example, conflicts over resources, over territory and over autonomy or secession may be closely interwoven, since secession is tied to a specific territory that may harbour the resources (e.g. Kurdish areas in northern Iraq). We should also be aware that violent conflicts are not stable but evolve over time. For instance, what started as a conflict over forms of governance can later add a dimension of resource competition and even – still later – identity. As soon as violence begins, any conflict changes its character to some degree, and any war that lasts for a longer period acquires different characteristics and even goals. A significant example of this is the emergence of a ‘war economy’, which can lead to the continuation of war by ‘war entrepreneurs’ for the single purpose of serving their economic interests.

For the purpose of analysing post-conflict options of peace-building and state-building, an analysis of key actors and regime type during the civil war is helpful. Hippler makes a distinction between government and opposition actors. Government is then characterised by its strength/weakness and by the level of external control, while opposition actors are characterised by their number (one – few – numerous) and whether they fight primarily for a common goal or among themselves. In this typology, Mozambique (1975–92), for example, is characterised by a weak indigenous government and only one organised key insurgent group. Bosnia (1992–95) differs from Mozambique in having a few insurgent groups. Afghanistan evolved from a weak government dominated by external actors (the Soviet Union) and a numerous autonomous armed groups primarily fighting for a common goal (1980s), via an extremely weak relevant government or none at all, and numerous autonomous armed groups primarily in conflict between themselves (1992–96) to a weak government dominated by external actors (USA) and a few insurgent groups (from 2001).

The type of civil war depends on the type of armed opposition a government faces. If the war is fought between two or very few parties that differ considerably from each other in military strength, the war will be fought in a non-conventional way, generally as a guerrilla war (e.g. El Salvador and Guatemala in the 1980s). If, on the other hand, a civil war is a conflict between a government and several opposition groups, the several opposition groups may soon not just fight the government but also compete among themselves. In this case also, a non-conventional war becomes more likely, and the danger of a complete social breakdown is high (e.g. Afghanistan during the *mujahedin* years 1992–96). Such a civil war tends to emphasise narrow group interests, strong dimensions of greed and personality clashes. These

characteristics would gravely affect the political framework for later peace-building and state-building.⁶¹

6.2. Ways to end civil wars

The second relevant factor is the specific way a civil war ends. Four stylised scenarios can be distinguished, while in reality these scenarios are rarely clear-cut and can overlap or change over time:⁶²

- The war produces a clear victory for one of the parties.
- The war comes to an end because of a compromise.
- The war ends because of general exhaustion without a conclusion.
- The war has been ended by external pressure or force.

The first scenario of a **military victory** is more likely in a conventional war, and has become less likely since the end of the Cold War, because in many cases external intervention will have made outright victory of one party unlikely. This scenario might be favourable for creating future stability (at least for some time), but the obvious danger is that democracy might not be easy to achieve.⁶³ The scenario might be considered to apply to Rwanda in 1994 (a post-Cold War conflict where indeed no external intervention took place), and to Uganda in 1986.

The second scenario of a **negotiated settlement/compromise** has become more likely since the end of the Cold War, and it is closely linked to external intervention and mediation.⁶⁴ In this scenario, the chances for peace-building and state-building will depend on two things: who has been involved in the negotiations, and to what extent have the fundamental causes of the conflict been addressed.

If peace has been brought about not just by small numbers of elite people with the warring parties but also by popular involvement, it can be more sustainable and the chances for democratic development are higher.⁶⁵ However, this situation is rare, as negotiating compromises in complex and multi-actor conflicts is generally only feasible by involving smaller numbers of leaders/elites who could harness the support of their followers. The nearest to this option are situations where civil society organisations, e.g. women's groups, have been involved in crafting compromises and agreements.

⁶¹ Hippler (2009), pp. 98–99.

⁶² Hippler (2009), pp. 103–104.

⁶³ Hippler (2009), p. 103.

⁶⁴ Hippler (2009), p. 104.

⁶⁵ Hippler (2009), p. 104.

If the compromise has been negotiated only by a small number of elite figures, the prospects for peace might still be good, but democracy would be unlikely, since these actors are generally more interested in their own power and enrichment.⁶⁶

Hippler argues that if the root causes of conflict have not been addressed in the compromise, generally the outcome will be that the compromise has only won time, not a durable peace, and democracy will be difficult to achieve.⁶⁷ The issue of whether it is necessary or possible to address the root causes of conflicts continues to be the subject of debate.⁶⁸ De Waal contends that “it is an abiding misconception that peace agreements to end civil wars can resolve the root causes of conflict”. If the parties to a peace agreement are weakly institutionalised and ruled by patrimony, any attempts to address supposed root causes such as injustice, lack of liberal democracy and unequal development may not help – and may even hinder – the achievement of more realisable goals based on elite bargains. However, since the belligerents in these countries are weak vis-à-vis the international mediators, they generally accept onerous peace settlements with more intrusive international monitoring and enforcement,⁶⁹ thereby increasing the risk of failure. If, on the other hand, the former belligerent parties are strong, they will settle on the basis of their interests and will not be interested in commitments to accountability or democracy. De Waal pleads for more humble and less ambitious international intervention, to which we will return in section 7.1.

The scenario of **general exhaustion without a conclusion** generally leads eventually to a compromise, led by either the warring leaders or alternative elites if the warring elites have become too discredited by the lack of success.

In the fourth scenario of an **externally imposed solution**, peace- and state-building can become even more complex, since all the local conflict factors are still present, but the number of actors and interests have increased. This scenario will provide good prospects for peace-building and state-building only if the foreign involvement focuses on support for indigenous development of peace and governance, and has the necessary wisdom, strategies, commitment and resources available. In addition, they must be able to identify local forces that are both worth supporting and politically relevant. If these conditions are not met, foreign intervention may easily be either irrelevant or harmful.⁷⁰

⁶⁶ Hippler (2009), p. 104.

⁶⁷ Hippler (2009), p. 104.

⁶⁸ See Chapter 2 for a discussion of Woodward’s arguments on this issue. In addition, Collier has repeatedly argued that it is not very helpful to search for (one) root cause, on the basis of his cross-national comparative research (Collier [2007], pp. 22–26). But this argument, like Woodward’s, does not say anything about the usefulness of addressing, in specific fragile states, the complex of root causes of fragility and conflict.

⁶⁹ De Waal (2009), p. 112.

⁷⁰ Hippler (2009), p. 105.

6.3. Types of international intervention

Since the end of the Cold War, international intervention in civil wars has substantially increased. The type of intervention matters, being of relevance to the effectiveness and legitimacy of both the intervention and the post-conflict political order.

Broadly, three types of international intervention can be distinguished in the period since 1990:⁷¹

- humanitarian intervention;
- democratic intervention;
- intervention linked to other (geopolitical) goals.

A **humanitarian intervention** is intended to end massacres, civil war and gross human rights violations. Democratisation (or state-building) is not the cause and initial aim of the intervention, but it often becomes the ultimate goal after a militarily successful operation, as was the case in Bosnia-Herzegovina after 1995. However, external democratisation as part of a peace process has to build on the consent of relevant elites who welcome external engagement in the country's reconstruction after violent conflict. This favourable condition exists only rarely in post-conflict societies. On the contrary, weak pro-democratic domestic actors, weak states, but strong external involvement characterise these cases. The result is that the external actors become the principals and sometimes also the agents of democratisation.

A **democratic intervention** is intended a priori to democratise a formerly autocratic regime. The principals and agents of such an intervention are necessarily, at least in the beginning, external actors with no explicit mandate for democratisation from legitimate representatives of the target country. Afghanistan (2001) and Iraq (2003) exemplify this type of intervention. Nevertheless, external actors seldom engage solely from altruistic motives, neither in humanitarian nor in democratic interventions. Their motives are often linked to **other goals** such as self-defence (Afghanistan 2001), or to secure the supply of essential resources (arguably Iraq). Mostly it is a mix of several declared or hidden motives that lead to external engagement.

In the literature on international relations theories, these other goals are often explained by the paradigm of realism. Realism sees foreign policy as essentially based on calculations of power, national interest – including competing bureaucratic interests – and necessity. But incentives may also include prestige, self-assertion, ideology and even – when the state is secure and not threatened by other states – morality. Realist theory does not exclude policies such as actively encouraging peacekeeping, as long as there is no, or a low, security risk or military risk to a state's own troops. For example, a realist paradigm explains the constrained and targeted western peace-building and peacekeeping in DR Congo since 2003 largely by the (French) wish to assert the European Union as a credible actor capable of deploying a military force,

⁷¹ Section 6.3 is based on Merkel, Wolfgang, and Sonja Grimm (Eds) (2009), *War and Democratisation – Legality, Legitimacy and Effectiveness*, Routledge, London and New York, pp. 3–4.

with the USA interested in playing a role without a high cost in diplomatic and military engagement.⁷²

6.4. Transformations of society through war

The onset of violence at the outbreak of war has consequences that endure after the end of the war.⁷³ One is that violence may *cause* ethnic conflict.⁷⁴ That is because ‘discourses of difference’ are necessary to civil war, since behaviour that most people would abhor in peacetime must be justified. Another consequence of violence is that it makes choices for individuals. “You may not be interested in war, but war is interested in you”.⁷⁵ Once violence begins, people are forced to take sides – whether ethnic, racial, religious or political – which have been defined by others. It is not identities per se that cause people to use violence, but the reverse: violence chooses identities for people. Peace should offer opportunities for people to more freely develop post-war identities in response to new roles and requirements of peace. The third consequence of violence is that it mobilises people to use violence. Only the experience of violence can explain the high numbers of non-combatants turning to violence in the course of conflicts. The high level of women’s participation in the Maoist insurgency in Nepal was provoked by the rape of women by internal security forces. In addition, there is often a rise in violence after a peace agreement, related to new, post-war hardships (such as huge unemployment, and property conflicts when ex-combatants, refugees and displaced persons return to find their properties taken by others) and war-created threats (such as the presence of small arms, or criminal gangs).

War transforms society. Rural populations move to the cities and remain there. Women take on roles that formerly had been male-dominated, including military roles, which make it nearly impossible for them to return to their pre-war communities and status. The demographic balance changes as disease more than bullets kills off the most vulnerable, or as middle-class professionals (the core of ‘civil society’) and refugees first leave and then return (or not). ‘Warriors’ create ties and have learned to cooperate for collective tasks. Leadership potential may be created by the war, but many leaders are also killed off prematurely.

War also transforms the economy. Strategic infrastructure is often destroyed. Foreign investment has been diverted, and foreign markets may be lost forever. Economic activity has declined during the war, and may not pick up easily after the destruction of physical and institutional infrastructure and human resources. New social groups gain opportunities to

⁷² Gegout, Catherine (2009), ‘The West, Realism and Intervention in the Democratic Republic of Congo (1996-2006)’, *International Peacekeeping*, 16:2, 231–244.

⁷³ This section is based on Woodward (2009), pp. 55–57.

⁷⁴ This is the reverse argument of the findings in section 5.2. that ‘ethnic’ inequalities cause conflict. Both causal relations may be true. This calls for caution in interpreting correlations between ‘ethnic’ division and conflict.

⁷⁵ Leon Trotsky, cited in the novel that eloquently evokes the implications of this insight: Galloway, Steven (2008), *The Cellist of Sarajevo*, Atlantic Books, London.

enter business and succeed. Some of this entrepreneurship may be criminal and threaten post-war order, but some of it will benefit social groups that had formerly been excluded.

And finally, war transforms interests. Some will profit from the war, and others will suffer. The balance of power between the two may define the outcome of the war. For example, the influence of war on dominant economic interests in El Salvador and South Africa made peace possible.⁷⁶

Those who would help end the war and build the peace should take these changed interests and skills seriously, as the basis of a peacetime political order. As shown in this section, the number of possible transformations and their inter-linkages are many. Their analysis would require a context-specific analysis for each post-conflict situation.

6.5. Post-conflict transition regimes

Turning to the political order in post-conflict societies, the potential for peace-building and state-building is obviously linked to the type of government in place. Also, the mandate of the government is relevant, e.g. whether it is a transitional or constitutional mandate. Finally, it matters whether a formal transition phase has been designed. All these factors affect the government's legitimacy, effectiveness and resilience.

These factors have usually been decided to some extent during the peace negotiations, and formalised in greater or lesser detail in the peace agreement. In that phase the first difficult trade-offs were made. However, a peace agreement seldom suffices to solve all issues and seldom designs the long-term solutions. Some of the issues remain to be sorted out in the post-agreement phase. How many issues are outstanding affects the chances for peace- and state-building. Often, transition processes are explicitly outlined in peace agreements, defining the terms of the transition.

Location of political authority during the transition period

In some cases a war is ended and a peace agreement is concluded without strong external involvement. A military victory by one party is an example (e.g. Rwanda 1994, Uganda 1986). Another example is provided where local interests drive the peace-making. Local economic interests were important in South Africa, as mentioned above. In such cases, the peace agreement will have legitimacy at least with the current most powerful leaders in the country. Its chances of effectiveness are good, at least in the short term.

But increasingly since the 1990s international actors intervene and are involved in negotiating peace agreements, sometimes coupled with peacekeeping operations. They find themselves before a paradox that cannot always be solved. They undertake their intervention because of the malevolence or incapacity of existing governance structures, and the intervention is premised on the need to transform or build those structures, rather than to maintain them.

⁷⁶ Wood, E.J. (2000), *Forging Democracy from below: Insurgents transitions in South Africa and El Salvador*, Cambridge University Press, Cambridge, cited in: Woodward (2009:57).

However, theory and practice stress that ownership of the post-conflict governance structures is essential for peace-building and state-building to succeed. Countries must be in the driver's seat and set the course.⁷⁷ The two goals – transformation of governance structures and country ownership – are reconcilable only if the country's leaders have the necessary interests and incentives (or if these can be created through peace and international support) to lead or at least accept such transformation. External actors will have to decide to what extent they aim for either **reconstruction** or **transformation of society**. Taking into account the limits of what leaders are interested in would increase the realism of such decisions.

The political authority can be located with various institutions during the transition period. Depending on the interests of local actors and their ability to come to an agreement, the following types of post-conflict governments can be distinguished:

- a victor's government, dominated by the party that militarily won the civil war;
- a power-sharing agreement involving some of the leaders with significant power ('partial buy-in');
- a power-sharing agreement involving all of the leaders with significant power ('full buy-in');
- a transitional international administration that has taken over part or all of governmental responsibilities, whether or not supported by international peacekeeping or peace-enforcement forces.

Each type of government can have been selected either on the basis of the peace agreement (usually in the immediate post-conflict phase) or through elections (in a later post-conflict phase).

Governments based on partial or full power-sharing agreements may or may not (strongly) depend on external support, or even be dominated by external actors.

The mandates of these types of government and a victor's government may be restricted to transition tasks (such as preparing elections, re-establishing basic administration and service delivery) or may be full mandates.

A major issue is what the consequences of the various types of governments are for post-conflict peace- and state-building. For protracted crises characterised by strong neo-patrimonial rules, De Waal argues that the best political solution – aiming higher than only 'human security' success – is a robust and inclusive buy-in. This generates genuine political good for the country in question. But it has two major downsides. One, it is a licence for corruption, and there are no guarantees that ordinary citizens – especially more marginalised groups, e.g. women – will benefit. The second downside is that any buy-in is only good for as long as the 'market' of political bargains remains relatively stable, necessitating close monitoring of the bargain. But any efforts within an international peace engagement to include

⁷⁷ Chesterman, Simon (2009), 'Ownership in theory and practice, Transfer of authority in UN state-building operations', in: Chandler, David (Ed.) (2009), *State-building and Intervention, Policies, practices and paradigms*, Routledge, London and New York, pp. 17–18.

more normative demands (such as democracy, accountability) in patrimonial systems are bound to fail. International peacekeeping operations trying to implement such normative demands would find themselves so deeply drawn into their host country's patrimonial marketplace that they could not leave without danger of further violent conflict.⁷⁸

In the course of a transition period, the types of government can (be meant to) evolve. Immediate post-conflict governments can be replaced by elected governments, as can transitional international administrations. A main challenge is to select the 'right' time for elections. Premature elections have proved unsuccessful (Angola 1992, Bosnia 1996 and onwards, and Liberia 1997⁷⁹), raising the (as yet unanswered) question of what conditions need to be met for elections to be successful. Postponing elections too long creates the risk that transitional governance arrangements, possibly involving power deals with 'uncivil' wartime leaders, become embedded and will be hard to change. Unless a neo-patrimonial full buy-in is considered the only viable option, the aim would be to gradually phase out the prerogatives of former 'uncivil' leaders.

Transitional international administrations are far from the norm in the experience of the United Nations (UN). They have been established either where state institutions are divided (as in Bosnia or Kosovo), or where such institutions have collapsed (as in East Timor and Afghanistan). It should be immediately apparent that contradictions arise between the stated end of transitional administration – legitimate and sustainable national governance – and the available means, namely, benevolent autocracy under the rule of the UN Security Council or some other international actor. Of central interest here is how political power is managed up to the handover to local control. Another dilemma for a transitional international administration is who to transfer authority to. Transfer of authority assumes that a 'partner' has been located to whom some measure of responsibility can be transferred. Considering the reasons for international intervention, it does not go without saying that former leaders should be reinstated in positions of power. For these reasons, transfer of power is rightly approached with caution. The case of Bosnia demonstrates most clearly that premature transfer of power that must be withdrawn afterwards may undermine the broader political purpose of an operation.⁸⁰ During a period of transitional administration the level of local 'ownership' at the general political level is typically very low indeed. This low level of ownership may easily translate into a low level of local legitimacy for the administration, which will hinder its effectiveness.⁸¹ Recognising the difficulties of handing over authority from a transitional international administration and its possible undermining effects on the emergence of locally owned solutions, international administrations had better be a last resort. They have generally not succeeded in imposing democracy or human rights.

⁷⁸ De Waal (2009), p. 112.

⁷⁹ Chesterman (2009), p. 23.

⁸⁰ The operation in Bosnia could also be analysed as an operation that included too many normative demands, following De Waal's argument, leading to problems to end the operation.

⁸¹ Subsection based on Chesterman (2009).

The provisions in a peace agreement

Peace agreements differ in the extent to which they stipulate solutions for the main frictions between parties. In the ‘endgame first’ agreement the contours of the end state are settled in the first peace agreement. In ‘incremental approach’ agreements, issues that could not be solved at the time of the agreement are postponed to the post-conflict phase, necessitating follow-up negotiations and agreements.

An ‘endgame first’ agreement has the advantage of committing all actors to an arrangement that is assumed to solve the main conflicts. It does not leave the hard issues until later, and thus eliminates the risk that the process becomes hostage to extremism on either side. For example, it helped the UN international administrations in Namibia (1989), Eastern Slavonia (1996) and East Timor (1999) that the political trajectory of the operation was clear and understood by all parties.⁸² But it also may have its drawbacks. If strong ‘uncivil’ leaders are part of a power-sharing peace arrangement, provisions to safeguard their interests, which have been included in order to secure their buy-in, risk becoming permanent. The incremental approaches obviously have the reverse advantages and disadvantages. Disagreements between protagonists may be so severe that incremental approaches are the only way to end hostilities, but they have their drawbacks. Bosnia-Herzegovina and Kosovo are examples of transition processes that were hindered by a lack of clarity and agreement over the end state, and held hostage by extremist parties. In some cases peace agreements simply cannot be implemented because too many issues have not been resolved. The various agreements trying to solve the Israel–Palestinian conflict are cases in point.

Peace agreements may contain important provisions to structure the path to future governance arrangements. These provisions address, for example, constitution-making and elections. Even then, the way in which these provisions are implemented depends greatly on how things develop during the post-conflict transition phase, and in particular on the evolution of the interest and incentive structure of the protagonists.

⁸² Chesterman (2009), p. 20.

7. Operational implications

As argued throughout this paper, operational implications will mostly be highly context-specific, which means that they can only be worked out at country level. That is why this paper will form the basis for a number of country studies in the second phase of this project. However, at the general level a number of tentative operational implications is proposed here, seen from the perspective of a medium-sized bilateral partner such as the Netherlands.

7.1. To intervene or not to intervene: ambitious but realistic objectives

As highlighted in the foregoing chapters, post-conflict countries face a number of tough problems for effective peace-building and state-building. These “problems are transformed – and even become more complex – when external actors become deeply involved. On the one hand, external actors can generally increase available resources; external, neutral actors can provide good offices; they might support local initiatives for democratization and/or peacebuilding, and they can provide a security framework for political processes. On the other hand, a prominent role for external actors can result in a nationalist backlash and mobilization of the opposition; it can discredit a local government as an instrument of foreign interests [...]; it can dominate local policies and thereby undercut local self-rule and democratization; and, if military intervention prevails, it might further militarize a conflict instead of solving it politically [...].”⁸³ It is obvious that a role for external actors is easier to organise and run in some post-conflict contexts than others. Bosnia-Herzegovina, Kosovo, Afghanistan and Iraq are especially difficult since these countries face the simultaneous problem of nation- and state-building, while the intervening forces were perceived by relevant parts of the population as illegitimate or even inimical.⁸⁴ In these countries, where western military and civilian forces had assumed control after the war, the institutions and political processes are still fully dependent on external support. Four reasons could explain the limited success of external intervention in these countries. First, peace- and state-building have been in conflict with geostrategic policy interests. Second, the security needs of any occupation force tends to create distance between the local population and the foreign forces, and tends to shift priorities from state-building to military concerns. Third, the international actors became involved in highly complex societies without really understanding their dynamics. And fourth, peace- and state-building were not the initial motivation for the interventions but were added on after the war was won.⁸⁵

⁸³ Hippler (2009), p. 108.

⁸⁴ Grimm and Merkel (2009), pp. 12–13.

⁸⁵ Hippler (2009), pp. 108–110.

Lack of international coordination and insufficient commitment of resources have been cited as causes of the disappointing lack of success of international engagement in post-conflict states. Also, aid programmes have been criticised for being donor-driven.⁸⁶ But the four factors cited above are probably the deeper causes of these weaknesses. The fact that, especially for operations in Africa, the level of resources and resolve has not matched the difficulty and scale of the tasks may primarily reflect the lesser strategic importance accorded to these operations by major international actors.

The obvious inference is that there is a need to be more realistic about external peace- and state-building support. These goals can only be *supported* from the outside, and not *imposed* if major domestic players are incited by their own interests and power to effectively resist peace- and state-building. If basic conditions for support to be effective are not present, the rule should be to stay out. But in cases where external powers do decide to intervene, they must go with a clear and workable strategy; they must focus on strategic local partners, and they must make a clear-cut decision in favour of peace- and state-building.⁸⁷

In those cases, a larger investment in analysis, planning and preparation than is usually made is likely to pay off. This investment would be carried out as far as possible in a whole-of-system way at the national and international level, involving at the national level the relevant ministries, agencies and civil organisations, and at the international level the host country and relevant bilateral and multilateral partners.⁸⁸ However, the need for joint analysis does not preempt the responsibility of an international actor to internally make its own assessment of its opportunities and threats. A thorough context analysis would analyse the legitimacy, effectiveness and resilience of governance in the host country and try to understand these against the background of the interest and incentive structure of major national actors. Together with an analysis of the interest and incentive structure of major international actors, these context studies could form the basis for strategic planning, carried out jointly as much as possible.

It is unlikely that international actors focusing on peace- and state-building will find that the host country government has exactly the same strategic objectives. In these cases, it would be legitimate for international actors to work through the host country government where interests coincide, and to support strategic local non-state partners that are seriously committed to reform where the interests are at variance. 'Ownership' in fragile countries, where government legitimacy is weak, has to include ownership at both government and citizen level.

⁸⁶ Woodward (2009), p. 59.

⁸⁷ Hippler (2009), p. 111.

⁸⁸ A conclusion reached by, for example, the participants in the May 2009 Wilton Park Conference on Civil-Military Strategic Principles and Doctrine.

Many of today's protracted crises are regional crises. A regional approach is increasingly being sought.⁸⁹ International actors would do well to position their country-specific programmes within such regional approaches. Just like in country-specific programming, an ambitious but realistic programme is called for, based on thorough analysis of the regional context, as a basis for planning and preparation.

7.2. Integrated approach including stability as strategic objective

Turning back to the country-specific approach: since governance is intricately linked to issues of security/protection and development/wealth-creation, the need for an integrated approach is widely accepted. Within such an approach, restoring political governance is the **key objective**, but security/stability and resumption of socio-economic growth are necessary conditions for reform of political governance. Without security little development or reform has proved possible, and return to war is generally the worst-case scenario. Also, any governance reform is easier in times of economic growth, providing governments with the means to provide citizens (whether in a neo-patrimonial clientelistic way or not) with services (see 7.9 below).

Since security and stability have proved essential for political order or governance reform, **restoring security and stability** would be an **explicit strategic objective** of an integrated approach towards a fragile post-conflict state, especially in protracted crises where the government's monopoly on violence has not been (re-)established. Strategies to restore stability and security would have to be designed and implemented in such a way that they contribute (or at least do not undermine) state-building, e.g. by keeping the right balance between external peacekeeping or enforcement and national security sector development. Another example is that pragmatic strategies would take a two-track approach of supporting the state security institutions and non-state/local justice and security networks⁹⁰ (see also 7.8 below).

Including stability as a strategic objective implies that the level of ambition for governance reform at any specific phase of transition will have to respect the stability imperative, and reforms will be limited to those that do not risk resumption or aggravation of hostilities. For example, early democratic reform processes such as constitution-making and elections, or addressing issues of reconciliation and transitional justice (see 7.8 below) will have to be managed and timed carefully in the light of their potentially destabilising effects.

7.3. Strategic governance objectives: focus on interests and incentives

Achieving the aim of resilient governance in post-conflict societies will generally require quite fundamental reforms of political governance – and of society at large, as suggested in section

⁸⁹ For example, in relation to Afghanistan. The International Conference on Afghanistan held in The Hague on 31 March 2009 under the auspices of the UN and the government of the Islamic Republic of Afghanistan had as its title and focus "a Comprehensive Strategy in a Regional Context".

⁹⁰ Scheye, Eric (2009).

5.1. Reforms can only be sustainable if supported by an interest structure that provides key actors with the incentives to act according to the reformed rules. A key question in any change-management process is to what extent a reform (of formal rules) can lead to changed interests and incentives, versus to what extent changes in interests and incentives are preconditions for reform to occur and last. Broadly speaking, the constructivist view is that behaviour can be changed by changing the formal rules, while the realist view is that behaviour can only be changed as a result of change in the interests and incentives. A ‘pragmatic realist’ view taken in this paper is that it depends: changes that run counter to fundamental interests and incentives of powerful actors are unlikely to be achieved by only changing the formal rules, but in less entrenched issues new rules may offer space for re-aligning interests and incentives. Furthermore, post-conflict situations offer opportunities that more stable situations do not, because key actors have recognised the need for change by agreeing to stop fighting and look to politics, and because various issues have not yet crystallised and are not yet entrenched. The challenge then is to search for less entrenched issues that could still – in time – lead to fundamental reform. A number of potential entry points are explored in the sections below.

If reforms are to last, corresponding changes in interest/incentive structures of key actors are necessary. The crux of changing the interest/incentive structures lies often in taking actors from ‘zero-sum’ games to ‘win-win’ situations, through solving collective action problems (like the prisoners’ dilemma, chicken game, or the free-riders problem; see Annex II). Win-win situations are in principle possible in peacemaking: most actors would welcome increased physical security, and peace and more effective governance would allow increased economic growth, enlarging the cake to be distributed. Incentives like increased prestige and recognition when illegal opponents turn to legal political competition may help. Distribution issues, of course, are the crucial challenge, as are issues of trust and collective action. International actors might play a role in facilitating processes to get to win-win agreements. Mediators would carefully analyse the interests and incentives of individual key actors (their ‘greed and grievances’: security, revenue, certainty of position, identity, status, recognition, legitimacy, independence/autonomy, etc.) and adapt the instruments to be applied (the ‘carrots and sticks’: confidence-building measures, international guarantees, aid, sanctions, amnesty, etc.). Issues that cannot be easily solved in isolation may be amenable to solution as part of a package deal.

7.4. Constitution-making: from elite pact-making to citizen participation?

In many instances, negotiations over governance provisions – historically the substance of constitutions – now form the core of peace agreements.⁹¹ Frequently, constitution-making takes place before the actual conflict is settled, and the constitution is then treated as part of the process of conflict resolution. In such cases – as we saw in section 6.5 – a power-sharing model is often the only option that will bring parties to the table. However, the same power-

⁹¹ This paragraph is largely based on Samuels, Kirsti (2009), ‘Post-war constitution-making, opportunities and challenges’, in: Paris, Roland and Timothy D. Sisk (2009), *The Dilemmas of State-building, confronting the contradictions of postwar peace operations*, Routledge, London and New York, from p. 173 onwards.

sharing provisions that have been commonly used in peace negotiations have different implications when formalised and made permanent in constitutions. If power-sharing models entrench initial positions they may leave little scope for the political process after the peace agreement. This is especially problematic since peace agreements tend to be pacts between leaders or elites, with little popular participation. If increased resilience and state–society interaction is to be achieved, in order to pave the way for sustainable political governance, this pact needs to be broadened gradually to include voice for citizens. This argument is supported by the finding that constitutions made through elite-negotiated processes without widespread participation (Bosnia-Herzegovina, Fiji, Lebanon, Northern Ireland) showed signs of weakening after 8 to 16 years, in contrast to two constitutions made through popular participation (South Africa, Uganda).

A strategy that could help in separating the peace negotiations from constitutional processes is the inclusion in the peace agreement of a formal transition period, in which a constitutional process is to take place (e.g. Afghanistan after 2001, Burundi after 2001). In other cases, where the peace agreement is the new constitution, the constitution often needs to be developed into laws, rules and institutions, which could provide opportunities for debate on governance provisions.⁹²

Experiences in constitutional engineering demonstrate the primacy of politics, and the difficulty in attempting to engineer specific outcomes such as moderation or inclusiveness through constitutional design. There are two sides to the constitution-making process: the choices made while drafting a constitution, and the implementation of that constitution. Constitution-making can be a transformative process to a certain extent, and the scope is defined by the political interests of key actors. If the constitutional provisions run counter to these interests, they will probably not be implemented.

The process of constitution-making

The **process** of constitution-making or development is as important as the substance. It needs to reconcile elite interests to a process of greater voice for citizens. A participatory process, while not necessarily determinative of success in implementing the constitution, can benefit the political transition by providing a forum for dialogue, national education and negotiation. However, if the process or its outcomes are perceived as a threat to ruling elites, the latter may react – and often have reacted – by undermining the process.

International involvement in constitution-making can be essential. There is a need for an adequate infrastructure, while participatory processes require time and personnel. The international community invests only a fraction of the time and money it spends on elections on supporting constitutional processes, while the latter can be argued to be much more

⁹² An example is Lebanon, where in 2005 the Prime Minister set up an independent commission to propose a new electoral law for the country. The commission proposed a draft electoral law in May 2006, representing a comprehensive reform of the electoral system. Civil society created the Civil Campaign for Electoral Reform, aiming to initiate public examination of the draft law by major stakeholders and public debate on the proposal, and secure passage of the reform elements of the law. (<http://www.ccerlebanon.org/>)

fundamental and a condition for successful implementation of the former. However, the type of support matters. Where international actors provide targeted support to civil society, this may not only be seen as interference but also distort the social environment and create new elites that are not rooted in society.⁹³ If international actors provide such targeted support, e.g. to women's groups or minority communities, they should carefully analyse the political context and not act without taking these risks seriously.

South Africa is considered an example of best practice in participatory constitution-making, in terms of both process and outcome. In this country the drafting of the constitution was a fundamental part of the negotiations and of the process of transition in general. The transition was achieved with a pact, according to which negotiations between the government and the opposition (1991–94) before the first democratic election would design the interim constitution as well as the future political system. The interim constitution of 1993 set out the basic principles. An elected Constituent Assembly was to draft the constitution. It rolled out an extensive public information campaign, and between 1994 and 1996 it received two million submissions from individuals and organisations. Women activists' concerted efforts secured inclusion of women in all the negotiating teams and succeeded in subjecting customary law to the clause on equality between men and women, against opposition from traditional leaders. The constitutional process achieved a remarkable level of consensus, in spite of the fact that major political violence continued until the elections of April 1994. The consensus was due both to the flexibility of the major players who were committed to seeking win-win situations and to the design of the negotiating structures which produced workable proposals. The constitution of South Africa has been called one of the most advanced liberal democratic instruments in the world.⁹⁴ Its process has been used as a template for other constitutional negotiations in divided societies.

Implementation of constitutions

Implementation of constitutions can be supported to a certain extent by the **judiciary**. Courts with constitutional jurisdiction have played useful roles in imposing limits on government action and protecting constitutional ideals against governments that stray from their promises. The extent of their impact depends largely on how the courts are set up and especially how judicial independence is secured. Judicial independence cannot be imposed by the constitution if no political will exists to support it.

The role of **political parties** in political transitions is complex. It is usually assumed that parties are essential to such transitions. However, they can also play a damaging and divisive role. Often, elections are contested on the same basis that the war was fought on, with political parties no more than thinly disguised incarnations of the armed groups that waged the conflict. In many transitional environments, political parties serve the interests of competing elite groups rather than policy or ideological platforms. National liberation movements, in

⁹³ Samuels and Wyeth (2006).

⁹⁴ Samuels, Kirsti (2009), p. 178; Waylen, Georgina (2006), 'Constitutional engineering: what opportunities for the enhancement of gender rights?', *Third World Quarterly*, 27:7, 1209–1221.

particular, have found it difficult to transform themselves into political parties, since they usually lack political competition.⁹⁵ Factors that were found to influence the degree of success of the transition from former rebel movements to political parties were: organisational capacities and leadership commitment, the nature of the end of the conflict and the peace agreement, the willingness of domestic political actors, the degree of popular support and legitimacy, the nature of the electoral system and existence of consultative mechanisms, the regional political and security conditions, and the international political support and assistance.⁹⁶

International assistance to political parties and to the legislature (parliament) could be important for strengthening effective functioning of the political system. Support would be given mostly in a non-partisan way, strengthening the system rather than individual parties.

7.5. Constitution-making: governance choices for the political system

Section 7.4 above focused on the process of constitution-making. Just as important for the outcome of the constitution-making is the content, i.e. the governance choices as reflected in the political system that is codified in the constitution. Important elements of a political system to be considered are, for example, the electoral system, the type of executive, and the degree of centralisation. Today formal autocracy is hardly an option unless imposed by a victorious ruler, and countries will opt – at least formally – for a democratic political system. But there are many forms of democratic system – possibly as many as there are democratic states – and it has proved difficult to find general guidelines.

First, democracy is not just a feature of the formal rules; it is above all the outcome of those rules as they are applied in the specific political context of a country. The rules can stipulate that every citizen has a vote, but examples abound of cases where that vote does not lead to an actual say in how the country is ruled. Democracy ensues – or does not – from the interplay of the formal rules, the way these formal rules are applied in practice, and context factors such as the level of institutionalisation, the coherence of society, etc.

The political system that would be most appropriate in the specific context (the ‘best-fit’) clearly depends on the political principles or priorities selected. No system can simultaneously serve all purposes, and trade-offs are necessary. The best fit would combine, to the maximum extent possible, e.g.:

- the likelihood that it will be implemented;
- and that it contributes to moderation and stability;
- and to effective decision-making and effective implementation of decisions;
- and to inclusiveness, and state–society interaction and negotiation.

⁹⁵ Samuels and Wyeth (2006).

⁹⁶ Zeeuw, Jeroen de (Ed.) (2008), *From Soldiers to Politicians. Transforming rebel movements after civil war*, CRU Book, Lynne Rienner Publishers, Inc., Boulder (Colorado)

Power-sharing versus power-concentration systems

In considering the various systems, a first distinction is between power-sharing and power-concentrating political systems.⁹⁷ In systems based on **power-sharing**, representatives of all major groups are given a stake in the decision-making process through a broad-based governing coalition. To become part of such a coalition, there is a strong incentive for group leaders to negotiate, compromise and reach consensus with other groups.⁹⁸ By contrast, in systems based on **power concentration** ('winner-takes-all', two-party system) government office is open to only the majority party. In these latter systems, politics are generally more adversarial and political elites are encouraged to emphasise differences from other groups, with the aim of maximising support and obtaining the necessary majority.⁹⁹

The choice for a power-sharing or power-concentration approach is highly dependent on the prevailing power balance at the end of a particular conflict and cannot easily be influenced or imposed by external actors (cf. 6.5). Most experts agree that a power-sharing model is more suited to conflict-prone and highly divided societies and that power concentration requires more established democracies in order to work satisfactorily.

Power-sharing approaches can be subdivided into approaches based primarily on cooperation *between* fairly autonomous groups (**consociational** approaches) versus cooperation *across* groups (**integrative** approaches). Consociational approaches have been applied to a broad range of post-war countries, including places such as Bosnia, Lebanon, Northern Ireland, Cambodia, East Timor and, more recently, Sudan and Iraq. The integrative approach, emphasising multi-ethnic political parties or alliances led by moderate politicians, has been used in only a few places; notably Fiji and South Africa during the post-Apartheid transition period. However, encouraging nationally oriented parties and limiting the role of ethnic factors in party politics has become increasingly popular in Africa and Asia.¹⁰⁰

From a mediator's point of view, the consociational model is a measure of last resort, adopted when communities can only live 'back to back' without integration. In the several practical cases where this model has provided the only alternative to violent conflict, implementation tends to be a key difficulty (Bosnia-Herzegovina, Lebanon,¹⁰¹ Northern Ireland). Consociational power-sharing governments have repeatedly been immobilised by the clauses

⁹⁷ Zeeuw, Jeroen de (2009), *From Fragility to Stability? Governance options and dilemmas in post-war fragile states*, paper prepared for Conflict Research Unit (CRU)/Clingendael.

⁹⁸ Norris, Pippa (2008), *Driving Democracy. Do Power-Sharing Institutions Work?*, Cambridge University Press, p. 25; and Sisk, Timothy D. (1998), 'Power-Sharing Democracy: An overview', in: Peter Harris and Ben Reilly (Eds), *Democracy and Deep-Rooted Conflict: Options for negotiators*, International IDEA, Stockholm, pp. 139–146.

⁹⁹ Lijphart, Arend (1999), *Patterns of Democracy. Government forms and performance in thirty-six countries*, Yale University Press, New Haven.

¹⁰⁰ Zeeuw (2009).

¹⁰¹ The draft electoral law in Lebanon, referred to in section 7.4, proposes among other provisions a change to a mixed electoral system with proportional representation introduced in parallel to the majority system with dual districting <http://www.ccerlebanon.org/pictures/manualpdf/English%20Manual.pdf>

intended to ensure moderation and consensus. The formal organisation of power along identity or ethnic lines seems to entrench the divisions that fuelled the conflict, rather than ameliorate them.¹⁰² Overall, there is an urgent need for the development of new approaches to executive power-sharing.

Geographic power-sharing: decentralisation or federalism

Geographic power-sharing is another option, which may coexist with executive power-sharing. In many ways, geographical power-sharing, like decentralisation or federal power-sharing, requires less constant negotiation and compromises between parties coming out of conflict than executive power-sharing.¹⁰³ But the relation between decentralisation (or federalism) and fragility is complex and as yet only partially understood. What is clear is that it is crucially contingent on institutional arrangements and the constellation of local elites. One provisional finding is that decentralisation to smaller units may help prevent large-scale national conflict but encourage local conflict.¹⁰⁴ An important causal mechanism here is contestation for local leadership positions and an associated pressure from local elites for the creation of new districts.¹⁰⁵ In Pakistan decentralisation to the local level seems to have been partially captured by new local elites, some of whom have criminal records.¹⁰⁶ Ethnically neutral decentralisation may promote inclusivity in governance without further entrenching divisions. Even decentralisation along ethnic lines can reduce tensions by providing ethnic or sectarian groupings with a sense of local security. The potential negative side effects are ethnic apartheid and the creation of new minorities.¹⁰⁷

The division of competencies between the various levels of governance is an important institutional variable. In Pakistan again, decentralisation to the local level led to greater control of the local levels by the central state, while the provincial government's capacity to coordinate was undermined.¹⁰⁸

A relevant variable in this context is the drawing of the boundaries of decentralised units. A hypothesis here is that boundaries that cut across major ethnic groups result in more stability

¹⁰² Samuels and Wyeth (2006).

¹⁰³ Samuels and Wyeth (2006).

¹⁰⁴ As argued for the case of Museveni's Uganda by Green, Elliott D. (2008), 'Decentralisation and conflict in Uganda', *Conflict, Security and Development*, 8:4, pp. 427–450.

¹⁰⁵ A point also made by Sisk, Timothy (2008), 'Elections in Fragile States: Between Voice and Violence', paper presented at the annual meeting of the ISA's 49th Annual Convention, 'Bridging Multiple Divides', San Francisco.

¹⁰⁶ Mezzera, Marco and Safiya Aftab (2009), *Pakistan State –Society Analysis*, Initiative for Peace-building (January 2009) http://www.initiativeforpeacebuilding.eu/pdf/Pakistan_State_Society_Analysis.pdf

¹⁰⁷ Samuels and Wyeth (2006).

¹⁰⁸ Mezzera and Aftab (2009).

than boundaries that encircle the groups, as the former minimise incentives for ethnic mobilisation.¹⁰⁹

Electoral models

Electoral models set the rules on how votes are translated into seats. These rules determine who gets elected and which party gains power.¹¹⁰ Also, the electoral formula establishes the degree of proportionality between votes and seats and stipulates how seats are allocated. Furthermore, the electoral system is a key factor in determining the number of parties represented in the executive and parliament and can shape the nature of party interactions (party system). And finally, by determining the ballot structure (e.g. open/closed party list and single/preferential vote) and district magnitude (number of representatives) and boundaries, the electoral system can have an important influence on the strategic behaviour of parties and individual politicians, especially during election campaigns.¹¹¹

Among experts there is a certain preference for **list proportional representation** (list PR): each party presents a list of candidates for a multi-member electoral district (or a national parliament) – the voters vote for a party – and parties receive seats in proportion to their overall share of the vote. It seems to provide the greatest opportunity for evolution away from ethnic or sectarian divisions. For these and other practical reasons, PR has become the “de facto norm for almost all UN-administered [post-war] elections” and is now used in such diverse places as Cambodia, Mozambique, Liberia, Rwanda, Sierra Leone, Bosnia, Kosovo and Iraq.¹¹²

By contrast, **plurality/majority systems** are designed to only give seats to those with the most votes (‘winner takes all’). As noted above, these systems are deemed less suited to conflict-prone and highly divided societies. However, as one of the legacies of colonial rule, plurality/majority electoral systems are still very common in Africa, including in (post-war) fragile states such as Sudan, Uganda, Ethiopia, and Côte d’Ivoire. They are a key aspect of power-concentration regimes. The most popular version, first-past-the-post (FPTP), uses single-member districts and is focused on voting for candidates rather than political parties. The candidate who attracts most votes wins the seat. Main advantages of this and other plurality/majority systems are that, in general, they provide a clear-cut choice between the two

¹⁰⁹ Brown, Graham K. (2008), ‘Decentralisation and conflict: Introduction and overview’, *Conflict, Security and Development*, 8:4, pp. 387–392. See also Menkhaus (2008) on the creation of new districts in North Kenya, as part of a conflict containment strategy.

¹¹⁰ Reynolds, Andrew, Ben Reilly and Andrew Ellis (2005), ‘Electoral System Design’, *The New International IDEA Handbook*, International IDEA, Stockholm, p. 5.

¹¹¹ Farrell, David M. (2003) *Electoral Systems. A Comparative Introduction*, Palgrave Macmillan, London, pp. 153–174.

¹¹² The two main practical advantages of PR over majoritarian systems are that it enables the use of a uniform national ballot and does not require demarcation of electoral districts. This makes voter registration, vote counting and calculation of the results much easier. Reilly, *Post-War Elections: Uncertain turning points of transition*, cited in: Jarstad, A. & T. Sisk (2008), *From War to Democracy: Dilemmas of Peace-building*, Cambridge University Press p. 173.

main parties,¹¹³ lead to single-party governments, can lead to one stronger opposition party (but certainly not always, as many African cases illustrate), exclude extremist minority parties, stimulate a clear link between voters and representatives (accountability), and are relatively simple to use and understand.¹¹⁴

Many variations and combinations of the electoral systems mentioned have been designed in efforts to adjust the system to the country-specific context. But outcomes have often been hard to predict. Perhaps the lesson is that sophisticated electoral models may be too complicated for politicians and electorate alike, despite the enthusiasm of some scholars.¹¹⁵

The executive: presidential or parliamentary system

There is a long-running debate over the merits of presidential versus parliamentary systems, with many arguing that presidential systems encourage autocratic behaviour. An important argument is that in post-conflict environments, legislatures that ought to provide the checks and balances are generally weak. However, in the early post-conflict phase, a strong executive may actually have some merits. It can lead reconstruction and withstand spoilers or other negative remnants of the war (e.g. illegal or criminal entrepreneurs, or vested exclusionary interests). The downside is that it is generally difficult to transit from a centralised power structure to a more democratic model, once it has become entrenched. The choice of executive institution in the post-conflict context is more likely to be determined by historical and other considerations than by rational calculation. In most cases, international actors will have limited influence over the type of system adopted. Instead, international assistance should be channeled towards ensuring that presidential term limits are enforced and strengthening the legislature to serve as a more effective check on executive power.¹¹⁶

Checks-and-balance institutions

In addition to the legislature and judiciary, other checks-and-balance institutions may be in place to provide accountability and oversight, such as an ombudsman, human rights commission, independent auditor, and civil institutions, including the media and civil society organisations. International support for these institutions could enhance the implementation of constitutional arrangements.

More in general, further consideration ought to be given to the role the international community could play in supporting constitutional implementation and enforcement. The

¹¹³ In a FPTP or simple majority electoral system, where the party with the most votes wins, the percentage of seats for smaller (third, fourth, fifth) parties under-represents their percentage of votes, even more so than in the case of the second party ('mechanical effect'). Because voters realise that "their votes are wasted if they continue to give them to the third party", or other small parties, they will only vote for one of the two major parties ('psychological effect'). A two-party system is therefore more likely.

¹¹⁴ Zeeuw (2009).

¹¹⁵ Samuels and Wyeth (2006).

¹¹⁶ Samuels and Wyeth (2006), Zeeuw (2009).

implementation could be made an important benchmark for relations with the government in various domains.¹¹⁷

7.6. Addressing horizontal inequalities

The identification of horizontal inequalities (HIs) as important deep-rooted causal factors of conflict and fragility has mainly been translated into efforts by international actors to redress political horizontal inequalities. The measures proposed are essentially the ones proposed in the preceding sections. “The ethnic-conflict argument has so strongly influenced diplomats who act as third-party negotiators that peace agreements and constitutions (whether contained in peace agreements or navigated in the early stages of state-building after the agreement) now routinely focus on power-sharing arrangements in the executive branch of government, consociational principles of decision-making, and protections and subventions for minority rights defined culturally. Regional and municipal autonomy, decentralization, and in some cases even federalism are increasingly common, universal prescriptions. Although existing sovereign borders remain sacrosanct in principle, proposals to end violence always now include territorial administration (from autonomy to partition) on ethno-cultural lines to facilitate more ethnically homogeneous communities which are said to be necessary to stable democracy.”¹¹⁸

Addressing economic inequalities will require pro-poor growth policies that take into account the existence of horizontal inequalities in addition to vertical inequalities. Some incentives for the government might be found in a power-sharing agreement, where each group’s interests will be defended by its leader. In addition, involving the greater part of the population in economic activities might make sense economically. However, the challenges are likely to be substantial, where access to resources like land and capital, and subsequently to employment, are limited and unequal. Various countries have addressed economic HIs, through indirect approaches (progressive tax policies, regional development programmes) or direct approaches focusing on citizenship/recognition of minorities, assets, incomes and employment, education and health.¹¹⁹ But little is known about enabling conditions or the effectiveness of such policies.

Aid could also play an important role in reducing HIs. However, in practice international aid often reinforces existing inequalities, favouring the more privileged groups. Structural adjustment policies, for example, often reinforce rather than offset existing HIs. Possibly the most important contribution international actors could make at this stage is to ensure that the need to correct HIs is addressed during policy discussions, including discussions on the core

¹¹⁷ Samuels and Wyeth (2006).

¹¹⁸ Woodward (2009), p. 51. Considering Woodward’s view that ethnic diversity does not incline a country to violence, she is sceptical about the effectiveness of the measures described. This paper takes a more nuanced position, cf. sections 5.7 and 7.7.

¹¹⁹ Stewart (2008), ch. 14.

tasks of government and on government (interim) development plans, thereby putting the issue on the policy agenda.¹²⁰

7.7. The hybrid state: supporting state and non-state actors

In sections 5.3 and 5.4 the hybrid character of many post-conflict states is noted. This analysis leads to two operationally relevant conclusions. One is that, in many post-conflict states, non-state institutions exist that are to some extent legitimate and effective in the eyes of citizens, and that might support a transition towards more effective state–society interaction. In situations of limited legitimacy and capacity of the post-conflict government, both the government and international actors could consider building on these existing non-state institutions, alongside the strengthening of government institutions. In general, it is more effective to build on existing institutions than to create new ones.

The second observation is that institutionalisation might be improved if the formal rules were to better reflect societal values and norms. A better integration of existing (often non-state) institutions that reflect societal values and norms could help blend the formal and informal rules, and thus lead to better institutionalisation.

Working with non-state institutions could be attempted on either a geographical or a sectoral basis. Geographically, it would mean trying to reinforce governance in so-called ungoverned spaces, while sectorally it would mean reinforcing non-state institutions active in essential service delivery, such as private sector organisations, professional associations, etc. This would allow the state to concentrate on the functions considered as its core functions. It leads to a two-track approach for international assistance, working with both state and non-state institutions.

The approach may require politically sensitive and complex discussions between key national and international actors, in order to define what the core functions of the state will be, what tasks the government will implement itself and what tasks it can contract out or leave to non-state actors, and what support donors will provide to state and non-state activities. It may involve decisions on the extent to which implementation and regulation will be provided by the state or left to the market. These discussions, if conducted in a constructive way, could greatly enhance the chances of a coordinated approach. The discussions leading to the Afghanistan Compact between the Government of Afghanistan and donors, which is linked to the Afghanistan National Development Strategy, are an example.

Part of the discussions will deal with the question of which non-state actors would qualify for a role in cooperating with the state. Obviously, not all state actors qualify. As shown in section 5.3, influential actors in post-conflict societies might include (ex)warlords and their militias in outlying regions, gang leaders in townships and squatter settlements, vigilante-type organisations, ethnically based protection rackets, religious movements, transnational

¹²⁰ Stewart (2008), p. 316.

networks of extended family relations, organised crime or new forms of tribalism. They are often linked to the customary sphere – such as chiefs or religious authorities – and/or to the globalised society, in a legal or illegal way – for example via drug trafficking, migration, remittances, trade networks or religious affiliation. They may have been or still be actively involved in (localised) violence, criminality, predation and exclusion. Even if not, they may suffer from weaknesses in legitimacy and effectiveness that are comparable to those of the state institutions, being part of the same context and (neo-patrimonial) culture. For example, most of these institutions are traditionally patriarchal.¹²¹ An assessment of the role non-state actors could play to strengthen governance will need to be made, analysing the level and nature of their legitimacy, effectiveness, interests, incentives and power in relation to potential governance tasks. The assessment will inevitably involve political judgements. The challenge is to select institutions with a basic legitimacy and interest in improving the resilience of state and society, and to find ways to strengthen the incentives that will encourage them to work on restoring resilience.

Various authors have stressed the importance of a multi-layered approach in post-conflict states, working at local, provincial and national level and through state and non-state actors.¹²² Programmes for local and sub-national development and governance are being carried out by various UN agencies and (international) non-governmental organisations.¹²³ The importance of local activities is underscored by the need to restore citizens' (including women's) trust in the government. This can best be built up from the face-to-face contact between citizens and government officials, i.e. in the communities and wards, upwards. Especially in large countries, the distance between the capital and the provinces and districts is very substantial in the perception of both national government officials and rural citizens.

An important contribution bilateral donors could explore is the option to support bridging institutions that would create or reinforce links between state and non-state institutions, e.g. at the intermediate (district and provincial) levels between the local and national level. Discussions with practitioners point to a gap in these linkages between state and non-state activities.

A promising approach in this context is the creation of a national programme, as advocated by Ghani and Lockhart and put into practice in Afghanistan (National Solidarity Programme).¹²⁴

¹²¹ Castillejo, Clare (2008), *Strengthening Women's Citizenship in the context of State-building: The experience of Sierra Leone*, FRIDE Working Paper 60.

¹²² NYU CIC and IPA (2007), p. 3; Scheye (2009); Ball, Nicole, Eric Scheye and Luc van de Goor (2007), *From Project to Programme: Effective programming for security and justice*, Clingendael; Boege et al. (2008); Vlassenroot and Raeymakers (2008).

¹²³ Cf. Interpeace-UNDP (2008), 'Nimba County Reconciliation Project, Findings and Recommendations', implemented by UNOPS, September 2008; UNDP Project to Support Stabilisation and Conflict Prevention in North Kivu <http://sdnhq.undp.org/opas/en/proposals/suitable/1572>; IKV Pax Christi http://www.ikvpaxchristi.nl/conflictgebieden_afrika_congo.htm; UNDP Afghanistan Sub-National Governance Programme http://www.undp.org.af/WhoWeAre/UNDPinAfghanistan/Projects/sbgs/prj_asgp.htm

¹²⁴ Ghani, Ashraf and Clare Lockhart (2008), *Fixing Failed States, A framework for rebuilding a fractured world*, Oxford University Press, Oxford, pp. 199–211.

In essence, this is a community development programme designed to foster local social capital. However, it is linked to national sectoral programmes being rolled out to the communities (including health, education, rural infrastructure, etc.), providing a bridge between the local and the national. The national sectoral programmes themselves also provide channels for supporting local development in a nationally coordinated way.

Another important contribution of international cooperation could be to reinforce local research institutes. This may serve the dual purpose of strengthening host country capacities for political and socio-economic research, and supporting (inter)national support through factual and up-to-date analyses.

7.8. The rule of law, and reconciliation versus transitional justice issues

After the insecurity and lack of protection of the civil war, a return of the rule of law is perceived as a priority by citizens in many post-conflict societies. But it is not an easily achievable aim, if only because in these societies the administration of justice is often closely linked to political and executive power, at both the national and the local level. At the national level the judiciary is often de facto dominated by the executive, while at the local level people turn to non-state actors and local justice networks to uphold some measure of rule of law – as described in section 5.3.

Re-establishing the rule of law, then, is a very political endeavour that cannot be de-linked from more general efforts of state-building and increasing accountability and oversight. As in the case of more general governance support (see section 7.7), a two-track approach supporting the re-establishment and reinforcement of both an independent national judiciary and non-state/local justice networks is called for. And again, as in the case of more general governance support, the same difficult choices will have to be made with regard to the selection of non-state institutions for support. Beyond the fact that non-state/local justice and security networks provide the majority of justice and security in fragile and post-conflict environments, other reasons why donors need to support them include: the legitimacy and accessibility such networks often have – in terms of distance, cost, language and culture; their efficiency; the speed with which disputes can be effectively resolved; and their ability to enforce the resolution of disputes. Where they are more trusted and accessible, they are often more effective in delivering security and justice to the population of a state than many state agencies, factors that should not and cannot be overlooked in donor support efforts.¹²⁵

Formal institutions would then be strengthened with a view to handling the disputes that are not handled reasonably well by the informal institutions.¹²⁶ Legal coercion is a scarce commodity in fragile states, so rules should be embedded as far as possible in custom, convention and norms. If law and legal institutions are adapted to local needs, they will more

¹²⁵ Scheye (2009), p. 5.

¹²⁶ Jensen, Erik G. (2008), 'Justice and the Rule of Law', in: Call and Wyeth (2008), p.121.

easily be used and resources will be allocated to enforcing and developing them; and formal institutions can be more effective if they work with a law that is broadly compatible with the pre-existing legal order.¹²⁷ While the norms and values of informal institutions may not always comply with international human rights standards, the formal institutions often perform little better in this respect, both types of institutions being part of the same culture and context. The question is whether these institutions are open to change. Experience shows that non-state/local justice and security networks, if provided with appropriate support that respects local norms and cultural values, have proved themselves adaptable to changing circumstances; no more susceptible to elite instrumentalisation than their state counterparts; and capable of protecting the rights of vulnerable groups, such as women and girls.¹²⁸

Peace- and state-building efforts will have to deal with issues of reconciliation and transitional justice. If they fail to contribute to reconciliation among the domestic parties, the very foundation of the peace process is challenged and it will be almost impossible to successfully adjust those institutional structures as proposed by, for example, external actors.¹²⁹ This implies that considerations of reconciliation and justice must be an integral part of the political solution to the war, and of the power-sharing agreements that often provide the basis for peace- and state-building. Two observations are important. First, demands for transitional justice may upset such a power-sharing agreement and consequently any regained stability. External actors should be careful in imposing such demands and leave the decision on the balance between reconciliation and justice to local state and society – although support to victims to guarantee that their voice is heard should be considered. Second, any post-conflict government that continues to condone serious abuse and impunity for current disrespect for the rule of law among elites is likely to lose legitimacy with its citizens. Support and pressure for effective government action against such abuse could be among the priorities of external actors.

7.9. Effective economic management

Effective economic management is essential for peace- and state-building. In the absence of a resumption of economic growth it will hardly be possible to sustain peace- and state-building processes. Best practices advocated in economic management in general involve sound macroeconomic and fiscal policy-making, efficient budget management, promotion of equitably distributed wealth-creating investment opportunities, and an adequate regulatory framework. But post-conflict states generally exhibit the opposite: policies that favour powerful elites, few budget controls and rampant corruption, cronyism and patronage arrangements that limit opportunities and siphon off public assets for private gain. The legacy of these dysfunctional practices often hinders efforts to set fragile states on a new trajectory. Social networks and sectors that support and are supported by shadow economies are unlikely to be

¹²⁷ Jensen (2008), p. 136.

¹²⁸ Scheye (2009), p. 6.

¹²⁹ Grimm and Merkel (2009), p. 12.

broken without the provision of growth and employment creation, substitution for mafia welfare, and the institution of robust forms of transparency and accountability in public governance.¹³⁰

Until now aid and economic policy advice has fostered policy reforms based on neo-liberal growth theory, to attract foreign direct investment as the basis for the economic turnaround. But these technical approaches do not take the political economy into account. Such policies are unlikely to alter fundamental power and horizontal inequalities that have persisted through or emerged from a conflict, and they may indeed perpetuate unequal distribution and privileged elites. The challenge will be greater where conflicts have left strong elite power and/or strong criminal power linked to external interests intact. It is difficult to conceive how a national economic development programme can actually implement its policies in a context of systematic distortion through neo-patrimonialism or, worse, through illicit trafficking and offshore accounts.¹³¹

The implications are that there is need for further research that would simultaneously address the options for sustained economic growth that reduces horizontal and vertical inequalities, and the issues of political economy in a search for policy options that could inspire sufficient support for key actors.

7.10. Institutional and capacity-building of government institutions

Reinforcing state institutions is one of the tracks in the two-track approach proposed in section 7.7. The aim would be effective public goods and service delivery. Strengthening capacity in this category concerns, first and foremost, the public sector.¹³² In post-conflict states with weak capacities, prioritising government functions to be supported is essential. As indicated in section 7.7, priorities could be defined in discussions between key national and international actors, in order to define what the core functions of the state will be, what tasks the government will implement itself and what tasks it can contract out or leave to non-state actors, and what support donors will provide to state and non-state activities. Defining the core functions of the state could greatly enhance the chances of a coordinated approach.

If key national actors manage to reach agreement among themselves and with international actors on priorities and core functions, the government budget process can be given a central coordinating role. The centrality of government revenues in the interest and incentive structure of local leaders has been highlighted. It is evident that sufficient government budget is essential if the government is to provide the core services that citizens expect. In addition, it would greatly reduce transaction costs – and thus the burden on scarce capacity – for the

¹³⁰ Brinkerhoff, Derick W. (2007), *Capacity Development in Fragile States*, Discussion Paper No 58D, European Centre for Development Policy Management (ECDPM), p. 8.

¹³¹ Keynote speech by Ivan Briscoe (FRIDE) at the Expert Meeting on this project of 23 January 2009.

¹³² Brinkerhoff (2007).

government if aid were to be channelled through the government budget. This would also facilitate coordination of policy implementation by the government. However, in neo-patrimonial governments or governments in which criminal power is entrenched, the risks are substantial that government revenues will partly be diverted for private gain.

The post-conflict government and the donor community might find each other in an arrangement in which donors commit themselves to align their funds with the government budget procedures, while being allowed to monitor the procedures and building the institutions and capacities for dealing with the government budget, including procedures for parliamentary or other citizen oversight.

Ghani and Lockhart have made an explicit plea to focus on the budget as the central instrument of policy.¹³³ Multi-Donor Trust Funds, co-managed by the host country, World Bank and/or United Nations Development Programme, and linked to support for public finance management, are options for achieving shadow alignment where the budget procedures are not considered robust enough yet for general budget support.

Such an approach could well be the best trade-off between, on the one hand, the need to build capacity of the host government and the need for coordinated policies and, on the other, the need for prudent management of aid funds. If the approach were followed, international assistance could be provided for institutional and capacity-building for key institutions and actors in the budget process (including oversight institutions such as parliament and an independent auditor).

Further support to institutional and capacity-building would focus on the provision of basic humanitarian and social services, and on effective economic management. Reform or strengthening of the civil service is generally part of the approach.

Civil service and public sector reform generally require that neo-patrimonial human resource policies are replaced by merit-based policies. This change process is the fundamental and politically sensitive part of these reforms. It will not be possible without political support from the executive, and probably strong national and international pressure. National leaders could perceive the benefits of a more productive civil service and public sector, but these benefits usually only materialise in the longer term. A measure of stability and certainty in the political order would probably be required for leaders to support these reforms.

7.11. Gender issues

Studies of peace- and state-building at the policy and strategy level are seldom gender-specific. Yet it is well known that women both play specific roles in peace- and state-building and are affected in specific ways by violence and conflicts. Using women's potential to the maximum for peace- and state-building is sound policy. If local leaders may not see the interest or feel

¹³³ Ghani and Lockhart (2008), pp. 135–139.

the incentive, there are definitely women in government and non-state institutions who do. Recognising the potential is crucial. A number of practical opportunities for international actors are cited here.

Every international intervention should help safeguard women state-builders, be they in state or non-state positions. Furthermore, heads of mission should help ensure that a critical mass of women – beginning at 20 per cent – are full participants in constitution-making conferences, governance mechanisms, etc., even if it takes a quota system to do so. Donors cooperating with non-state organisations will especially seek women’s groups as partners. Donors should perform gender-impact analysis of all projects. Monitoring and evaluation, including context analyses, should be made as gender-specific as possible. International rights monitors should have substantial numbers of women in their ranks. The international community should put strong pressure on any host government to take legal action in the case of sexual abuse of women, and it must not tolerate any sexual abuse by its own personnel. Deployment of expatriate staff to the field should be conditional on gender training having been undertaken. And international missions should upgrade the status of their gender advisers and women professionals.¹³⁴

¹³⁴ Steinberg, Donald (2009), *Peace Missions and Gender Equality: Ten lessons from the ground*, OSCE Round Table on Gender and Security, Vienna, <http://www.crisisgroup.org/home/index.cfm?id=6011&l=1>

Annex I: Definitions of legitimacy

‘Legitimacy’ is a term that has proved difficult to define. Generally it is used to indicate acceptance, justification and support (by an audience, e.g. citizens or the international community, for a form of governance, for an intervention, etc.). One definition is: “Legitimacy is the normative belief of a political community that a rule or institution should be obeyed. States are legitimate when key political elites and the public accept the rules regulating the exercise of power and the distribution of wealth as proper and binding.”¹³⁵

The grounds for legitimacy can differ widely. An institution can derive legitimacy from a number of sources, and the legitimacy will generally be stronger when it relies on more sources. Boege et al. speak in this context of leaders with hybrid legitimacy, i.e. combining traditional and/or charismatic legitimacy with legal-rational legitimacy.¹³⁶ Legitimacy is not static, it can wax or wane and change its sources. For example, legitimacy can be greatly enhanced if grievances and needs of constituencies are addressed. If they are not, legitimacy may take on ethnic forms, with groups forming according to ethnic rather than issues-based grounds.

Grounds for legitimacy include:

- ‘Legal-rational legitimacy’ rests on a belief in the ‘legality’ of patterns of normative rules and the right of those elevated to authority under such rules to issue commands.
- ‘Normative legitimacy’ is based on respect for (inter)national law and norms, especially with regard to rule of law, human rights and democratic principles.
- ‘Traditional legitimacy’ rests on an established belief in the sanctity of immemorial traditions and the legitimacy of the status of those exercising authority under them.
- ‘Embedded legitimacy’ is based on historically and socially embedded claims of nation, religion, ideology, ethnicity and values.
- ‘Charismatic legitimacy’ rests on the devotion to the specific and exceptional sanctity, heroism or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him or her.¹³⁷

¹³⁵ Papagianni (2008), p. 49.

¹³⁶ Boege et al. (2008).

¹³⁷ Max Weber 1968, in Boege et al. (2008).

- ‘Realistic power legitimacy’ is perceived to exist when the institutional arrangements reflect the realistic power balances between the different societal groups.¹³⁸
- ‘Electoral legitimacy’ is based on the government having been elected and thus considered to represent the voice of the population.
- ‘Democratic legitimacy’ is based on the population having a voice in the choice of decision-makers and in decision-making .
- ‘Outcome legitimacy’ is based on the audiences’ appreciation of the outcomes of policies conducted by the government.
- ‘International legitimacy’ is the legitimacy in the eyes of the various actors in the international community. It is basically based on the same type of grounds enumerated above, although with a tendency to be dominated by legal-rational-normative and electoral-democratic grounds. But realistic power politics and outcome legitimacy play their part. Like other forms of legitimacy, the perceived level of international legitimacy may vary with the different members of the international community.

Furthermore, Ohlson makes a useful distinction between vertical and horizontal legitimacy:

- Vertical legitimacy establishes the connection, the ‘right to rule’, between citizens, society, institutions and regimes. It is about responsible authority and voluntary submission.
- Horizontal legitimacy refers to attitudes and practices of individuals and groups within the state towards each other. It is about mutual acceptance and tolerance at elite and mass levels.¹³⁹

¹³⁸ Papagianni (2008).

¹³⁹ Ohlson, Thomas (2008), ‘Understanding Causes of War and Peace’, *European Journal of International Relations*, SAGE Publications and ECPR-European Consortium for Political Research, Vol. 14(1), p. 137.

Annex II: Collective action problems

Prisoners' dilemma

The most famous of all 'non-zero-sum' games. Two prisoners are held in separate cells. The District Attorney knows that they jointly committed an armed robbery, but only if at least one of them confesses will he have the evidence to guarantee a conviction. If neither of them confesses, they will be sentenced to two years in prison for illegal possession of firearms. The sentence for armed robbery is 20 years. However, if they both plead guilty, it will be reduced to 10 years. If one confesses and the other does not, the one who confesses will be set free altogether and the other sentenced to the full 20 years. The DA visits each prisoner, inviting him to confess. Should he?

Rational prisoners will confess, even though both of them knew all along that it would be better for both if neither confessed. With repeated interactions, it is no longer necessarily true that each player should always defect. For instance, players may agree on a tit-for-tat rule, or signal one to each other by their responses in repeated games. Tit-for-tat means 'I will cooperate in our first encounter; thereafter, whatever you do in each round, I shall do to you in the following round.' By this or another strategy of conditional cooperation, players may arrive at an 'evolutionarily stable' pattern of conditional cooperation.

Prisoners' Dilemma models have been applied to almost every form of human interaction. Well-known examples from politics include arms races, incomes policy, trade bargaining, and pollution reduction. There are dangers of overuse: the situation needs to be specified carefully, and what appears to be a Prisoners' Dilemma may not always be so.

There have also been extensive experimental tests of Prisoners' Dilemma in the laboratory. One of the best-established results is that economics students are consistently more prone to arrive at the selfish, rational, and suboptimal outcome than students of any other subject.

Chicken game

This game takes its name from 'dare' games said to be played by Californian teenagers: two people are driving head-on at one another on a narrow road; the first to swerve is 'chicken'. The paradoxical feature of the Chicken Game is that each player has an incentive to try to lock the other into cooperating (here, swerving) by announcing in advance that he or she will defect (here, keep going). If this works, the defector will get the best result and the cooperator the third-best. But if both players do it and neither swerves, both get their worst outcome: something which was widely feared in the Cuban Missile Crisis of 1962. Chicken is thus very different from Prisoners' Dilemma, despite a close superficial resemblance.

Free-ride

Everybody is tempted to 'free-ride', that is let others contribute and benefit from their contributions without paying oneself. If universal free-riding leads to the worst outcome for everybody, the game is a form of Chicken. If it leads to a suboptimal, but not the worst, outcome for everybody, it is probably a form of Prisoners' Dilemma.

Annex III: List of literature consulted

Anten, Louise (2008), 'Fragile States: State-building is not enough', in: Zwaan, Jaap de, Edwin Bakker and Sico van der Meer (Eds), *Challenges in a Changing World, Clingendael Views on Global and Regional Issues*, T.M.C. Asser Press, The Hague.

Ball, Nicole and Adam Isacson (2006), 'US Military and Police Assistance to Poorly Performing States', Chapter 13 in Birdsall, Nancy, Milan Vaishnav and Robert L. Ayres (Eds) (2006), *Short of the Goal: US Policy and Poorly Performing States*, The Brookings Institution Press for the Center for Global Development, Washington, DC.

Ball, Nicole, Eric Scheye and Luc van de Goor (2007), *From Project to Programme: Effective Programming for Security and Justice*, Clingendael.

Ball, Nicole and Louise Anten (2009), *Future Trends in Fragile States: Contribution to MOD Study on Future Demand for Dutch Military Intervention*, (forthcoming).

Bassford, Matthew and Nick Mabey (2005), *Countries at Risk of Instability: Future Risks of Instability*, PMSU Background Paper, p. 31.

<http://www.cabinetoffice.gov.uk/~media/assets/www.cabinetoffice.gov.uk/strategy/3future%20pdf.ashx>

Bates, Robert H. (2008), *When Things Fell Apart, State Failure in Late-Century Africa*, Cambridge University Press, New York.

Beall, J. and L. H Piron (2004), *DFID Social Exclusion Review*, London School of Economics/Overseas Development Institute, London.

Boege, V., A. Brown, K. Clements and A. Nolan (2008), *On Hybrid Political Orders and Emerging States: State Formation in the Context of 'Fragility'*, Berghof Research Center for Constructive Conflict Management – forthcoming in Berghof Handbook Dialogue No. 8, October 2008, www.berghof-handbook.net

Boege, Volker, M. Anne Brown, Kevin P. Clements and Anna Nolan (2008a), *States Emerging from Hybrid Political Orders – Pacific Experiences*, The Australian Centre for Peace and Conflict Studies (ACPACS), Occasional Paper Series.

Brinkerhoff, Derick W. (2005), 'Rebuilding Governance in Failed States and Post-Conflict Societies: Core Concepts and Cross-Cutting Themes', *Public Administration and Development*, Vol. 25, No. 1.

Brinkerhoff, Derick W. (2007), *Capacity Development in Fragile States*, Discussion Paper No. 58D, European Centre for Development Policy Management (ECDPM).

Brown, Graham K. (2008), 'Decentralisation and conflict: Introduction and overview', *Conflict, Security and Development*, 8:4.

Call, Charles T. and Vanessa Wyeth (Eds) (2008), *Building States to Build Peace*, a project of the International Peace Institute, Boulder (London), Lynne Rienner Publishers, 2008.

Call, Charles T., 'Building States to Build Peace?', in: Call and Wyeth (2008).

Carnahan, Michael and Clare Lockhart (2008), 'Peace-building and Public Finance', in: Call and Wyeth (2008).

Castillejo, Clare (2008), *Strengthening Women's Citizenship in the context of State-building: The Experience of Sierra Leone*, FRIDE Working Paper 60.

Chabal, Patrick and Jean-Pascal Daloz (1999), *Africa works: disorder as political instrument*, James Currey, London.

Chabal, Patrick (2007), in presentation at SAIIA Conference, Johannesburg, South Africa, 17 November 2008.

Chesterman, Simon (2009), 'Ownership in theory and practice, Transfer of authority in UN state-building operations', in: Chandler, David (Ed.) (2009), *State-building and Intervention, Policies, practices and paradigms*, Routledge, London and New York.

CIFP, *Failed and Fragile States 2006. A Briefing Note for the Canadian Government*, November 2006, Table 1, p. 7, <http://www.carleton.ca/cifp/app/serve.php/1140.pdf>.

Clapham, Christopher (1985), *Third World Politics: An Introduction*, Croom Helm, London.

Cliffe, Sarah and Nick Manning (2008), 'Practical approaches to Building State Institutions', in: Call and Wyeth (2008).

Clingendael Conflict Research Unit (2008), *Fragile States Assessment Methodology*, The Hague.
Collier, P., and A. Hoeffler (2004), *Greed and Grievance in Civil Wars*, Oxford Economic Papers, New Series 56(4): 563–595.

Collier, Paul, Anke Hoeffler and Dominic Rohner (2006), *Beyond Greed and Grievance*, CSAE/WPS/2006-10, August 2006, <http://www.csae.ox.ac.uk/workingpapers/pdfs/2006-10text.pdf>

Collier, Paul (2007), *The Bottom Billion*, Oxford University Press.

Collier, Paul (2008), in: Berendsen, B. (Ed.) (2008), *Democracy and Development*, KIT Publishers, Amsterdam.

Collier, Paul (2008a), 'Post-conflict economic policy', in: Call and Wyeth (2008).

Cranenburgh, Oda van (2008), 'Big Men Rule: Presidential Power, Regime Type and Democracy in 30 African Countries', *Democratisation*, 15:5.

Depagne, Rinaldo (2009), *Côte d'Ivoire: Peace Deal Runs into Dead End*, in allAfrica, published on ICG website 9 March 2009, <http://www.crisisgroup.org/home/index.cfm?id=5976&l=1>

Diamond, Larry (2008), *The spirit of democracy*, Times Book, Henry Holt and Co, New York.

Evans, Gareth (2008), 'Preventing and Resolving Deadly Conflict, What Have We Learned?', lecture to Issam Fares Institute for Public Policy and International Affairs, American University of Beirut, 10 November 2008, www.crisisgroup.org/home/index.cfm?id=5773&l=1
Farrell, David M. (2003) *Electoral Systems. A Comparative Introduction*, Palgrave Macmillan, London.

Fritz, Verena and Alina Rocha Menocal (2007), 'Developmental States in the New Millennium', *Development Policy Review*, 25 (5) September 2007.

Fund for Peace, *Failed States Index 2008*,
http://www.foreignpolicy.com/story/cms.php?story_id=4350

Galloway, Steven (2008), *The Cellist of Sarajevo*, Atlantic Books, London.

Gegout, Catherine (2009), 'The West, Realism and Intervention in the Democratic Republic of Congo (1996-2006)', *International Peacekeeping*, 16:2, pp. 231-244.

Ghani, Ashraf and Clare Lockhart (2008), *Fixing Failed States, A Framework for Rebuilding a Fractured World*, Oxford University Press, Oxford, etc.

Goldstone, J.A., R.H. Bates, T.R. Gurr, M. Lustik, M.G. Marshall, J. Ulfelder and M. Woodward (2005), 'A Global Forecasting Model of Political Instability', paper presented at the Annual Meeting of the American Political Science Association, Washington, DC, <http://globalpolicy.gmu.edu/pitf/PITFglobal.pdf>

Green, Elliott D. (2008), 'Decentralisation and conflict in Uganda', *Conflict, Security and Development*, 8:4.

Grindle, Merilee S. (2007), 'Good Enough Governance Revisited', *Development Policy Review*, 25 (5), September 2007.

Gruzd, Steven (2008), 'Adding value to African Peer Review', 22 September 2008, http://www.saiia.org.za/index.php?option=com_content&view=article&id=837:adding-value-to-african-peer-review&catid=78:diplomatic-pouch

GTZ, *Application of the Performance Based Allocation System to Fragile States*, Eschborn, 2007, http://www.odi.org.uk/pppg/cape/publications/p0494_final_report.pdf.pdf

Hippler, Jochen (2009), 'Democratisation after Civil War – Key Problems and Experiences', in: Merkel, Wolfgang, and Sonja Grimm (Eds) (2009), *War and Democratisation – Legitimacy, Legitimacy and Effectiveness*, Routledge, London and New York.

Hofmann, Bjoern (2009), *Are hybrid political orders an appropriate concept for state formation?*, Berghof Research Center for Constructive Conflict Management, April 2009, www.berghof-handbook.net

Initiative for Peace-building (2008), 'State-Society Analytical Framework, working draft, http://www.initiativeforpeace-building.eu/pdf/State_and_Society_Analytical_Framework.pdf

Interpeace-UNDP (2008), *Nimba County Reconciliation Project, Findings and Recommendations*, implemented by UNOPS, September 2008.

Jensen, Erik G. (2008), 'Justice and the Rule of Law', in: Call and Wyeth (2008).

Khan, Mustaq H. (2004), 'Corruption, Governance and Economic Development', in: Jomo, K.S. and B. Fine (Eds) (2004), *The New Development Economics*, Tulika Press, New Delhi and Zed Press, London.

Lijphart, Arend (1999), *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries*, Yale University Press, New Haven.

McCoy, David (2008), 'Rectifying Horizontal Inequalities: Lessons from African Conflict', African Centre for the Constructive Resolution of Disputes/*African Journal on Conflict Resolution*, http://www.humansecuritygateway.info/documents/ACCORD_RectifyingHorizontalInequalities_Africa.pdf

Menkhaus, Ken (2008), 'The rise of a mediated state in northern Kenya: the Wajir story and its implications for state-building', in: Vlassenroot and Raeymaekers (2008).

Merkel, Wolfgang, and Sonja Grimm (Eds) (2009), *War and Democratisation – Legitimacy, Legitimacy and Effectiveness*, Routledge, London and New York.

Mezger, Marco and Safiya Aftab (2009), *Pakistan State – Society Analysis*, Initiative for Peace-building (January 2009). http://www.initiativeforpeacebuilding.eu/pdf/Pakistan_State_Society_Analysis.pdf

Ministry of Foreign Affairs (2002), *Burundi – situatie in verband met asielbeleid*, The Hague, <http://www.minbuza.nl/nl/actueel/ambtsberichten>

Ministry of Foreign Affairs (Development Cooperation) (2007), *Our Common Concern, Investing in development in a changing world, Policy Note Dutch Development Cooperation 2007-2011*, The Hague, October 2007.

Ministry of Foreign Affairs (Development Cooperation) (2008), *Veiligheid en Ontwikkeling in Fragiele Staten, strategie voor de Nederlandse inzet 2008-2011*, The Hague, November 2008.

Norris, Pippa (2008), *Driving Democracy. Do Power-Sharing Institutions Work?*, Cambridge University Press.

NYU CIC and IPA (2007), *From Fragility to Resilience: Concepts and Dilemmas of State-building in Fragile States, A Research Paper for the OECD Fragile States Group*, January 2007.

OECD-DAC (2007), *Fragile States: Policy Commitment and Principles for Good International Engagement in Fragile States and Situations*, DCD/DAC(2007)29, March 2007.

Ohlson, Thomas (2008), 'Understanding Causes of War and Peace', *European Journal of International Relations*, SAGE Publications and ECPR-European Consortium for Political Research, Vol. 14(1).

Papagianni, Katia (2008), 'Participation and State Legitimation', in: Call and Wyeth (2008).
Paris, Roland and Timothy Sisk (2009), *The Dilemmas of State-building, Confronting the contradictions of postwar peace operations*, Routledge, USA and Canada.

Raemaekers, Timothy, Ken Menkhaus and Koen Vlassenroot (2008), 'State and non-state regulation in African protracted crises: governance without government?', in: Vlassenroot and Raeymaekers (2008).

Reilly, Benjamin (2008), 'Post-War Elections: Uncertain Turning Points of Transition', in: Jarstad, A. & T. Sisk (2008), *From War to Democracy: Dilemmas of Peace-building*, Cambridge University Press.

Reynolds, Andrew, Ben Reilly and Andrew Ellis (2005), 'Electoral System Design', *The New International IDEA Handbook*, International IDEA, Stockholm

Rice, Susan E. and Stewart Patrick (2008), *Index of State Weakness in the Developing World*, The Brookings Institution, Washington DC.

Richards, Paul (1996), *Fighting for the Rain Forest. War, youth and resources in Sierra Leone*, [African Issues Series](#), James Currey, Oxford, cited in: Vlassenroot and Raeymaekers (2008).

Rodrik, Dani (2006), 'Goodbye Washington Consensus, Hello Washington Confusion? A Review of the World Bank's Economic Growth in the 1990s: Learning from a Decade of Reform', *Journal of Economic Literature*, Vol. XLIV (December 2006), pp. 973–987.

Rubin, Barnett R. (2009), 'The Transformation of the Afghan State, in: Thier, J. Alexander (ed.), *The Future of Afghanistan*, United States Institute of Peace, Washington, DC.

Samuels, Kirsti and Vanessa Hawkins Wyeth (2006), *State-building and Constitutional Design after Conflict*, International Peace Academy, New York.

Samuels, Kirsti (2009), 'Post-war constitution-making, opportunities and challenges', in: Paris, Roland and Timothy D. Sisk (2009), *The Dilemmas of State-building, confronting the contradictions of postwar peace operations*, Routledge, London and New York.

Scheye, Eric (2009), *Pragmatic Realism in Justice and Security Development: Supporting Improvement in the Performance of Non-State/Local Justice and Security Networks*, CRU Clingendael paper, (forthcoming).

Sisk, Timothy D. (1998), 'Power-Sharing Democracy: An Overview', in: Harris, Peter and Ben Reilly (Eds), *Democracy and Deep-Rooted Conflict: Options for Negotiators*, International IDEA, Stockholm, pp.139–146.

Sisk, Timothy (2008), 'Elections in Fragile States: Between Voice and Violence', paper presented at the annual meeting of the ISA's 49th Annual Convention, Bridging Multiple Divides, San Francisco.

Sisk, Timothy D. (2009), 'Pathways of the political, Electoral processes after civil war', in: Paris and Sisk (2009).

Steinberg, Donald (2009), 'Peace Missions and Gender Equality: Ten Lessons from the Ground', OSCE Round Table on Gender and Security, Vienna, <http://www.crisisgroup.org/home/index.cfm?id=6011&l=1>

Stewart, Frances and Graham Brown (2008), *Fragile States*, CRISE Working Paper, April 2008, <http://www.crise.ox.ac.uk/>

Stewart, Frances (Ed.) (2008), *Horizontal Inequalities and Conflict, Understanding Group Violence in Multiethnic Societies*, Palgrave Macmillan, Basingstoke
UCDP, UCDP Code Book, http://www.pcr.uu.se/database/definitions_all.htm

Vlassenroot, Koen and Timothy Raeymaekers (Guest Eds) (2008), 'Dossier Governance without government in African crises, *Afrika Focus*, Vol. 21, No. 2, 2008.

Waal, Alex de (2009), 'Mission without end? Peacekeeping in the African political marketplace', *International Affairs*, 85:1 (2009), pp. 99–113.

Waylen, Georgina (2006), 'Constitutional engineering: what opportunities for the enhancement of gender rights?', *Third World Quarterly*, 27:7, 1209–1221.

Wood, E.J. (2000), *Forging Democracy from below: Insurgents transitions in South Africa and El Salvador*, Cambridge University Press, Cambridge.

Woodward, Susan L. (2009), 'Do the root causes of civil war matter?', in: Chandler, David (Ed.) (2009), *State-building and Intervention, Policies, practices and paradigms*, Routledge, London and New York.

Zeeuw, Jeroen de (Ed.) (2008), *From Soldiers to Politicians. Transforming Rebel Movements After Civil War*, CRU Book, Lynne Rienner Publishers, Inc., Boulder (Colorado).

Zeeuw, Jeroen de (2009), 'From Fragility to Stability? Governance Options and Dilemmas in Post-War Fragile States', paper prepared for Conflict Research Unit (CRU)/Clingendael.