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Writing The History Of The Future: Securing Stability through Peace Agreements

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There is an emerging consensus among policy-makers that effective states are the key to global security and prosperity. The UN High-Level Panel on Threats, Challenges and Change, for instance, argues that “States are still the front-line responders to today’s threats. Successful international actions to battle poverty, fight infectious disease, stop transnational crime, rebuild after civil war, reduce terrorism and halt the spread of dangerous materials all require capable, responsible States as partners. It follows that greater effort must be made to enhance the capacity of States to exercise their sovereignty responsibly. For all those in a position to help others build that capacity, it should be part of *their* responsibility to do so”.¹ The Commission for Africa is equally clear on this point: “one thing underlies all the difficulties caused by the interactions of Africa’s history over the past 40 years. It is the weakness of governance and the absence of an effective state”.² Following the pioneering work of de Soto³, the World Bank’s Cost of Doing Business documents the positive or negative impact of state institutions on creation of wealth and possibility of participation in the current wave of globalization.

This consensus, however, is yet to be translated into a consistent approach embraced by a community of practice. Several constraints prevent the emergence of such a community of practice. Conceptually, the state is still viewed in terms of a single function: its claim to legitimate monopoly of force. Global institutions mandated with the responsibility for security and peace, development, monetary, trade, and political processes operate in silos, having developed distinctive organizational cultures that have become obstacles to coordination in the face of new threats and opportunities. There is a global multi-billion yearly industry, amounting to an estimated \$4 billion in Africa alone⁴, in technical assistance that substitutes for state functions. As there are no agreed international standards on the skills required for building effective states, the currently unregulated technical assistance industry may be as much of an obstacle as an asset to achieving this goal. As a result, there has been little attention to investing in national institutions that would produce the men and women with the vision, understanding and commitment to lead and manage the process of building effective states in their countries. Such a formation, in turn, requires the discipline of context and immersion in the recent attempts at building inclusive polities.

This paper is a contribution to overcoming some of the above constraints. We will first offer a multi-functional concept of the state, grounding it in history of social thought. We will then examine the issue of state-building as a dominant theme in a number of peace agreements concluded during the last twenty years. Viewing the peace agreements from an implementation perspective, we will delineate the set of skills that are required for facilitation of the process of agreement and realization of the goals of building effective states. We will conclude by making the case for taking the long-term view of state-building rather than the short-term view of peace-making as the focus of a renewed international agenda.

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I Towards A Multi-functional concept of the state

Max Weber articulated his celebrated definition of the state as a human community that “successfully claims the monopoly of the *legitimate use of force* within a given territory” in 1918 in the throes of the Bavarian revolution, and was clear that “today, the relation between the state and violence is an especially intimate one”.⁵ Facing a different context, the Commission for Africa argues that “at the heart of the proper function of government is establishing an economic environment that encourages investment. That means basic functions such as providing security, setting sound economic policies under the law, collecting taxes and delivering adequate public services like health and education”.⁶

People, therefore, have defined the state as it has suited them in a particular historical context, with a view of the critical challenges confronting their time. From an operational perspective, we define the state in terms of core functions, actors’ tasks and assets. We have argued elsewhere that the state performs the following 10 core functions in the modern world: maintaining a legitimate monopoly on the use of force; administrative control; management of public finances; defining citizenship rights and obligations; provision of infrastructure services; investment in human capital; regulation and promotion of the market; international relations and borrowing; management of the assets of the state; and promotion of rule of law.⁷

These functions have been accumulated historically, but the state today is judged by the extent to which it performs these functions simultaneously in an integrated manner. The 10 functions fall into the three components essential to a stable order that makes citizens assume their security as a given: functions 1, 2, 3 and 9 are components of political order; functions 4 and 5 are components of social order; functions 6, 7, and 8 are components of economic order; and rule of law provides the glue that transforms an order into binding ties and obligations of citizenship in an inclusive state.

Each function can be divided into a series of critical tasks to be performed by specific actors. The assets that each actor has or needs to mobilize in relation to the timeline and sequence in order for the critical needs to be performed can serve as a realistic tool for the credibility of a program. A functional perspective makes no prior assumption as to the level at which a particular function should be performed. The benefits and costs associated with the performance of a function by different actors can then be analyzed and mechanisms for exit of international actors built into the strategies of state-building from the very beginning. The concepts of synergy and mapping are not metaphorical. A sustained analysis by NATO in Afghanistan in 2003 of the best means of achieving security, mapped through a careful focus on interdependencies, for instance, showed that credible institutions and public finance would contribute more to securing peace in the medium and long-terms than would the deployment of troops.

Although the multi-functional view of the state might seem opposed to Weber’s much cited remark, a close reading of his work reveals two additional features. The accent in the definition of use of force is on its legitimate use, rather than merely its use, for Weber offers an anchoring of legitimacy in traditional authority, charisma or legality, “by virtue of the belief in the validity of legal statute” and functional “competence based on rationally created rules”. Furthermore, Max Weber articulated a clear functional view of the state, stating that “the basic functions of the “state” were the legislative function, the police, the administration of justice, the various branches of administration, and military administration.⁸ Weber of course was describing the functions performed by the German state between 1870 and 1916, where the marriage of state and capital produced a distinctive form of the German national economy and industrialization.

The statesman and thinker John Stewart Mill offered a more flexible view of the functions to be performed by the state. Writing in 1848, he differentiates between the necessary functions of the government, i.e. “those that are exercised habitually and without objection by all governments” and optional functions “respecting which it has been considered questionable as to whether governments should exercise them or

not". Regarding the first category, he poses the question "Is there not the earth itself, its forests and waters, and all other natural riches above and below the surface? These are the inheritance of the human race, and there must be regulations for the common enjoyment of it. No function of government is less optional than the regulation of these things or more completely involved in the idea of civilized society."⁹ He considered that the three most important of the necessary functions were "First, the means adopted by governments to raise the revenue which is the condition of their existence. Secondly, the nature of the laws which they prescribe on the two great subjects of Property and Contracts. Thirdly, the excellences or defects of the system of means by which they enforce generally the execution of their laws, namely, their judicature and police."¹⁰

Mill takes an agnostic view regarding the optional functions of the state, arguing that it is expediency alone that determines which ones should be performed. It is John Dewey who identifies the mechanism for determining the functions to be performed by the government. It is the public. And the public, in his view, is defined through debate and open discussion regarding both ends and means of government. The challenge that Dewey faced was that of organizing collective power for solving one of the greatest failures of the market: the Great Depression. It is through public debate that agreement is reached on whether and how the government should perform certain functions. And it is through accountability to the public and monitoring by the public that a mandate is granted and the legitimacy of that mandate measured by citizens. Legitimacy thus has to be viewed as a publicly constituted process through which citizens define both the state functions and the manner in which their state is to perform those functions. If the state is constituted and reconstituted through public debate, how do people who have taken their disagreements to armed combat agree to a political process to define the state as the instrument for the realization of their collective rights and obligations?

II Peace agreements as statecraft

The end of the Cold War gave rise to the expectation of a global peace dividend, yet events ranging from the disintegration of Yugoslavia to genocide in Rwanda shattered this hope. While in the first forty years of the United Nations, only 18 peace-keeping missions were set up, 42 new missions have been authorized since 1990. The annual budget of the UN peace-keeping mission now exceeds \$5bn.¹¹ Conflict has become a world systemic problem, given the number, scale, and the resources that are devoted to resolving inter and intra-state conflicts. Yet the implementation of peace agreements is not always successful; empirical studies show that nearly 50% of post-conflict peace agreements revert to conflict within 5 years.¹²

Peace agreements in our view offer a mechanism for laying the foundation for a state-building process. They delineate a web of rules and processes that determine the roles and functions of internal and external stakeholders, including the exercise of, limits to and transfer of state authority, the use of force, and the allocation and regulation of resources. The open moment of a peace agreement presents the opportunity to delineate a systematic and participatory process that can create the foundational institutions of the state; by the same token, if a peace agreement takes a more haphazard, unsystematic approach to state institutions, there is a risk of at best a missed opportunity and at worst damage to the functioning of state institutions which may be felt for generations.

A valuable trend to analyze the implementation of peace agreements has recently begun, either on the basis of a limited number of variables or on the basis of modeling, and is yielding valuable lessons.¹³ Somewhat surprisingly however, peace agreements themselves - which are both reflections upon the underlying causes of conflicts and approaches to resolving them - have not been systematically examined as statecraft or to reveal key themes.

To address this gap we will first look at peace agreements as central challenges in statecraft and then examine the key themes as required skills in state-building. The authors must acknowledge at the outset that in constructing this typology they are informed by participation in the preparation and implementation of the

Bonn Agreement in Afghanistan, recent interactions with decision-makers in South Sudan, Nepal and Lebanon, and influenced by the conviction that durable peace depends in practice upon successful reform, restructuring or building of states.

Peace agreements constitute a universe of political thought and practice. Covering countries that have endured conflict, their common characteristic is the search for sustainable peace. Words in these agreements carry enormous weight, as they are used to bind antagonists to a common purpose, and to provide a direction for the future. Our aim in this section is to offer a classification of the key characteristics of peace agreements, on the basis of a detailed textual analysis of those agreements concluded in the last twenty years. Categorizing either the key goal or mechanism deployed acts as a litmus test for understanding the underlying contours of the agreement.

Our reading of peace agreements produces seven foci of statecraft. The four dominant strategies are the quest for an inclusive state, new rules of the game, decentralization, and constituting a legitimate center. We have also identified three other strategies revealed in peace agreements, which we call imposed peace, imposed pluralism, and accommodation and neglect. We will focus on the four dominant strategies and imposed peace here. The analysis is confined to a desk review of the agreements themselves but is informed by and forms part of our ongoing work on an agenda of state-building.

(i) The Quest for the Inclusive State

Making the state inclusive is the dominant theme of the peace agreements in Central and Latin America. These agreements highlight both the root causes of conflict in the repression by the state, and the pivotal importance of the state for establishing and maintaining durable peace. They call for a radical restructuring of the institutions of the state, changing the relation of different state institutions to each other and transforming the relation between states and citizens through consolidation of the rule of law. Power is to be reconfigured from a repressive force against a section of the citizens to become an instrument through which the rights of all the citizens can be realised.

The preface to Plan Colombia succinctly formulates the general problem; an exclusivist state which has used repression as an instrument against a segment of the population is the cause of prolonged conflict, and construction of an inclusive state through a democratic process is seen as the mechanism for enduring peace and stability. “There is no question that Colombia suffers from the problems of a state yet to consolidate its power... A vicious and pervasive cycle of violence and corruption has drained the resources essential to the construction and success of a modern state... Attaining peace is not a matter of will alone. Peace must be built; it can come only through stabilizing the State, and enhancing its capacity to guarantee each and every citizen, throughout the entire country, their security and the freedom to exercise their rights and liberties.”¹⁴

The same sentiment pervades the agreements on Guatemala and El Salvador. The Guatemala agreement locates the issue as building a democratic state. “In order to deepen the democratic and participatory process in such a way as to strengthen civilian power, it is of crucial importance to enhance, modernize and reinforce the State and its republican, democratic and representative system of government... the three branches must coordinate their efforts to fulfill their responsibilities arising out of the duty of the State to ensure, for all the inhabitants of Guatemala, life, freedom, justice, security, peace and the full development of the individual. Public authority, in the service of the common good, must be exercised by all the institutions of the State in such a way that no person, social sector, military force or political movement can usurp its exercise.”¹⁵ This agreement aspires to rethink the relationship between the three branches of government, with the judiciary receiving special attention to underline the importance of a state that is constituted through rule of law.

The historical legacy of military rule is dealt with through the concept of differentiation between defense and security. The El Salvador peace agreement makes this important but unusual distinction. “[B.] As established in the Constitution, the armed forces are a permanent institution in the service of the nation. They shall be obedient, professional, apolitical and non-deliberative. Their institutional regime and operations shall also be consistent with the principles deriving from the rule of law, the primacy of the dignity of the human person and respect for human rights ... the concept of the armed forces as an institution free from all considerations of politics, ideology or social position or any other discrimination; and the subordination of the armed forces to the constitutional authorities ... [E.] The doctrine of the armed forces is based on a distinction between the concepts of security and defence. National defence, the responsibility of the armed forces, is intended to safeguard sovereignty and territorial integrity against outside military threat. Security, even when it includes this notion, is a broader concept based on unrestricted respect for the individual and social rights of the person. It includes, in addition to national defence, economic, political and social aspects which go beyond the constitutional sphere of competence of armed forces and are the responsibility of other sectors of society and of the State. [F.] The maintenance of internal peace, tranquility, order and public security lies outside the normal functions of the armed forces as an institution responsible for national defence. The armed forces play a role in this sphere only in very exceptional circumstances, where the normal means have been exhausted, on the terms established in the constitutional reform approved in April 1991.”¹⁶

Ensuring the rights of the excluded, particularly indigenous people and the poor, are central motifs in the peace agreements. The Chiapas agreement is premised on the argument that “history confirms that indigenous people have been the object of forms of subordination, inequality and discrimination which have determined a structural situation of poverty, exploitation and political exclusion. It also confirms that they have persisted in the presence of a legal order whose ideal has been cultural standardization and assimilation. It confirms, finally, that overcoming that reality requires new, profound, participatory and converging actions on the part of the government and society, including, above all, the indigenous peoples themselves.”¹⁷ To overcome this legacy of exclusion and subordination the parties proposed that in “the framework of the new relationship between the State and the indigenous peoples, their rights need to be recognized, assured, and guaranteed.”¹⁸ The document then spells out a series of principles and mechanisms for achieving the agreed-upon goal of the parties.

(ii) Decentralization

Making the state inclusive is premised on the belief in the desirability and feasibility of democratic reform and equality of all the citizens under the rule of law. In a number of countries across the world conflicting parties in a civil war have hit upon decentralization as the mechanism for bringing peace. The common thread binding cases from Aceh in Indonesia, Bougainville in Papua New Guinea, Mindanao in the Philippines, Croatia, Georgia, Macedonia, Serbia and Montenegro in Central Europe and the Former Soviet Union, is that guaranteeing the rights of a significant segment of the population requires transfer of a series of decision-rights from the central government to the regional or local governments. Whether the area in question is a site of proven natural resources or is considered to contain such natural resources is a variable that has significant bearing both on framing the issue of decision-rights and the degree to which decentralization may work in practice. Issues of identity and the search for expression of cultural rights loom large in all these cases.

Within the model of decentralization, three variants can be differentiated: Model I: where the territorial unity of the state is recognized; Model II: where a transitional period is to be followed by a decision on unity or separation; and Model III: where a cease-fire brings about an end to the war and the parties make a commitment to find a political solution in the future.

The principles articulated in the Framework Agreement in Macedonia best capture the spirit of Model I. “[1.1] The use of violence in pursuit of political aims is rejected completely and unconditionally. Only peaceful political solutions can assure a stable and democratic future for Macedonia. [1.2] Macedonia’s sovereignty and territorial integrity, and the unitary character of the State are inviolable and must be preserved. There are no territorial solutions to ethnic issues. [1.3] The multi-ethnic character of Macedonia’s society must be preserved and reflected in public life. [1.4] A modern democratic state in its natural course of development and maturation must continually ensure that its Constitution fully meets the needs of all its citizens and comports with the highest international standards, which themselves continue to evolve. [1.5] The development of self-government is essential for encouraging the participation of citizens in democratic life, and promoting respect for identity of communities.”¹⁹ A similar set of principles can be discerned in the agreement between the Government of the Philippines and the Moro Islamic Liberation Front, although the agreement is silent on the issue of whether Mindanao is or is not in the Philippines.²⁰

The brief framework agreement defining relations in Serbia and Montenegro illustrates Model II. It explicitly recognizes the right of each of the states at the end of a three year period to institute proceedings for “withdrawal from the state union.”²¹ The agreement on Bougainville not only provides for an “autonomous Bougainville Government operating under a home-grown Bougainville Constitution with a right to assume increasing control over a wide range of powers, functions, personnel and resources” but also choices available in a referendum that “will include a separate independence for Bougainville.”²²

Agreements on the Aceh region in Indonesia and the Abkhazia region in Georgia fall within model III. The Erdut agreement on the Region of Eastern Slavonia, Baranja, and Western Sirmium²³ could fall either within model III or I, as its 14 points of principle include the establishment of a Transitional Administration, elections for local government bodies, and deployment of international forces to be authorized by the Security Council of the United Nations. In the cases of Georgia and Indonesia, commitment to the end of hostilities is to be followed by political processes for finding solutions to the underlying causes of the conflict.

The key issues, however, fall within two categories: gaining representation in the central government and gaining autonomy at the local level. Reservation of offices through explicit or implicit quotas in various branches of the central government, adoption of principles of affirmative action for gaining positions for the members of the group in the professional ranks employed by the government, and adoption of special measures for recruitment of former combatants into the ranks of the armed forces and the police are among mechanisms agreed to for achieving the first objective. The issues figuring prominently are the reserved subjects, decisions over which are vested at the local level and the subjects vested at the central level. This neat distinction, however, can be problematic in practice, for a significant number of issues may fall in a gray area of concurrent decision-rights. Furthermore, when the local government depends on the central government for financial or other resources, the formal process of decentralization can in practice either become or mask a process of centralized decision-making.

Clarification of decision-rights between different levels of government is the most important cross-cutting issue in the use of decentralization as a mechanism for securing lasting piece. Decentralization as a concept only roughly captures a complex reality that revolves around balancing rights and obligations at different levels of government and across different functions of the state. When a state is not governed by rule of law, decision rights can be captured at various levels by narrow groups. Centralization itself was a reaction against the repressive local elites of the feudal period, while the quest for decentralization is a reaction to excessive power wielded by central bureaucracies located in capitals remote to the realities of people.

(iii) New Rules of the Game

The quest for the inclusive state or agreeing on decentralization as a mechanism for ending conflict presume a legal framework that requires modification rather than complete overhaul. Sudan and Nepal, by contrast, illustrate conditions of conflict whose resolution is sought in the formulation and implementation of new rules of the game for statecraft. In each of these of these cases, the state was experienced by the majority of the population as repressive. Major social and military movements arose to challenge the exercise of power and eventually succeeded in negotiating new rules.

The Comprehensive Peace Agreement in Sudan illustrates the level of complexity in negotiating new rules of the game. The agreement between the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A), covers both a series of temporal periods – pre-interim, and interim to be followed by elections within three years in the South and a referendum within six years on unity or separation – as well as a comprehensive set of agreements covering all aspects of relations governance.²⁴ The agreement was premised on an acceptance of one country, two systems, which meant an entire reversal of the history of a Muslim expansionist state against an African “animist” and Christian south. It included the writing of a new constitution for the country, the writing of a constitution for Southern Sudan, with its own branches of government and the writing of ten state constitutions in the south and a series of agreements on power-sharing, wealth-sharing, land and security. Finally, it provides for a referendum as the mechanism of separation or continued unity.

Burundi illustrates the difficulty of moving from design of new rules of the game to their implementation. In response to external pressure in the 1980s, a minority-led regime was forced to open up the political space to new political parties and movements.²⁵ But when the elected President moved to challenge the dominant elite, he was killed and the country was plunged into civil war and ethnocide. A new political process has begun that seems to have momentum, but the challenges of institutional transformation in one of the most heavily populated countries in Africa with a history of misrule, should by no means be underestimated.²⁶

In Nepal, a political movement composed of seven parties and a Maoist movement confronted an absolutist monarchy that constitutionally defined itself as a Hindu polity. As the constitution had no mechanisms for modifying the nature of the monarchy, or changing the religion of the state, the convening of a constituent assembly to define new rules became the driving idea of a twelve point agreement. Currently, the politicians and the people are facing the concurrent challenges of defining the system, restructuring the state, making development inclusive, providing security, constituting a market and mobilizing resources.

(iv) Constituting a Legitimate Center

The foundational importance of legitimacy to statecraft is highlighted by the cases of protracted conflicts where, after experiencing genocidal, despotic, destructive regimes that saw the loss of millions of lives, parties could not reach agreement on the mechanisms and processes of constituting a legitimate center. These forgotten conflicts became loci of sustained attention when global and regional circumstances changed so as to remove the veto power of some stakeholders, thereby opening up the possibility of sustained attention from the United Nations. Afghanistan, Cambodia, and East Timor represent the cases where the UN has been cast in the critical role of facilitator, co-producer, or administrator of a process of state-building through constituting a legitimate center for a government that would have legitimacy at home and abroad. Since in East Timor there was little doubt about the nature or identity of the leaders that would assume power at the end of the transitional period, we shall focus on Cambodia and Afghanistan.

In both cases the process is initiated by an internationally convened conference composed of representatives of some of the contenders or stakeholders. For Cambodia, the conference took place in Jakarta,

resulting on September 10, 1990, in the Supreme National Council of Cambodia (SNC) as the “unique legitimate body and source of authority in Cambodia.” This body in turn elected Prince Norodom Sihanouk as the President of SNC.²⁷ For Afghanistan, the conference took place in Bonn in late November and early December, concluding on December 5, 2001 when the Taliban had abandoned the capital city of Kabul but were still in occupation of some of the provinces of Afghanistan. The Bonn agreement created an interim administration, to which power was to be transferred on December 22, 2001 and “upon the official transfer of power, the Interim Authority shall be the repository of Afghan sovereignty, with immediate effect.”²⁸ In both cases, the agreements became effective upon approval through adoption of resolutions by the Security Council of the United Nations. In each case, deployment of international forces was provided for and took place.

In Cambodia, the agreement provided for “the establishment of a United Nations Transitional Authority in Cambodia (UNTAC) with civilian and military components, which will act with full respect for the national sovereignty of Cambodia.” It added, however, that “the SNC hereby delegates to the United Nations all powers necessary to ensure the implementation of this agreement.” Annex 1 to the agreement on UNTAC mandate makes clear that “all administrative agencies, bodies and offices acting in the field of foreign affairs, national defence, finance, public security and information will be placed under the direct control of UNTAC, which will exercise it as necessary to ensure strict neutrality... the Secretary-General’s Special Representative, in consultation with the SNC, will identify which administrative agencies, bodies and offices could continue to operate in order to ensure normal day-to-day life in Cambodia, if necessary, under such supervision by UNTAC as it considers necessary.” In addition, the SRSG authority “will include the power to: A. Install in administrative agencies, bodies and offices of all the Cambodian Parties United Nations personnel, who will have unrestricted access to all administrative operations and information. B. Require the reassignment or removal of any personnel of such administrative agencies, bodies and offices.”²⁹ The UN was thus given categorical power to preside over the process of creation of a legitimate center in Cambodia.

In Afghanistan, “the participants in the UN talks on Afghanistan hereby

“1. Request that the United Nations and the international community take the necessary measures to guarantee the national sovereignty, territorial integrity and unity of Afghanistan as well as the non-interference by foreign countries in Afghanistan’s internal affairs;

2. Urge the United Nations, the international community, particularly donor countries and multilateral institutions, to reaffirm, strengthen and implement their commitment to assist with the rehabilitation, recovery and reconstruction of Afghanistan, in coordination with the Interim Authority;

3. Request the United Nations to conduct as soon as possible (i) a registration of voters in advance of the general elections that will be held upon the adoption of the new constitution by the constitutional Loya Jirga and (ii) a census of the population of Afghanistan.

4. Urge the United Nations and the international community, in recognition of the heroic role played by the mujahidin in protecting the independence of Afghanistan and the dignity of its people. To take the necessary measures, in coordination with the Interim Authority, to assist in the reintegration of the mujahidin into the new Afghan security and armed forces;

5. Invite the United Nations and the international community to create a fund to assist the families and other dependents of martyrs and victims of the war, as well as the war disabled;

6. Strongly urge that the United Nations, the international community and regional organizations cooperate with the Interim Authority to combat international terrorism, cultivation and trafficking of illicit drugs and provide Afghan farmers with financial, material and technical resources for alternative crop production.”³⁰

As neighbors in both countries could play the role of spoilers,³¹ their support to the peace process was considered critical. In Cambodia, this took a formal commitment of Cambodia to neutrality, to be enshrined in its future constitution, and a commitment of the signatories to international guarantees. The mutual commitment stated that “Cambodia undertakes to maintain, preserve and defend, and other Signatories

undertake to recognize and respect the sovereignty, independence, territorial integrity and inviolability, neutrality and national unity of Cambodia, as set forth in a separate Agreement.”³² An entire Annex is devoted to withdrawal, cease-fire and related measures, specifying the responsibilities of the UN in verification of withdrawal of foreign forces. As the military involvement of neighbors in Afghanistan was never overtly acknowledged and the reality on the ground was defined by the military deployment of the Coalition against terrorism and the ISAF for peace-building in the capital city of Kabul, the clause seeking the UN and the international community to guarantee “non-interference by foreign countries in Afghanistan’s internal affairs” covered the issue.³³

The question of transition was handled differently in the two countries. In Cambodia, the UNTAC was invested with formal power until “the constitutional assembly elected through free and fair elections, organized and certified by the United Nations, has approved the constitution and transformed itself into a legislative assembly, and thereafter a new government has been elected.”³⁴ In Afghanistan, the transitional period was divided into phases consisting of transfer of power to the interim administration, election of a transitional administration within six months by an emergency Loya Jirga (Grand Council), the holding of a Constitutional Loya Jirga to adopt a new constitution for the country, and the election of a fully representative government through free and fair elections to be held no later than two years from the date of the convening of the emergency Loya Jirga. The UN was assigned a major role in organizing the Loya Jirgas and the presidential and parliamentary elections. Loya Jirga was an established Afghan institution convened by the rulers to seek a mandate on issues of national significance. The innovation in the UN-sponsored talks was to infuse the institution with a popular mandate by having its members elected through indirectly contested elections. In contrast to the Cambodian agreement, the agreement in Afghanistan has a tightly delineated calendar for the political process, marking a path of increasing legitimation of the central government through ever increasing popular mandate.³⁵

An Annex was devoted to the articulation of principles for a new constitution for Cambodia. “The Constitution will state that Cambodia will follow a system of liberal democracy, on the basis of pluralism. It will provide for periodic and genuine elections. It will provide for the right to vote and to be elected by universal and equal suffrage. It will provide for voting by secret ballot, with a requirement that electoral procedures provide a full and fair opportunity to organize and participate in the electoral process.” For Afghanistan, the agreement simply stated that “in order to assist the Constitutional Loya Jirga prepare the proposed Constitution, the Transitional Administration shall, within two months of its commencement and with the assistance of the United Nations, establish a Constitutional Commission.” The UN was thus squarely cast in the role not only of state-builder but also promoter of liberal democracy in conditions of post-conflict.

The UN was assigned a central role in organizing elections in both countries. Carrying out this critical task was to involve solving major logistical challenges and to require expenditure of hundreds of millions of dollars in each country. Whether the expenditures on the technical processes of registration and voting through paper ballots have laid the foundation for a sustainable and transparent system of voting in these countries requires a thorough review.

Both agreements highlight a series of cross-cutting themes, prominent among which are issues of human rights, concern with the rights and need for assistance to refugees and internally displaced people, rights of women, and calls for assistance to the poor and groups made vulnerable because of their location or social position. The leitmotif of the agreements is to create broad-based governments that would enjoy sufficient legitimacy to confront the formidable task of rebuilding of the economic, social and cultural fabric of their societies. As far as rehabilitation and reconstruction are concerned, the declaration in Cambodia succinctly captures the challenge in both countries.³⁶

The rhetoric of building democratic states, however, should not obscure the reality of accommodation by the UN to the realities on the ground. The ultimate winner in Cambodia was Hun Sen, “a tough survivor of the Khmer Rouge, a prime minister appointed by the Vietnamese in the 1980s but agile enough to distance himself from them and be acceptable to the Americans and West Europeans. He left the impression of strength and utter ruthlessness. He understood power, that it came from the barrel of the gun, which he was determined to hold” (Lee Kuan Yew, 2000:326). In Afghanistan also, men known for abuse of human rights were accommodated in recognition of their role in enlisting with the coalition for the overthrow of the Taliban.

For over a decade, Liberia was a case of external and internal accommodation between warlords, most notable amongst whom was Charles Taylor. Currently, the elected government under Ellen Sirleaf Johnson faces the task of translating a mandate for good governance into institutional legitimacy. The challenge, therefore, is similar to the one faced in Afghanistan and Cambodia.

In all these cases, the UN system was made a significant player in all aspects of a state-building strategy. Practice, therefore, seems to have been ahead of analysis and reflection, as the UN system has yet to frame its considerable involvement in promoting peace in terms of an agenda of state-building. But any strategy of peace-building, other than neglect or accommodation of criminality, is inherently about state-building. This assertion also holds for strategies that we will only examine briefly in this paper.

(v) Imposed Peace

Imposed peace takes place when regional or global public opinion finds the incidence of ethnocide unacceptable and a mechanism is found to force other governments to intervene. Bosnia and Herzegovina and Kosovo illustrate the cases of imposed peace as a mechanism of peace-building in conflicts where other mechanisms proved ineffective or were not tried early enough to be effective. This has, however, only happened in the case of the break up of Yugoslavia, on Europe’s doorstep, where genocide sat uneasily with European conceptions of their civilization. One of the reasons is the expense; vast resources are required to maintain the peace even years after the intervention.

In these cases, external actors retain the right to use force to maintain the peace. The issue is stated with striking clarity in the Annex on the military aspects of the peace agreement in Bosnia. “The parties understand and agree that violators of subparagraphs (1), (2) and (3) above [delineating withdrawal of forces from Sarajevo] shall be subject to military action by the IFOR, including the use of necessary force.”³⁷ Not only has the international community assumed direct responsibility for use of force in these cases but it has also dealt with minutia of constitutional provisions and arrangements on ethnic balance and representation at all levels of government.

After a decision to use force, actual deployment has taken place rapidly and a political framework for the deployment has been arrived at under intense pressure of time. Perhaps because of this pressure of time, the architecture of transitions were not clearly formulated and articulated and what were intended as temporary accommodations have become precedents for medium to long-term claims. No time-bound mechanism for handing over authority to local actors was articulated in the peace agreements or in practice after a decade in Bosnia and Herzegovina and six years in Kosovo. This stands in marked contrast to the process of Accession, which provides a goal of membership, a clear process of certification, a set of rules and standards to be adopted, mechanisms of support to ensure transfer of competence to the national administrators, and a political process for generating domestic support. There has recently been a move towards setting benchmarks of transition through the standards process in Kosovo.

Parallel structures were established to exercise functions of the state, in effect constituting a form of trusteeship. As a legal framework for allocation of decision rights was not tailored to the requirements of the

process, the Bonn Powers were subsequently formulated to provide the High Representative with the necessary authority to be able to establish mechanisms of authority by local leaders. Where the international community has directly assumed the coercive function of the state and after years has still not found a mechanism of exit that would prove sustainable, costs run extremely high. However expensive the investment in a political process, these costs are overshadowed by the security bill in such cases.

III Common Themes

The above analysis aimed to identify the key contextual issue of statecraft in each of the categories of peace agreements. Our reading, however, also revealed a series of key themes that constitute the necessary building blocks of the peace-building process, either through their centrality to the architecture of the peace process, or their marked absence. Nearly all the peace agreements should contain the following seven major topics: the political process; the legal framework; the internal reorganization of the state; provision of security; inclusive economic and social development; a partnership with the international community; and implementation.

(i) The Political Process

First, there is the issue of the political process. Bullets yielded to ballots when parties to the conflict realized that politics provided a better instrument than war for achieving their goals. While the exploratory phases of the discussion to enter into negotiation are not described in the peace agreements, it is clear that the preliminary phases of some of the discussions took years, and thus contain a wealth of material that lies behind the peace agreements as expressed in the formal text. The documents do, however, reveal that there are a number of critical components of the transition from conflict to the political process, including: agreement on the framework and timetable for discussion, reaching understanding on a ceasefire and modalities of its enforcement and verification, reaching agreement on transformation of armed movements into political parties under a clear legal framework, agreement on the process of transition and timetable for holding of free and fair elections, and agreement on the role of third parties to facilitate, monitor, or verify the steps towards resumption of politics.

Three particular points stand out. First, the rush to equate democracy with elections may risk confusing the goal and process with the mechanism. If democracy aims at the enfranchisement of citizens in decision making, it is not clear that a rush to elections - in contexts where institutions are not stable, criminal groups control the security forces, and mature parties do not exist - advances the goal of citizen empowerment. Clarity over the criteria which must be met, particularly in terms of the institutional capability of the police, administration, judiciary and media, for elections to be held is needed. Innovation regarding mechanisms of participation and consultation is required, building on experience with mechanisms such as national consultative processes (PRSPs, the use of the Loya Jirga in Afghanistan, Truth and Reconciliation in South Africa, Commissions in Guatemala). Elections and censuses, particularly given the sensitivity of the latter issue and the careful management that these processes require to reduce or eliminate fraud, require a time for realization that may be technically unfeasible; by contrast, other types of village-based elections or national assemblies may provide a less expensive but more familiar mechanism rooted in tradition, that allow for the type of public discussion of the nature of authority that would realize Dewey's call for the constitution of a public. Many agreements call for censuses, databases and information systems to be carried out; the agreement on Guatemala stands out for its emphasis on creation of identity cards for all the citizens of the country. Enormous scope exists to examine the possibilities for rethinking electoral processes, voter registration, census preparation and citizen database preparation, in light of modern technology³⁸, to enable more frequent but transparent elections at a fraction of the cost at the same time as building an information base for governance.

Ensuring the credibility of the path of transformation is critical to the success of the political process. Setting benchmarks of transition and providing mechanisms to broaden the process of transformation are both critical to creating momentum and gaining the trust and rallying the support of the population. Benchmarks provide a common calendar so that energies can be marshaled to achieve the same goals, remove uncertainty, and provide stakeholders with a focus on events that serve as a goal and allow movement to be evaluated. Mechanisms for broadening the process ensure that necessary adjustments can be made over time, allow for the increasing establishment of cross-cutting ties, and remove the sense that there are not permanent winners and losers.

Any political process is often heavily dominated by notions of culture, in turn reflecting either deep-rooted historical processes or the inventions of traditions that are held as beliefs by a significant section of the population. Ethnicity, religion or spatial identities – ranging from a locality to an area the size of many countries in the case of Southern Sudan – infuse the political process with symbolic minefields that require very careful understanding of language and framing of history. Perceptions of the past can haunt the present and the future, as perceived records of past betrayals can undermine trust in the promises of the present and undermine the prospects of the future. The issue of language can sometimes reach the basic level of the alphabet, as in the case of Macedonia or the use of Arabic in the Philippines, or the display of signs and symbols defining ethnic or religious identity.

(ii) The Legal Framework

For politics to prevail over violence, there must be agreement on legal frameworks. Law is thus the critical link between peace and an inclusive stable order. There is a strong emphasis in many agreements on the need for the state institutions to be bound by the rule of the law; in cases of neglect, by contrast, the absence of such attention is noticeable. The need to strengthen the judiciary, and increase its autonomy from the executive branch and the politicians is also strongly reflected in these agreements.

The nestedness of a legal regime is illustrated with particular clarity in these peace agreements. The constitution is the fountain of a series of nested laws, rules, and regulations. When the existing constitution provides an agreed legal framework, the issue becomes either amendments of specific provisions or change of subsidiary legislation. In Latin America, for instance, the parties found the constitutions acceptable, but focused their energies on getting the balance between branches of government, or addressing specific issues of rights such as those of the indigenous people or the landless. In the case of new rules of the game or creation of a legitimate centre, writing of new constitutions was an important benchmark of the process.³⁹

Imposed peace highlights the need for a legal framework in its most striking form, as an entire legal framework has had to be put together very rapidly, in particular to govern the use of force but also to administer the country. Resolutions of the Security Council of the United Nations have also been critical as providing expressions of consensus of the international community, deployment of international forces and in some cases assigning either direct administrative responsibility to international personnel and in others requiring strong oversight and administrative responsibilities. During the transitional period, the boundary between the powers of the transitional authority and the national authorities and international organizations is not always clearly specified and requires considerable thinking for the future.

While in the political arena, limits of the authority of transitional governments are either implicitly or explicitly understood, the exercise of legal authority in areas such as signing of contracts, disposal of public land, and entering into agreements with extractive industry have not been clearly articulated. As predictability of law is based on precedent, ensuring accountability and transparency in management of public assets during transition periods is particularly important. Few agreements contain provisions requiring officials or politicians to disclose their assets.

The locus of authority for initiation, approval and adjudication of laws is not always clearly thought through; there are both advantages and disadvantages of locating these rights within an unchecked executive, temporary international administration, or a newly formed Parliament. Instead a process of legislative design, consultation and approval is required, to ensure that laws are tailored to context and have a realistic prospect of implementation. It is clear that importing laws off the shelf from other countries has little chance of success unless such a process exists. In some cases, a process of review of the previous legislation of a despotic regime will be necessary, with a view to providing legal certainty as quickly as possible regarding previous transactions.

Nearly all agreements invoke human rights and a desire to end genocide, ethnocide, exclusion and violation of rights of people. Some contain specific provisions on transitional justice. Few, however, spell out the mechanisms for dealing on the one hand with past abuses and on the other hand for preventing abuse of rights during the transitional period. Like other aspects of the legal framework, this important issue requires systematic thinking and drawing of a menu of options and mechanisms that can be effective.

(iii) Internal Reorganization of the State

Reorganization of the institutions of the state is the third dominant theme in these agreements. The leitmotif running through this topic is the clear articulation of the need for a state apparatus that is professionally staffed, capable, honest, and infused with the value of public service to citizens who enjoy equality before the law. Given the stated need in many cases to recruit, train and retain thousands of professional staff, and adjust mental models from those complicit in a repressive regime to one of public service, the silence in peace agreements on the issue of investment in human capital is marked. The mechanisms to help former fighters and victims of war transform themselves into administrators are also not clearly specified.

In contrast to the dominant focus of the developmental institutions on the executive, these peace agreements show a strong concern with the need for separation and coordination among the three branches of the government as well as the need for staffing of the state apparatus by professionals imbued with values of public service and adherence to the rule of law. An emphasis on the judiciary emerges as the key instrument of entrenching rule through law.

The part of the state apparatus that receives the most detailed attention is the armed forces, underlining the concern that the instrument for guaranteeing a legitimate monopoly of violence had been changed into an instrument of violence pure and simple. For politics to prevail, there must be political and social consensus that the armed forces will not have the right to veto the procedures and the outcomes of the political processes. Hence, the meticulously detailed provisions regarding doctrine, mission, accountabilities, budgetary allocations, size, recruitment, and definition of conditions and decision-rights on deployment. Intelligence services are covered in terms of their subordination to civilian authorities but the nature of the treatment is much less detailed than that of the armed forces. The police, on the other hand, are projected as the key instrument of internal security and receive strong attention.

(iv) Provision of Security

In conditions of prolonged conflict, the state uses both its claim to a legitimate monopoly, and its actual monopoly on the means of violence. When there is a peace agreement, the population judges the process by their own degree of security of persons, movement and property. Agreements request the use of the good offices of the United Nations or regional parties to deploy peacekeeping forces to accomplish a number of specific tasks, ranging from prevention of the outbreak of conflict, and stabilization of conflict situations after

a ceasefire, to guaranteeing the implementation of peace agreements and transition to a stable government, where they play a prominent role in demobilization and creation of new security forces.

The level of detail contained in the peace agreements regarding ceasefires, verification and engagement of international forces is reflective of systematic thinking and experience in managing the initial phases of peacekeeping operations. From a medium to long term perspective, security and stability will need to be differentiated. Security can be established through use of repression but stability can only result from legitimate political processes and inclusive order where the citizens become stakeholders in the system.⁴⁰ Achievement of stability, in turn, depends on the creation of institutions of security that are devoted to upholding the rule of law and obeying legitimate civilian authority. While some peace agreements highlight this critical issue, others are more vague about it. The nexus between the army, police, administrative authorities and the judiciary again needs to be clearly understood; fair dispensation of justice by the judiciary needs to receive a lot more attention. As organizational culture is a critical component of effectiveness, attention to finding an institutional locus for training of officers, leaders and managers of the security sector in post-conflict countries will be a pre-requisite for successful building of security institutions.

Readiness of the international community to commit forces is critical to the ability of the UN, NATO or other multi-national or regional organizations to deploy the forces to prevent conflict or implement peace agreements. The tragic events in Rwanda, Burundi, Darfur and the former Yugoslavia indicate the consequences in both loss of life and subsequent expenses for failure to engage early enough. The other side of the coin is to find an exit strategy for international forces. The case of both Kosovo and Bosnia-Herzegovina should make clear that unless there is a clear state-building strategy, deployment of forces that initially were considered to be needed for short intervals assumes semi-permanent characteristics.

(v) Inclusive Economic and Social Development

Treatment of economic and social issues emerges as another clear theme. In contrast to the detailed approach to the organization of the security apparatus of the state, the sections of the agreements on economic and social developments are more in the nature of aspirations than worked-out plans of action. The accords are infused with a rights-based approach to economic and social development, containing detailed lists of rights for citizens in general and indigenous people, refugees, internally displaced people, former combatants, and women in particular. Education is an issue that largely dominates the social agenda, as it is both tied to the question of language and particular forms of cultural identity that have been a driving force in defining the conflict. While a series of aspirations are detailed, there is little focus on the corresponding obligations of citizenship, or the internal processes of generation and management of public resources that will lead to economic prosperity and social inclusion.

Often there is a call for external resources to be mobilized to prepare and fund ambitious programs in short periods of time, without corresponding attention either to the realism of these requests, proper understanding of the constraints of the aid system, or establishing mechanisms of accountability and transparency that are effective conditions for use of aid. None of the peace agreements clarified the responsibility of the authorities to raise revenues to finance state expenditure.

There is either a marked silence on the need to bring accountability and transparency to the management of assets of the state, or an outright transfer of assets of the state to management by groups previously involved in fighting. Few place any controls over the process of disposal of assets of the state, including mineral resources, land, licenses, and public corporations. While the agrarian question in zones of conflict and the desire to legalize land tenure relations developed during conflict, through compensation to landowners, is a distinctive trend in these agreements, few place any actual controls over the land reform process. In general,

there are few peace agreements that demonstrate understanding of the relative roles of the state and the market in fostering economic development or preventing a criminal economy from emerging.⁴¹

(vi) Partnership with the International Community

Seeking a renewal or enhancement of the interest of the international community constitutes the fifth major theme in the agreements. The prominent role here is that of the United Nations, usually represented in the person of the special representative of the Secretary General, supplemented by those of heads of neighboring states and regional powers. Besides serving as a catalyst to the forging of the political consensus on ending conflict, the United Nations is cast in the role of the midwife for delivery of the transitional phases of the agreements through functions ranging from monitoring the ceasefire to direct assistance and verification and reporting on general progress. The moral authority of the UN is sought to bind the participants to the agreement and to act as a credible referee during its implementation.

Other actors are often sought to play a supplementary role. Groups of friends, both among the neighboring countries and among OECD countries, play an important role. When an OECD country member lends its offices, the process has often been endowed with more vigor.⁴² Regional groupings of Presidents in Latin America, and increasingly in Africa, through the African Union, have played a catalytic role for peace. Where neighboring countries have implicitly or explicitly had the power of veto because of their support to a party or armed group, agreements have either contained explicit provisions such as the withdrawal of troops from Angola by South Africa and Cuba, or have committed themselves to non-interference in the case of South Africa in both Angola and Mozambique, Vietnam and China in the case of Cambodia, or in the case of all Afghanistan's neighbors through the Good Neighbourly Declaration that followed the Bonn Agreement.

The absence of the International Financial Institutions from the process is notable; the political and economic processes are clearly not integrated or aligned. All the agreements contain clauses for seeking financial resources from the international community as well as mobilization of domestic resources but, as pointed out above, most of the time these calls lack specificity. Others seek commitments from troop-contributing countries or the massive deployment of UN personnel, such as in the case of UNMIK and UNTAET. In some, a role for civil society organizations is envisaged, as in the cases of Guatemala and El Salvador. Maintaining the commitment of the international community over the medium to long term is the real challenge, as all the attention tends to be in the first years, while empirically almost 50% of peace agreements fail within five years.

(vii) Implementation

Were the agreements to be prepared through a discipline of implementation and working backwards to modalities of transition and timelines, they could gain both in realism and coherence. It is differences in the degree of attention to the implementation of different peace agreements, the sixth theme of the accords, that may account both for the gains achieved in restoring competitive electoral politics and the slow momentum in achieving their goal of building inclusive states. As leaders of war and mobilized constituencies, the interlocutors in these peace agreements have paid meticulous attention to implementation arrangements for issues that they are familiar with, ranging from organization and monitoring of elections, monitoring of ceasefires and decommissioning of armed groups. But these issues, though absolutely vital to replacing conflict with peace, are of short-term focus when viewed from the perspective of building inclusive states. Gaining and maintaining momentum towards this lofty goal requires the discipline of a marathon runner, not the concentrated energy of a sprinter. It is in relation to this state-building process that the international community could have been of immense service to the antagonists-turned-partners but the international community itself lacked the knowledge and organizational culture to mobilize for marathons.

In the peace agreements where implementation arrangements are spelled out in great detail, such as the Comprehensive Peace Agreement in the Sudan, there seems to be a disconnect between the desirability of an objective as framed in a legal agreement and the feasibility of its implementation, as measured by the capacity of the government and the international community either to mobilize or hire people with the necessary skills and commitments to implement the agreements in practice. More attention to issues of implementation might contribute significantly to designing more realistic agreements and setting expectations of the stakeholders at a more realistic level and thereby enhancing the degree of trust in the process.

In other agreements, there seems to be little or no attention to the process of implementation. Because specialists work in isolation from each other on various aspects of a peace agreement, and peace making has not become a coherent discipline, attention to trade-offs and sequencing is by and large absent.

IV The Long View

Peace agreements are a reflection of a world systemic phenomenon: the breakdown of repressive states which were propped up by one of the superpowers during the Cold War and the transformation of authoritarian states into democratic states. As foreign policy – being with or against one of the superpowers – was the key to receiving assistance and support during the height of Cold War, unrepresentative regimes undermined or obstructed rule of law and dismantled or subverted state institutions to stay in power. State power became a vehicle of oppression and abuse of a population rather than a vehicle of enfranchisement and consolidation of the rights of citizens. Gradually but systematically the loss of authority was marked by weakening of judicial and administrative functions and then by the rise of armed groups that ended the state's monopoly on the means of violence, giving rise to an institutional syndrome of long-term conflict and eventual challenges to the legitimacy of authority.⁴³

All the peace agreements reviewed pinpoint a dysfunctional state as a major root cause of the conflict, and all contain the premise that functioning state institutions are the key to long-term peace, security and stability. International actors in general and the UN in particular have in practice been engaged in a project of state-building in these countries. In all these agreements, their very engagement shows that establishing legitimacy requires certification by international actors. Given the emphasis placed on elections as a central mechanism of legitimacy, the premise has been not only on state-building but on the building of democratic states. This was made particularly explicit in the case of Cambodia. While this task is framed as central to the objectives of the peace agreements, it is not clear that the tasks set out in peace agreements are aligned to this goal, and that the necessary issues receive attention in an appropriate sequence. Therefore, it is not surprising that the literature on implementing peace agreements shows that the even more modest goals of ending violence are not achieved.

Functioning states are now seen as imperative to global stability and prosperity. At the same time, it is clear that non-state actors use the territories of dysfunctional states as breeding grounds for both terrorism and criminality. There is clear recognition that states have both rights and obligations to both their citizens and the international community.⁴⁴ Both preventing conflict and assisting in the establishment of security after conflict require a clear grasp of the functions of the state. A clear understanding of the condition of state functions would give actors both a tool for predicting crisis and, in the context of preparation of peace agreements, an understanding of the magnitude of the tasks involved and therefore the type of resources, sequencing and time horizon required. As each of the key components of the peace-agreements falls within one of the 10 delineated functions, a balanced score-card or other tools of management can be used to map the functions and task and find the best points of synergy among them.

Our globalizing world requires a consensus on the functions to be performed by the state, as definition is the first step to measurement of outcomes and comparison of performance. To create a state which can

provide human security and prosperity to its population and act as a responsible member of the international community requires that the state must perform a range of functions. While there can be legitimate debate as to the characterization of these functions, we suggest that coming to agreement on a set of functions would be important in order for the international community to reach agreement on the best way to design responses to the challenge of state-building. State functions change over time, and so the range of functions considered necessary is subject to the consensus of a particular moment. Therefore, our proposed list is designed to generate discussion, as a prelude to a consensus on functions being reached. Functions can be added or subtracted. Once agreement is reached on these functions, it would be possible to create a sovereignty index that measures decline or improvement along each of these dimensions over time. While international actors may be called upon to substitute for state functions, it should be clear that their capability for performing these functions is low and expensive and does not lead to real transfer of knowledge and skills to national actors

If peace cannot be secured without a strategy of state-building, then the first lesson for the future is to understand the nature of the challenges and the tasks that follow from the need to face the challenge. This in turn requires taking the long-term perspective of 10-20 years rather the short-term horizon of 1-3 years of transition. The division of labor between international institutions on politics and peace, security, and development that was arrived at sixty years ago has become an obstacle to an agenda of global security in the context of gains made by networks of violence against fragile states. Operation of the international institutions as silos is not only expensive in terms of blurring of lines and unnecessary competition over turf but counter-productive to relations with the national actors, whose own divisions are reinforced by divisions among international actors.

Focus on state-building requires a clear grasp of the cross-cutting issues by all international institutions as a prerequisite for arriving at a new division of labor among them and for promoting synergy and more effective use of resources. Each of the themes delineated above requires a set of specialized skills and practices, based on a detailed examination of lessons learned, to enable staff to delineate options within the context of coherent overall strategies so that inter-linkages between functions are fully understood. The UN, IFIs, and NATO may explore the possibility of designing special leadership programs for their staff, who then participate in forging peace agreements and assume responsibility for implementing or facilitating the implementation of these agreements. Given the critical role of developmental issues in sustaining peace, it is essential that international and regional developmental organizations are brought into the peace agreements early to both grasp the nature of the challenge and contribute to realistic solutions. There is a striking absence of use of modern technology for dealing with tasks ranging from payroll to electoral systems.⁴⁵

The longer a conflict has persisted, the more it assumes the character of an institution, with its own distinctive set of relationships, entailing the emergence of armed groups, regionalization of national territories and identities, private networks of support, ungovernable flows of people and aid across border, opaque decision-making and dominance by a small elite, and erosion and loss of trust in state institutions. Moving from such a situation to the establishment of a functioning state is a challenge that requires clear understanding of tasks, sequence, resources and people. Far from being a tabula rasa, post-conflict conditions are one of the most difficult environments for institutional reform.

Such periods provide open moments for a peace agreement to provide a framework for “writing the history of the future”. As a projection of a desirable future, the story must not only be compelling in terms of desirability but must also be feasible and credible. Feasibility is about sequencing tasks, and credibility is gained through momentum towards the goal, so that the expectations of a population can be realistically managed and trust of citizens can be consolidated. Peace must be seen as an outcome of a process, achieved through steady movement towards to a goal, providing hope of upward social mobility and routinization of politics which provides sufficient agreement to produce new groupings and move to new discussions.

Judged by the diffused nature of the needs assessments carried out recently in a number of countries, the IFIs, UN agencies and regional developmental organizations face a steep learning curve for dealing with the critical task of infrastructure provision and establishment or expansion of basic services, following the conclusion of a peace agreement. Cost estimates have often proven unrealistic and little innovation has taken place regarding modalities of implementation. Insistence on rules and procedures made for stable governance conditions has resulted in formal compliance which may serve to disguise, rather than resolve or contain, worsening corruption and collusion.

Persistent conflicts result in destruction of human capital. This is particularly clear in terms of skills for leadership and management that are required for the establishment of credible institutions. While investment in primary education has rightly received attention, the neglect of tertiary education by development agencies has been shortsighted. Good governance depends on a credible path of upward social mobility for young people; this path cannot be created without in-country investment in institutions of higher learning that provide the leaders and managers that would constitute the key constituency for change and make the state, market and civil society function.

An area that has hitherto received little attention is the threat to peace posed by criminal, illegal and informal economic activities. As attention to the constitution of a legitimate economy is conspicuous by its absence in the peace agreements, it should not come as a surprise that criminal global networks find fertile fields of opportunities in fragile states and countries in conflict.⁴⁶ Dealing with this challenge requires sustained attention to public finance, for unless domestic revenue mobilization strategies become a focus of sustained attention by the national political elite and the international actors, the enabling environment for the domestic and international private sector that is critical to creation of jobs and opportunities for upward social mobility will not come into being.

The UN has both the mandate and the comparative advantage for focusing upon the political processes and strategies for peace-building that would result in creation of stable and inclusive states enjoying legitimacy at home and abroad. Dealing with this challenge requires a clear delineation of the critical tasks involved and mobilizing the required people and other resources either at the UN or through the convening power of the UN to formulate a range of options for each case. Rule of law and forging of police forces that would embody rule of law, for instance, are issues that arise repeatedly in the agreements. Yet, when faced with a new situation, the wheel needs to be reinvented each time. If UN agencies are to be contracted to perform a task, the benefits and costs should be clearly analyzed, accountabilities established, expenditure of resources transparently and regularly made available to the public, and a time-bound process for transfer of functions to national actors agreed upon.

In the wake of World War II, both Europe and Japan were destroyed and had a legacy of immense violence and distrust to overcome. World leaders had the imagination and the staying power to devise novel approaches - such as shared sovereignty in Europe and the generation of massive economic growth in Japan - to overcome both the legacy of the Great Depression and the destructive effect of the war. The challenge is now to find ways to break out of the cycle of peace being an episode in between periods of conflict. For peace agreements to become catalysts for stability, transformation of relations between states and their citizens is key. Given the immense global resources, knowledge and technology that are currently available, it is to be hoped that the necessary willpower and imagination can be marshaled to accomplish this task.

Since its inception in the 16th century in Italy⁴⁷, the State has conveyed a difficult balance between might, power and authority. "Might in order to be able to be able to defend itself from outside dangers and to impose upon its members, if necessary, conformity by force; power, insofar as that force is exercised in the name of and in accordance with certain rules; authority, inasmuch as that power should be considered legitimate and entail an obligation on those who are called to obey its commands".⁴⁸ Sovereignty in this conception entails

monopoly of power but “power in the sense of control and creation of law – and not only of factual supremacy and independence”.⁴⁹ Hence, the conclusion that the “task assigned to the modern State was, from its very inception, one of emancipation”.⁵⁰ The argument by the UN High-Level panel that “in signing the Charter of the United Nations, States not only benefit from the privileges of sovereignty but also accept its responsibilities”⁵¹ has a solid genealogy in the history of political thought. It is time again to take the long view on building a network of states bound by compacts with their citizens and the international community to harness the current wave of globalization for empowerment of the billions of people who are confined to medieval standards of living and to secure the future for us the citizens of the world.

Ashraf Ghani and Clare Lockhart

August 2006 (First presentation made at Wilton Park, February 12 2006)

Annex 1 **Typology of Peace Agreements**

Category	Key Problem Identified in Peace Agreement	Strategic Solution	Country Examples									
The Quest for the Inclusive State	Exclusivist State using repression against a segment of its population.	Change relations between state institutions and between citizen and state through consolidating rule of law. Ensure rights of excluded.	Colombia, Guatemala, El Salvador									
Decentralization	In a context of state repression, a significant minority population is capable of violently challenging state sovereignty over a portion of its recognised territory.	<p>Guarantee rights of significant segments of population via one of three models for transferring a series of decision rights from central to regional/local governments.</p> <table border="1" data-bbox="792 709 1198 1205"> <tr> <td data-bbox="792 709 1013 835">MODEL 1</td> <td data-bbox="1013 709 1198 835">Recognize territorial unity of state.</td> </tr> <tr> <td data-bbox="792 835 1013 1016">MODEL 2</td> <td data-bbox="1013 835 1198 1016">Transitional period followed by decision on unity or separation.</td> </tr> <tr> <td data-bbox="792 1016 1013 1205">MODEL 3</td> <td data-bbox="1013 1016 1198 1205">Ceasefire plus commitment to political settlement in future.</td> </tr> </table>	MODEL 1	Recognize territorial unity of state.	MODEL 2	Transitional period followed by decision on unity or separation.	MODEL 3	Ceasefire plus commitment to political settlement in future.	<table border="1" data-bbox="1230 709 1528 1205"> <tr> <td data-bbox="1230 709 1528 835">Macedonia, Minandao</td> </tr> <tr> <td data-bbox="1230 835 1528 1016">Serbia & Montenegro, Bougainville</td> </tr> <tr> <td data-bbox="1230 1016 1528 1205">Aceh, Abkhazia</td> </tr> </table>	Macedonia, Minandao	Serbia & Montenegro, Bougainville	Aceh, Abkhazia
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Serbia & Montenegro, Bougainville												
Aceh, Abkhazia												
New Rules of the Game	State experienced by majority as oppressive. Major social and military movements challenge state and renegotiate rules.	Rewrite rules of the game, including constitutions for country and effective regions created during conflict, accepting political realities.	Sudan, South Africa, Burundi, Nepal									
Constituting a Legitimate Center	Post Cold War, UN now able to mediate where parties unable to constitute a new legitimate center in wake of despotic or genocidal regime.	UN acts as facilitator, co-producer, or administrator, international conference to produce a transitional/interim authority tasked to prepare a constitutional assembly where sovereignty will reside.	(East Timor), Cambodia, Afghanistan									
Imposed Peace	International will is mobilized to forcibly end ethnocidal violence within a state.	Rapid deployment to end violence, international community assumes responsibility for use of force and constitutional minutia.	Bosnia and Herzegovina, Kosovo									

Imposed Pluralism	One party states (with international support) attacked by rebels (with international support).	Externally imposed pluralism, in which armed opposition are brought into political mainstream.	Angola, Mozambique
Accommodation and Neglect	Severe violence between state and rebel groups involving widespread violence against civilian populace, but lack of sustained interest from international community.	Government accommodates armed groups hoping for better behaviour once in government (unlikely basis for peace), or without international involvement, conflict rolls on until geo-political change revives interest in region.	Sierra Leone (accommodation), Afghanistan, Somalia, Sudan (Neglect)

Annex 2 **The Building Blocks of the Peace Process**

Building Block	Significance	Key Issues to Confront
The Political Process	Moves conflict from violence to discussion and negotiation	<ul style="list-style-type: none"> • Political process can work only when it becomes more attractive than violence. • Need framework for discussion and Timetable. • Agree terms of ceasefire including monitoring and verification. • Strategy for transforming armed groups into political parties. • Agree process of transition and timetable for elections – but don't rush them. • Build upon local tradition, but beware framings of history and culture. • Process must seem – and be- credible.
The Legal Framework	Binds protagonists and defines limits and competencies of state institutions, ensures peace is consolidated into an inclusive stable order.	<ul style="list-style-type: none"> • Constitution – retain, revise, replace? • Balance branches of government. • In transition, beware blurred boundaries between transitional and national authorities. • Where will locus for initiation, approval and adjudication of laws sit? • Tailor Laws to context. • How will law deal with past abuses (especially genocide, etc)
Internal Reorganization of the State	Need for a state apparatus that is professionally staffed, capable, honest, and infused with the value of public service to citizens who enjoy equality before the law.	<ul style="list-style-type: none"> • How will this be resourced, trained, rolled out, paid for? • Emphasis on judiciary to entrench rule of law. • Check on the military's involvement in political processes.
Provision of Security	Need to create security for population and restore monopoly of violence to a legitimate (and appropriately constrained) state.	<ul style="list-style-type: none"> • Who and how will peace be kept, ceasefire monitored, and transition to government ownership of means of violence be carried through?
Inclusive Economic and Social Development	Development is an end in its own right that may ease tensions and build social cohesion in future. Reinforced state building and peace building.	<ul style="list-style-type: none"> • There has been a striking lack of concrete planning to translate ambitious aspirations for social and economic development into real life, realistic programmes. • How will accountability and transparency be brought to management of state assets? • There has been a severe lack of actual controls over land tenure reform, despite the fact land ownership is frequently a key driver of conflict.

<p>Partnership with the International Community</p>	<p>Catalyses forging of political consensus, brings material and political resources, fulfils a range of functions, acts as credible referee.</p>	<ul style="list-style-type: none"> • Specify what resources, financial and otherwise, are needed and for what purpose. • Bring the IFIs into the Peace Process to facilitate early engagement as well as integration and alignment of political and economic processes.
<p>Implementation</p>	<p>Is the key to translating aspirations and momentum into realities.</p>	<ul style="list-style-type: none"> • Match government and International capacity to the political and legal specifications. • Pay attention to trade-offs between priorities. • Prepare agreements through a discipline of implementation and work backwards to modalities and timelines, to create realism and coherence.

Endnotes:

¹ *In Larger Freedom: Towards Security, Development and Human Rights for All*, Report of the Secretary General of the United Nations for Decision by Heads of State and Government in September 2005. A/59/565:§33.

² *Our Common Interest: Report of the Commission for Africa*, 2005:28.

³ Hernando de Soto, *The Other Path: Invisible Revolution in the Third World* (1989), translation from the Spanish original *El Otro Sendero* (1986). Also Hernando de Soto *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (2000).

⁴ *Our Common Interest: Report of the Commission for Africa*, 2005:139.

⁵ Max Weber, *Economy and Society*, 1978.

⁶ *Our Common Interest: Report of the Commission for Africa*, 2005:28

⁷ Ashraf Ghani, Clare Lockhart, and Michael Carnahan *An Agenda for State-building in the Twenty-First Century*, The Fletcher Forum of World Affairs, Winter 2006:101-123; Ashraf Ghani and Clare Lockhart *Re-thinking Nation Building*, Washington Post, January 1 2006.

⁸ Max Weber, *Economy and Society*, 1978:905

⁹ J.S. Mill, *The Principles of Political Economy*, 1926:797

¹⁰ J.S. Mill, *The Principles of Political Economy*, 1926:801.

¹¹ See *Investing in the United Nations for a Stronger Organization Worldwide*, last accessed at <http://www.un.org/reform/investing-in-un.html> 8th August 2006.

¹² Collier, P., A. Hoeffler, L. Elliot, H. Hegre, M. Reynal-Querol and N. Sambanis, *Breaking the Conflict Trap: Civil War and Development Policy*, Oxford and Washington D.C.: Oxford University Press and World Bank, 2003:83.

¹³ See Stephen John Stedman, *Implementing Peace Agreements in Civil Wars: Lessons and Recommendations for Policy Makers*, New York: IPA Policy Paper Series on Peace Implementation, 2001; Stephen John Stedman, Donald Rothchild, and Elizabeth Cousens, *Ending Civil Wars: The Implementation of Peace Agreements*, Lynne Rienner Publishers, 2002; Paul Collier and Nicholas Sambanis *Understanding Civil War: Evidence and Analysis* (Two Volumes), The World Bank (US), 2005; Robert Orr, *Winning the Peace: An American Strategy for Post-Conflict Reconstruction*, Center for Strategic and International Studies, 2004.

¹⁴ Preface, *Plan Colombia: Plan for Peace, Prosperity, and the Strengthening of the State*, 1999, last accessed at http://www.usip.org/library/pa/colombia/adddoc/plan_colombia_101999.html 8th August 2006.

¹⁵ 1. "The State and its System of Government", in *Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society*, 1996, last accessed at http://www.usip.org/library/pa/guatemala/guat_960919.html 8th August 2006.

¹⁶ Chapter I: Armed Forces, in *El Salvador Peace Agreement (Chapultepec)*, 1992, last accessed at http://www.usip.org/library/pa/el_salvador/pa_es_01161992.html 8th August 2006.

¹⁷ Context of the New Relationship, Paragraph 1, in *Joint Declaration That the Federal Government and the Ezln Shall Submit to National Debating and Decision-Making Bodies*, 1996, last accessed at http://www.usip.org/library/pa/chiapas/doc1_eng_960216.html 8th August, 2006.

¹⁸ *Joint Proposals That the Federal Government and the Ezln Agree to Remit to the National Debating and Decision-Making Bodies in Accordance with Paragraph 1.4 of the Rules of Procedure*, 1996, last accessed at http://www.usip.org/library/pa/chiapas/doc2_eng_960216.html 8th August 2006.

¹⁹ Basic Principles, *Macedonia Framework Agreement*, 2001, last accessed at http://www.usip.org/library/pa/macedonia/pa_mac_08132001.html 8th August 2006.

²⁰ *General Framework of Agreement of Intent between the Government of the Republic of Philippines (GRP) and the Moro Islamic Liberation Front (MILF)*, 1998, last accessed at http://www.usip.org/library/pa/philippines/gen_frame_08271998.html 8th August 2006.

²¹ Provision on Reconsideration, in *Proceeding Points for the Restructuring of Relations Between Serbia and Montenegro*, 2002, last accessed at http://www.usip.org/library/pa/serbia_montenegro/serbia_montenegro_03142002.html 8th August 2006.

²² 1. Autonomy and 2. Referendum, in *Bougainville Peace Agreement*, 2001, last accessed at http://www.usip.org/library/pa/bougainville/bougain_20010830.html 8th August 2006.

²³ Last accessed at http://www.usip.org/library/pa/bougainville/bougain_20010830.html 8th August 2006.

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- ²⁴ The Sudan Comprehensive Peace Agreement, consisting of a permanent ceasefire agreement, together with an agreement on implementation modalities of the Protocols and Agreements, and a cover sheet on these modalities, were agreed on 31st December, 2004 and formally signed on January 9th, 2005. All are available by following links from http://www.usip.org/library/pa/sudan/pa_sudan.html, last accessed 8th August 2006.
- ²⁵ The parties to the agreement explicitly recognized that “[a.] The conflict is fundamentally political, with extremely important ethnic dimensions; [b.] It stems from a struggle by the political class to accede to and/or remain in power” Article 4, *Arusha Peace and Reconciliation Agreement for Burundi*, 2000, last accessed at http://www.usip.org/library/pa/burundi/pa_burundi_08282000_toc.html 8th August 2006.
- ²⁶ See Floribert Ngaruko and Janvier D. Nkurunziza *Civil War and its Duration in Burundi*, in Paul Collier and Nicholas Sambanis *Understanding Civil War Vol. 1 Africa*, The World Bank (US), 2005
- ²⁷ *Agreement Concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality, and National Unity of Cambodia*, 1991, last accessed at http://www.usip.org/library/pa/cambodia/agree_sovereign_10231991.html 8th August 2006.
- ²⁸ *Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions*, 2001, last accessed at http://www.usip.org/library/pa/afghanistan/pa_afghan_12052001.html 8th August 2006.
- ²⁹ Annex 1: UNTAC Mandate, *Agreement on a Comprehensive Political Settlement of the Cambodia Conflict*, 1992, last accessed at http://www.usip.org/library/pa/cambodia/comppol_10231991_annex1.html 8th August 2006.
- ³⁰ Annex 3, *Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions*, 2001, last accessed at http://www.usip.org/library/pa/afghanistan/pa_afghan_12052001.html 8th August 2006.
- ³¹ For the concept of ‘spoiler’, see the work of Stedman, eg Stephen John Stedman, *Implementing Peace Agreements in Civil Wars: Lessons and Recommendations for Policy Makers*, New York: IPA Policy Paper Series on Peace Implementation, 2001; Stephen John Stedman, Donald Rothchild, and Elizabeth Cousens, *Ending Civil Wars: The Implementation of Peace Agreements*, Lynne Rienner Publishers, 2002.
- ³² *Agreement on a Comprehensive Political Settlement of the Cambodia Conflict*, last accessed at http://www.usip.org/library/pa/cambodia/agree_comppol_10231991.html, 8th August 2006.
- ³³ Annex III: Request to the United Nations by the Participants at the UN Talks on Afghanistan, in *Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions*, 2001, last accessed at http://www.usip.org/library/pa/afghanistan/pa_afghan_12052001.html 8th August 2006.
- ³⁴ Article 1, Section 1. Transitional Period, Part 1. Arrangements During the Transitional Period, in *Agreement on a Comprehensive Political Settlement of the Cambodia Conflict*, 1992, last accessed at http://www.usip.org/library/pa/cambodia/agree_comppol_10231991.html#part1 8th August 2006.
- ³⁵ The key attribute was the frequency and sequencing of participatory fora, using the domestic mechanisms of *Loya Jirga* and *shura*, or committees, at the village level, which built on domestic institutions while adapting them to make them more participatory. There was an option to build on these mechanisms for a longer period of time, which would have seen the formal institutions of democracy, through national elections, be held somewhat later.
- ³⁶ Part IV: International Guarantees, in *Declaration on the Rehabilitation and Reconstruction of Cambodia*, 1991, last accessed at http://www.usip.org/library/pa/cambodia/declaration_rehab_10231991.html 8th August 2006.
- ³⁷ Article IV section on Sarajevo, subparagraph 4, in Annex 1-A: Agreements on the Military Aspects of the Peace Settlement of *The General Framework Agreement on Bosnia and Herzegovina*, 1995. Annex 1-a last accessed at http://www.usip.org/library/pa/bosnia/dayton_annex1A.html August 8 2006.
- ³⁸ Our own research has identified a number of opportunities for technological innovation: “The Framework: Fixing Failed States” forthcoming.
- ³⁹ Sudan offers the example of the need for a complete overhaul of the legal framework in the country as a prerequisite for making the peace agreements work. A new federal Constitution, a constitution for the states composing South Sudan, and state constitutions for each of the states are just the most prominent examples of the type of legal work required to make the agreements achieve their intentions. Additionally, there are a large number of agreements (such as reviews of existing oil contracts or granting of new contracts and revenue sharing arrangements), that require considerable mastery of the content as well as legal acumen to provide the needed clarity in implementation to build trust.
- ⁴⁰ A study carried out by General Hillier, Commander of ISAF V, showed that credible institutions and a public finance system were the key drivers of stability in Afghanistan in 2004.

⁴¹ Some peace agreements contain specific provisions relating to economic issues including revenue transfers, rights of taxation, creation of special economic zones, programs for attraction of private sector through special incentives, and seeking support from the international community for programs ranging from assistance to ex-combatants to reconstruction and development.

⁴² Theresa Whitfield, *Friends Indeed: the United Nations, Groups of Friends and the Resolution of Conflict*, forthcoming.

⁴³ Ashraf Ghani, Clare Lockhart, and Michael Carnahan *An Agenda for State-building in the Twenty-First Century* The Fletcher Forum of World Affairs, Winter 2006:101-123.

⁴⁴ *In Larger Freedom: Towards Security, Development and Human Rights for All* Report of the Secretary General of the United Nations for Decision by Heads of State and Government in September 2005.

⁴⁵ In Afghanistan for example, despite expenditure of several hundred millions of dollars there is no central reliable database that would prevent fraud.

⁴⁶ For a detailed analysis see Moises Naim *Illicit: How Smugglers, Traffickers and Copycats are Hijacking the Global Economy*, New York: Doubleday, 2005.

⁴⁷ Sabine Encyclopaedia of Social sciences Volume 14, 1934.

⁴⁸ D'Entereves *Dictionary of the History of Ideas IV*, 1973:313.

⁴⁹ *Ibid*: 315.

⁵⁰ *Ibid*:317.

⁵¹ *In Larger Freedom*, 2004:21.