Lemay-Hebert, N.

(2012)

Coerced transitions in Timor-Leste and Kosovo: managing competing objectives of institution-building and local empowerment

Democratization
Vol. 19, Iss. 3, 2012
DOI: 10.1080/13510347.2012.674358
Title: Coerced Transitions in Timor-Leste and Kosovo: Managing Competing Objectives of Institution-Building and Local Empowerment

Author: Dr. Nicolas Lemay-Hébert
Marie Curie Experienced Researcher,
International Development Department,
University of Birmingham (UK)
n.lemayhebert@bham.ac.uk

Abstract: Institution-building under the aegis of international administrations has faced various hurdles and obstacles in Kosovo and Timor-Leste. One of these hurdles is related to the specific mandate of these missions, which created a specific conflict of objectives for the international presence – between institution-building and empowerment. The piece analyzes specifically the strategies of international and local elites in this context. After trying to prioritize institution-building while paying lip service to empowerment imperatives, international officials had to readjust their strategy following contestation and resistance from local partners. Facing practical consequences of the conflict of objectives, international officials then proceeded to prioritize democracy promotion imperatives and reduced their institution-building role. The paper concludes on the implications of these experiences for the debate concerning democracy promotion and highlights the possibilities of the “participatory intervention” framework put forth by Chopra and Hohe.

Key words: Timor-Leste; Kosovo; international administration; intervention; state-building, democracy promotion; institution building; empowerment; institutionalization before liberalization strategy.

Introduction

After being widely touted as the new way forward after internal crises or conflicts in the nineties, UN-led peacebuilding is now increasingly under scrutiny. Newfound dilemmas tend to emerge, and the literature on the subject is increasingly aware of the inherent limits of international involvement in war-torn societies. One of the major dilemmas of external involvement is linked to the dual objectives of institution-building and empowerment of local actors. After a string of interventions in the 1990s that came
up short in terms of meeting local and international expectations, and where all minimal in terms of involvement in institution-building from the international community, the United Nations Security Council pushed for more robust interventions. The end of the 1990s provided the perfect ‘petri-dish’ in the words of one of the prominent actors of the time, for the international community to experience a new type of peacebuilding missions, namely international protectorates. At the same time, as Philip Roeder and Donald Rothchild assert, protectorates do not eliminate the dilemmas of external intervention and power-sharing; to the contrary, it can exacerbate them and introduce whole new dilemmas. This present contribution highlights the difficulties pertaining to external administration in the context of Kosovo and Timor-Leste.

As I have shown in a previous contribution, the international involvement in Timor-Leste and Kosovo – which took the form of international administration comprising executive, legislative and judicial authority – reflected international preconceptions about the territories, the state of infrastructural destruction, and the absence or perception of incapability of indigenous authorities. Two human-made catastrophes of gigantic proportions happened in 1999, only months apart, eliciting a similar response by the international community at that time. However, everything seemed to differentiate these two territories. Timor-Leste and Kosovo are geographically separated by nearly 10,000 kilometers and are culturally distinct. Timor-Leste’s local context presented, for the most part, an ethnically and religiously homogenous society, unified behind their leader, Xanana Gusmão, and the political umbrella that carried the cause of independence during the last part of Indonesia’s occupation (CNRT—National
Council of Timorese Resistance), whereas Kosovo’s local setting was drastically different, its society being deeply divided over ethnical, religious, and linguistic lines. Furthermore, the local Kosovar-Albanian leadership was divided between a pacifist political party led by Ibrahim Rugova, which assured a certain degree of health and education services in the Albanian language when Serbia’s Milošević drastically restricted these services in the 1980s and 1990s, and Hashim Thaci’s Kosovo Liberation Army (KLA), which proclaimed itself the victor of the liberation war against the armed and paramilitary forces of the Federal Republic of Yugoslavia (FRY). Both parties established their own institutional apparatus following FRY’s withdrawal of Kosovo, as did Belgrade in the Northern part of the Ibar river in Kosovo. Furthermore, in Kosovo, the final status of the territory was not clear from the outset, and there was intense international wrangling over the fate of the territory, led notably by Serbia but also by Serbia’s traditional political ally and permanent Security Council member, Russia, among other recalcitrant states. In Timor-Leste, Security Council politics were not impeding the work of the international administration nor was the final status of the territory, which was clarified from the outset by an internationally recognized referendum. Moreover, the former occupying power, Indonesia, recognized the referendum’s result, even if its armed forces and associated militias proceeded to punish the Timorese population for rejecting its proposal of autonomy. Thus, the study of two similar and nearly identical peace missions taking place in two very different geographical and socio-political settings allows us to isolate the role of international practice from other variables (ethnic, religious or linguistic divisions, cohesion of the UN Security council, politics of the state who previously controlled the territory, etc.). For the same reason, this contribution will
focus exclusively on the 1999 till 2004 period in Kosovo, the mission *de facto* starting its exit strategy at that time, and on the 1999-2002 period in Timor-Leste, when the mission actually withdrew, only to resume some of its executive competencies four years later, following the Timorese security institutions’ collapse.

Furthermore, clarifying the international experiences Kosovo and Timor-Leste can bring valuable insights for other peace missions. The idea of direct governance by an outside organization of war-torn or ‘dysfunctional’ societies retains a pervasive influence in certain segments of the Academia or policy circles, despite the controversial experiences of Kosovo and Timor-Leste. While the Brahimi report threw a cold shade over tenants of international administration, there is still pundits pleading the case for new international administrations to be deployed in post-conflict contexts and exercising direct governance on behalf of the local population. If the actual cases of direct governance by an international organization have been too few to analyze them specifically in quantitative studies, there is still a need to review the experiences of Kosovo and Timor-Leste using qualitative methods, building on and complementing the existing literature on the subject. There is a further need to clarify the experiences and the lessons learned from these two international administrations, notably given the fact that the state-building legacy in Kosovo and Timor-Leste can be distorted and used in different ways to justify specific agendas in international relations.
In this context, this article will attempt to demystify the state-building experiences of Kosovo and Timor-Leste and contribute to this special issue on ‘conflicting objectives in democracy promotion’ by specifically focusing on the conflict of objectives between institution-building and empowerment imperatives (intrinsic) in the conduct of public affairs ‘from the outside-in.’\textsuperscript{xii} In that regard and following the ‘canons’ of the literature on the subject, institution-building is defined as an integral part of state-building, understood as ‘the creation of new government institutions and the strengthening of existing ones.’\textsuperscript{xiii} In that regard, state-building can be seen as intertwined with the concept of peacebuilding, defined by Boutros Boutros-Ghali in \textit{An Agenda for Peace} as ‘an action to identify and support structures that will tend to strengthen and solidify peace in order to avoid a relapse into conflict.’\textsuperscript{xiv} The article’s main argument is that the initial focus on institution-building in Kosovo and Timor-Leste, and the centralization of authority in the hands of international officials, has led these officials to marginalize empowerment imperatives and the local population in the governance framework, creating new dilemmas on the ground and fuelling a specific wave of popular contestation toward the international administration. Whereas the outside intervention can help avoid a return to the initial conflict by local parties, it can also create a new set of dilemmas for external actors. In that regard, this paper contributes to a certain degree to the discussion regarding the ‘institutionalization before liberalization’ strategy. Defined as building ‘the foundations of effective political and economic institutions \textit{before} the introduction of electoral democracy and market-oriented adjustment policies,’\textsuperscript{xv} this theory can be interpreted as privileging a restricted notion of institution-building to the detriment of local empowerment, especially if the process is understood as “limit[ing] political and
economic freedoms in the short run, in order to create conditions for a smoother and less hazardous transition to market democracy - and durable peace - in the long run.\textsuperscript{xvi}

According to Roland Paris, the international administrations of Kosovo and Timor-Leste are clear examples of a shift in the international community towards this theory. In that regard, this present contribution offers new insights into the limits of the ‘institutionalization before liberalization’ strategy, when understood as limiting local empowerment in favor of externally-conducted institution-building. To be fair, this interpretation does not convey the original intent of Paris in his book, but this is an interpretation that came to be associated more globally to the strategy. In fact, as Roland Paris notes, international state-building should not mean delaying local participation: ‘decisionmaking authority should be transferred to indigenous institutions as quickly as possible, and locals should be trained in public administration and prepared to take over the management of governmental agencies immediately.’\textsuperscript{xvii}

Furthermore, this article will try to shed light on the third research question asked by Grimm and Leininger, namely how do local and international actors deal with the specific conflict of objectives, by focusing on the strategies put forth by internal and external actors in Kosovo and Timor-Leste. This contribution focuses mainly on the strategy-building aspects of the conflicts of objectives (see table 2 of the introduction), given the fact that norm-building aspects have been analyzed in a previous contribution.\textsuperscript{xviii}

The article will first examine the intrinsic conflict of objectives between institution-building and empowerment by analyzing the architecture created by the United Nations Security Council in Kosovo and Timor-Leste. It will then proceed to
analyze the policy of prioritizing institution-building over local empowerment put forth by international officials by focusing on the internal process of institution-building by the international administrations, which led to the policy of cooptation of certain political elites while marginalizing the overall population. Faced with local contestation to their policies, international officials decided to compromise, reducing their institution-building presence in order to reinforce local empowerment. The article will finally explore what role democracy promotion and local empowerment understood more broadly could play in that context, and what other avenues could be explored in order to mitigate the conflicts of objectives in the future.

**International architecture in Kosovo and Timor-Leste**

The state of human and institutional destruction in Kosovo and in Timor-Leste in 1999 led the United Nations Security Council to establish a fully-fledged international administration encompassing executive, legislative and judicial powers over both territories – the United Nations Interim Administration Mission in Kosovo (UNMIK, 1999-…) and the United Nations Transitional Administration in Timor-Leste (UNTAET, 1999-2002). In these two cases, the international apparatus was headed by a Special Representative of the Secretary-General (SRSG), who acted as the legal head of state of these territories, enjoying ‘virtually unlimited powers’ in the process. This specific institutional architecture contrasted with previous international interventions considered by scholars as other examples of international administrations such as the administration of the Saar Basin or Danzig by the League of Nations, or the UN peace missions in West
New Guinea, Namibia, Cambodia or Eastern Slavonia. In effect, no other peace mission has been endowed with so much authority or to be more precise, no other peace mission has translated its mandate into such a degree of authority on the ground. The SRSG in Timor-Leste, Sergio Vieira de Mello, himself described his job as amounting to ‘benevolent despotism.’ Both missions affirmed their respective authority by enacting an identical decree, stating that ‘all legislative and executive authority with respect to Kosovo [Timor-Leste], including the administration of the judiciary, is vested in UNMIK [UNTAET] and is exercised by the SRSG [Transitional administrator].

If the political situation in Kosovo precluded any direct transfer of authority to the local institutions, it is less clear why there was no support for an interim administration directed by the independence figure, Xanana Gusmão, with Sergio Vieira de Mello in the role of international adviser. This unprecedented centralization of authority in the hands of UN officials in Kosovo and Timor-Leste, combined with a poor consideration of the local context, fuelled a political backlash by local actors, who resented being subjected to the wide-ranging authority of the international administration ‘whose decisions cannot be challenged by the local population, whose actions are not always transparent, and who cannot be removed from power by the community in whose interests he or she exercises authority ostensibly.’ Deprived of a meaningful and democratic outlet within the system, opposition grew outside the system in order to express its complaints.
In that regard, there was a bona fide conflict of objectives in the mandate entrusted to the international organization. In the words of Grimm and Leininger, a conflict of objectives is a ‘clash of two competing goals whereby the achievement of one goal is impaired by the achievement of the other goal.’ In that regard, even if the obligation to consult the local population is recognized by the UN in both cases – the principle was even enshrined from the start in Resolution 1272, where is mentioned ‘the need for UNTAET to consult and cooperate closely with the East Timorese people in order to carry out its mandate effectively’ – the UN took nevertheless the path of enforcing its authority to an unprecedented degree, showing a ‘preoccupation with control at the expense of the local community’s involvement in government.’

Concretely, the UN administrations found themselves in front of a serious conflict of objectives between local empowerment and institution-building, and as the previous citation of Jarat Chopra exemplifies, international officials have at first prioritized the later to the detriment of the former. As it will be demonstrated in the next sections, procedural democracy and cooptation practices promoted by international officials fell short of local expectations in terms of local empowerment, and it is only when faced with contestation and resistance that international officials had to change their policies.

Putting Institutions First in Kosovo and Timor-Leste: International Policy of Cooptation of Local Elites and Its Limits

While it was expected that the UN would quickly take control of the territories in the immediate aftermath of the 1999 crises in Timor-Leste and Kosovo, the world
organization faced stark difficulties in its deployment. In face of the practical challenges posed by parallel structures and the lack of personnel, the UN had to recognize and deal with the *de facto* institutions. Direct opposition to the parallel institutions proved to be an impracticable policy. Bernard Kouchner, the second SRSG in Kosovo, astutely managed these initial challenges by co-opting the local political elite in order to consolidate UN authority over the region. The Kosovo Transitional Council (KTC), with only advisory and consultative authority, initially brought the local actors from various backgrounds around the same table but was plagued by serious logistical problems and eventually lost all its usefulness. In December 1999, Kouchner used a different track and brokered an agreement between three Kosovo Albanian leaders, Hashim Thaçi, Ibrahim Rugova and Rexhep Qosja that led to the creation of the representative structures of self-government in Kosovo, christened the Joint Interim Administrative Structure (JIAS). The objective was to create a ‘consultative body […] in order to incorporate individuals who participate in parallel structures in the municipal administration.’ In return for the inclusion in the structures administering Kosovo, in particular a seat in the newly-created Interim Administrative Council (IAC), the Kosovar leaders had to give up their earlier titles and claims, and dissolve all parallel structures by a deadline of 31 January 2000.

The JIAS included the creation of the IAC, an expansion of the KTC, and the creation of twenty administrative departments and municipal councils jointly co-headed by international and local representatives. All members of these bodies were appointed by the SRSG. The enlarged KTC, comprising 36 members to represent the pluralistic nature of the Kosovar society, was nothing more than a big forum where members
Coerced transitions in Timor-Leste and Kosovo

Nicolas Lemay-Hébert

discussed on an *ad hoc* fashion, issues of general political interest. The mandate of the IAC was to ‘make policy recommendations, serve as an advisory cabinet for the SRSG and act as an executive board for the JIAS.’

The Kosovar members of the IAC frequently complained that the ‘real decisions were made behind their backs and without them being consulted.’ Thus, it was quickly understood by Kosovo Albanians as a way for UNMIK to enforce its authority over the territory of Kosovo, at least South of the Ibar river, rather than a genuine process of sharing competencies with them.

As noted by Shelley Inglis and David Marshall, the later who acted as Head of the Legal Systems Monitoring Section for the OSCE Mission in Kosovo between 2000 and 2001: ‘despite vocal protest from all members of the JAC, regulations were provided to the JAC as a token gesture. By the end of 2001, it was clear that what had begun as one of the only high-level forums for international and local consultation and cooperation on legal issues had become an empty shell.’

Municipal, and then legislative elections could have brought a new impetus in local-international relations. However, even after the first municipal elections in October 2000, where the JIAS structure began to be replaced by elected Municipal Assemblies and Presidents, UNMIK retained all its discretionary powers, as reaffirmed by UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo. The Constitutional Framework for Provisional Government, which created the Provisional Institutions of Self-Government (PISG) reproduced the same political arrangement, this time on the ‘national’ level. If it was a major step towards a transfer of certain competencies to local institutions, the Framework did not alter fundamentally the
architecture of power in Kosovo in the sense that UNMIK was still holding the keys of power in Kosovo. For King and Mason, the Constitutional Framework ‘did not endow its democratically members with ultimate authority in any area.’\textsuperscript{xxxiii} Following the legislative election of 17 November 2001, tensions between UNMIK and the local institutions grew and led to public clashes, fuelled by the gap between the ‘legitimacy [of elected bodies] and actual political power.’\textsuperscript{xxxiii} Moreover, the 2002 policy of ‘Standards before Status’ adopted afterwards also frustrated domestic actors by showing the UNMIK its propensity to control the political agenda. As Jock Covey, who acted as DSRSG in Kosovo relates, ‘ambiguity about the goals that had to be met and the absence of a working partnership with the PISG to attain them created a widespread popular perception that this policy should really be called “Standards to Prevent Status.”’\textsuperscript{xxxiv} The prioritization policy of UNMIK, favoring institution-building over local empowerment imperatives, started to nourish resentment by local population and elites, feeling excluded from decision-making processes. Only the violent incidents of March 2004, which saw turbulent Kosovars taking on the ethnic minorities and the international presence, forced a radical change in the power dynamic in Kosovo, the UN downsizing its mission and presence in the Kosovar political landscape.\textsuperscript{xxxv}

The international presence used a similar strategy of prioritization of institution-building objectives over local empowerment goals in Timor-Leste, co-opting certain elements of the political elite while marginalizing local structures of power and the local population in general. After the international intervention in 1999 in Timor-Leste, the village and *suko* (cluster of villages) chiefs took part in cooperation efforts with the
CNRT, the vast political umbrella revered by the Timorese population for its role in the resistance against Indonesia. According to Rod Nixon, ‘this organization [CNRT] overlapped extensively with local administrative and ritual structures,’ xxxvi which gave it a particular source of legitimacy in Timor-Leste. As early as by the end of October, the CNRT began to constitute its structures through village elections. The CNRT was already conducting repatriation efforts and channeling potential militia’s fighters to the traditional structures of justice when UNTAET finally arrived in most districts. The CNRT appointed representatives at every level, establishing a shadow administration. While the efficiency and legitimacy of the CNRT as a political umbrella was recognized from the outset by UNTAET, senior officials at the international administration decided to make a priority of imposing their authority over the territory. At both the national and local levels, Timorese leaders could have been part of the administration from the outset, xxxvii but the UNTAET’s senior leadership decided otherwise.

UNTAET created the National Consultative Council (NCC) in order to incorporate some of the leaders into the decision-making process. However, the NCC had, as its title indicates, only consultative powers. UNTAET Regulation 1999/2 establishing the NCC made clear that it ‘shall in no way prejudice the final authority of the Transitional Administrator in exercising the responsibilities vested in UNTAET.’ xxxviii As it was supposed to be a ‘unique means for UNTAET to hear and to respond to the needs of the East Timorese and for the latter to participate in important policy decisions,’ xxxix it also became clear that it could be transformed into a mere Timorese chamber for legitimizing decisions taken by UNTAET. As UNTAET official Peter
Galbraith notes, ‘the Timorese thought they had little choice but to ratify whatever was put in front of them. They were essentially told “if you don’t do this, there’ll be dire consequences with no money to follow.”’ As recalled by Power, the Nobel Prize Winner Jose Ramos-Horta laughed off the UN’s invitation to join the NCC. ‘I was powerless outside of ET for long enough,’ he told de Mello, ‘the last thing I need is to be powerless inside Timor.’ In the words of Gusmão, ‘we felt we were being used. We realized we weren’t there to help the UN make decisions or to prepare ourselves to run the administration, We were there to put our rubber stamp on Sergio [Vieira de Mello]’s regulations, to allow the UN to claim to be consulting.’ If UNTAET from the beginning was fond to describe its work as ‘not so much an interim administration as a co-architect, with the East Timorese people, of a national administration that would serve long after UNTAET’s departure,’ local perception of UN effort was different.

**Dealing with Conflicting Objectives: A Necessary Compromise by UNTAET and UNMIK officials**

The 2004 events in Kosovo drastically changed the international perception of the costs associated with the conflicting objectives between goals of institution-building and local empowerment, which led them to prioritize the former over the latter at the first stage of the intervention. In the midst of the most violent incidents since the 1999 war, 19 persons died and more than 1000 were wounded in clashes between Kosovar Albanian demonstrators, infiltrated by radical elements, and ethnic minorities in Kosovo, most notably the Serbian community. As I have shown in a previous contribution, the events
was not only a story of ethnic divisions but was also the result of a contentious relation between Kosovars and international officials. The option of consultation and co-optation of political elites, if it helped to bring a certain dose of legitimacy to the international administration especially in the first months, was not in itself sufficient. As correctly forecasted by the ICG in 2001, ‘the newly elected officials will be unlikely to accept for long the straightjacket imposed by the unelected international administration.’ In effect, as the Independent International Commission on Kosovo stated at the same time, ‘the extensive powers accorded the SRSG mean that, instead of the substantial self-government promised the Kosovars under Resolution 1244, they will instead get very limited autonomy. They will have the illusion of self-rule rather than the reality.’ The Commission goes on as saying that ‘a pervasive distrust of the administrative and political capacity of the population appears to underlie the constitutional provisions. If the population is distrusted, it is likely to repay like with like.’

After the March 2004 events, the level of satisfaction with UNMIK action was so low that ‘if UNMIK had been up for election, it would have needed to campaign hard to win votes from anybody in Kosovo other than its own staff,’ as former UNMIK officials King and Mason put it. The Secretary General subsequently dispatched the Norwegian Ambassador Kai Eide to conduct a ‘comprehensive review of the policies and practices of all actors in Kosovo,’ which would prepare a further report on the ‘comprehensive review of the situation in Kosovo.’ The first Eide report was clear: there should be an ambitious policy of transfer of authority to the institutions of Kosovo coupled with a
restructuring of UNMIK. Eide clarified in his second report that, ‘while standards implementation in Kosovo has been uneven, the time has come to move to the next phase of the political process.’ It was clear that ‘after administering Kosovo for six years and four months, the UN accepted that its usefulness had come to an end.’ The Eide reports led to the start of Martti Ahtisaari mission Special Envoy of the Secretary General on Kosovo’s future status. In effect, the international officials at that time jumpstarted the transfer of competencies to local institutions, in effect prioritizing democracy promotion over institution-building.

In Timor-Leste, SRSG Sergio Vieira de Mello tried to change UNTAET’s policy in the Spring of 2000. He engaged in a policy of compromise in face of growing criticism over the lack of participation of local elite and population in the governing process. With Timorese unrest boiling over, he sent a half-dozen trusted members of his staff on a two-day retreat and asked them to return with proposals for overhauling the mission. The group came up with a system of co-governance with Timorese officials. Thus, Vieira de Mello introduced in July 2000 what would be described as the ‘First Transitional Government,’ comprising a National Council (NC), a Cabinet, together with the office of the Transitional Administrator, not without UN Headquarters resistance. While the Cabinet together with the office of the Transitional Administrator was meant to compose the executive power, the expanded Council, consisting of 33 members and later 36, was to constitute a sort of ‘legislative forum,’ in order to provide a separation of power that Timor-Leste never experienced so far. Vieira de Mello did his mea culpa in the National Congress of the CNRT, stating that the National council ‘came under increasing scrutiny
for not being representative enough of East Timorese society, and not transparent enough in its deliberations. Faced as we were with our own difficulties in the establishment of this mission, we did not, we could not involve the Timorese at large as much as they were entitled to. The local elite maintained their pressure on the international administration, continuing to denounce UNTAET’s centralizing tendencies. As Jean-Christophe Cady, deputy head of UNTAET, made clear from the outset: ‘while the role of the president of the CNRT is essential in the consultative process, the proposal for shared executive power is not within UNTAET’s capacity to grant.’ Gusmão accused the UN of tokenism, adding that he ‘did not wish to inherit the heavy decision-making and project implementation mechanisms in which the role of the East Timorese is to give their consent as observers rather than the active players we should start to be.’ Timorese ministers even threatened to resign, noting that ‘the East Timorese Cabinet members are caricatures of ministers in a government of a banana republic. They have no power, no duties, no resources to function adequately.’ Furthermore, discontent with the UN policy toward the East Timorese was not restricted to local officials, certain high-ranking international officials offered their resignation over disagreement with centralizing tendencies expressed by UNTAET. However, with the 30 August 2001 Constituent Assembly Elections, the Government became ‘all East Timorese;’ it was the beginning of the ‘second Timorization.’ The NC and the Cabinet was supplanted by a Second Transitional Government, consisting of a Council of Ministers and an elected Constituent Assembly. A Constituent Assembly was sworn in and a ‘Second Transitional Government,’ consisting entirely of East Timorese ministers, vice-ministers and secretaries, was appointed by Sergio Vieira de Mello. On 14 April 2002, Gusmão, was
elected President on Timor-Leste with an overwhelming majority of 82.7 percent. Timor-Leste declared its independence one month after, on 20 May 2002. As rightly stated by Charles Scheiner, ‘it took UNTAET two years to realize that *Transitional*, not *Administration*, was the most important word in their name.’

**From democracy promotion to participatory intervention: finding new ways of increasing local empowerment in international interventions**

The earlier discussion could lead one to believe that an early democratization process is key, hence prioritizing democracy over institution-building. Indeed, one of the common prescriptions for avoiding, or at least, mitigating the effects of the legitimacy dilemma, and fostering legitimacy on the ground is to make democracy promotion a priority. To a certain extent, this was the policy prescription Roland Paris warned practitioners about when putting forth the ‘institutionalization before liberalization’ strategy. Hence, fostering legitimacy requires more than the promotion of procedural democracy. Instead, state-building necessitates a genuine participation by the local population in the democratic process, with locals experiencing an externally-guided process as an endogenous one. Chopra, having closely experienced the dilemmas posed by the UN ‘neotrusteeship’ in Timor-Leste, argues that ‘the blunt approach of international interventions has been to rely on “free and fair” electoral exercises as a single event, and to promote global standards of political rights and North Atlantic concepts of democracy that do not resonate with local communities.’ According to him, the problem with such an approach lies in the disconnection between external and local
sources of legitimacy. Thus, ‘individuals may turn out to vote en masse, but their understanding of the ballot may be defined according to a parallel cosmos. A democratically elected powerholder may be recognized internationally though not locally.’

The prevailing paradigm of democratization in state-building, as put forth by authors like Fukuyama, is certainly not enough in itself to bridge the legitimacy gap in most of state-building interventions. ‘Other than reflecting the familiar ingredients of the Western state, the idea of participation among the democratization and peacebuilding cognoscenti is still at the stage of labels or headlines, and the notion lacks clear definition, any kind of effective strategy, or as much appreciation of the local mind-set as of the model to be imported.’ Thus, democracy is too often seen as an event rather than a process, leading to a top-down approach. As the democratization expert Thomas Carothers states, ‘as with the problem of ownership, the problem of knowledge of the local context has been endemic in all foreign aid but is especially common in democracy assistance.’ The goal of outside intervention should be ‘a productive marriage of external and internal efforts in which outside expert help and experience join with internal ideas, commitment, and initiative.’ Charles Call and Susan Cook astutely observe that ‘the shortcomings of the democratic reconstruction model require that more attention be paid to specific and local context and to integration of appropriate external governance models with local, legitimate practices in war-torn societies.’ The crucial aspect here is the ability to build up a genuine local process that consolidates the legitimacy of the state in the eyes of the citizens. It was an argument duly recognized by the United Nations, at
least by Boutros Boutros-Ghali in his *Agenda for Democratization*. The report states that ‘while democratization is a new force in world affairs (...) it is not for the United Nations to offer a model for democratization or democracy (...). Indeed, to do so could be counter-productive to the process of democratization which, in order to take root and to flourish, must derive from the society itself.’ The report adds that ‘imposition of foreign models (...) may generate resentment among both the government and the public, which may in turn feed internal forces inimical to democratization (...).’ Hence, the top-down understanding of democracy promotion in that regard makes sense only if one accepts that ‘an externally driven “social (re)engineering” project can accelerate or substitute for a more “organic” historical process of state-building that would otherwise be driven by local actors.’ This perspective seems elusive at best, as this study has highlighted in the context of Timor-Leste and Kosovo. Likewise, Bueno de Mesquita and Downs argue that democracy promotion conducted from the outside tend to lead to an erosion in the trajectory of democracy development, even in the Western acceptation of the concept.

The ‘participatory intervention’ framework as exposed by Chopra and Hohe implies ‘granting space for local voices to be expressed and for communities to get directly involved in the evolution of their own cultural or political foundations.’ This means ‘giving time for an indigenous paradigm to coexist with, or to gradually transform during the creation of, modern institutions. Integral to the process is the design of mechanisms for genuine popular participation in administrative bodies at the local level.’ Kofi Annan, in another report on peacekeeping missions, referred to ‘participatory governance.’ One year after the deployment of the peace missions in
Kosovo and in Timor-Leste, he clearly stated that a ‘sustainable domestic peace’ becomes sustainable, ‘not when all conflicts are removed from society, but when the natural conflicts of society can be resolved peacefully through the exercise of State sovereignty and, generally, participatory governance (italics added).’ The report adds that sustainable peace ‘can only be achieved by the local population itself; the role of the United Nations is merely to facilitate the process (…).’ As Robert Orr summarizes, ‘while seeking to build up local governance and participation capacity, the international community must observe the cardinal rule of governance: indigenous ownership of the process is key.’ As the author continues, ‘even when local actors are disorganized and disempowered in the wake of conflict, they must be given a leadership role in the rebuilding process. Likewise, even when international actors must assume certain functions temporarily, they should always train and empower indigenous counterparts.

Conclusion

As this study attempted to demonstrate, institution-building has significant limits when unrelated to the needs and perceptions of the local society targeted by the intervention. The goal here is to prevent the establishment of what David Chandler dubbed ‘phantom states,’ whose governing institutions may have extensive external resourcing but lack social or political legitimacy. As noted by Marina Ottaway, outsiders can set up governmental organizations, but ‘such organizations will only become significant and established – hence institutions – when the relevant actors believe
that they provide solutions to real problems. Hence, the political experiences of both Kosovo and Timor-Leste show the inherent limits of the international strategy when the latter is read as an encouragement to promote institution-building in the first stages without any meaningful participation from the local population in the instances of power. The imposition of solutions from a top-down perspective can be effective only to a certain extent – it can certainly contribute to a restoration of peace and order, a negative peace to use Galtung’s terminology, but has definite limitations in terms of state-building more broadly defined. This contribution has analyzed the conflict of objectives between institution-building and local empowerment that existed in the first stages of the international interventions in Kosovo and Timor-Leste. After reviewing the international strategy – a mix of co-optation of certain political elites and wider marginalization of the local population in the international structures of governance, the article has described the local processes of contestation and resistance. The international response in Timor-Leste as devised by the SRSG Sergio Vieira de Mello was courageous: to induce structural changes in the international architecture to allow more participation while hastening the exit of the UN mission. In Kosovo, the UN faced a dramatic explosion of violence in March 2004, which forced the organization to change its stance towards the status of the territory and the future negotiations. However, the UN is still present more than twelve years after the NATO intervention, due in large part to the uneven recognition of Kosovo’s unilateral independence and to Security council politics. In the last section, the article have described other possible avenues for mitigating the conflict of objectives between institution-building and local empowerment in a post-conflict context. In this context, more than a virtual ‘democracy promotion’ imposed from the outside, there is a
genuine need to find a durable solution, where legitimacy conceptions from the inside are taken into account.

However, the conflict of objectives between institution-building and local empowerment is real in the specific context of an international administration. Direct governance of war-torn territories is hardly compatible with the objective of fostering and nurturing legitimacy in an externally-led state-building project. As stated by Chesterman, ‘political structures created for foreign control (benevolent or not) tend to be unsuited to local rule. The reason for this, in part, is that the “limited goals” of foreign control (benevolent or not) are generally determined with limited regard to local circumstances.’ The legitimacy aspects pertaining to institution-building, if initially discarded in the setting-up and exercise of the peace mission’s mandate, will find a way to reaffirm themselves throughout the mission. The dilemmas in terms of policy prescription are real. They are exemplified by William O’Neill, who worked for the UNMIK, when he states somewhat schizophrenically ‘the UN should avoid acting like the “ugly imperialist” but also should not be reluctant to be assertive, even overriding local decisions.’

Other avenues are possible. The importance of national ownership is underlined by Ban Ki-Moon at the Peacebuilding commission and in his report on peacebuilding submitted at the General Assembly and the Security council. It is also one of the lessons identified by Vieira de Mello himself in Timor-Leste: ‘there must be the will to
cede power as soon as possible. The United Nations, the keenest of proponents of
decolonisation, has in East Timor and Kosovo found itself accorded neo-colonial powers.
The result was initially unsettling. In order to provide an alternative to direct
governance by UNMIK, the Independent International Commission on Kosovo proposed
what it calls ‘conditional independence,’ which is ‘quite distinct from limited self-rule
under UNMIK.’ It proposes to allow Kosovo to control the whole range of powers
reserved to the SRS, but under conditions that would ensure stability in the region:
explicit renunciation of any changes of borders, a constitutional guarantee of human
rights for all citizens, the renunciation of violence in settling internal or external disputes,
and a commitment to regional cooperation. Richard Caplan argues for a similar
policy, stating ‘in many cases it is possible to devolve responsibility to the local
population, insist on transparency and, as a safeguard, maintain control over the public
purse, as was done in the case of the UN’s Division of Health Services in East Timor: the
only administrative division to be headed by an East Timorese nearly one year after the
start of the UN operation. It seems to be also the privileged alternative for
participants in regional round-tables on the aftermath of the Brahimi report, a project
conducted by the International Peace Academy. Participants in Africa, Asia, and Latin
America round-tables all expressed the need ‘for greater local ownership of the processes
of peace-building.’ For them, ‘emphasis should be on building the capacity for local
governance, as in the later stages of the East Timor mission, rather than on deploying a
vast number of international staff of highly uneven quality (italics added).’ As noted
by Kreilkamp, ‘it suggests that there are potential alternatives to the hard-line approach
that has been adopted by the Security Council. These are alternatives that could be

Coerced transitions in Timor-Leste and Kosovo

Nicolas Lemay-Hébert

envisioned and experienced in future peacebuilding missions in order to mitigate the most blatant effects of international interventions on local societies.

List of Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CNRT</td>
<td>National Council of Timorese Resistance</td>
</tr>
<tr>
<td>FRY</td>
<td>Federal Republic of Yugoslavia</td>
</tr>
<tr>
<td>IAC</td>
<td>Interim Administrative Council</td>
</tr>
<tr>
<td>KLA</td>
<td>Kosovo Liberation Army</td>
</tr>
<tr>
<td>NC</td>
<td>National Council</td>
</tr>
<tr>
<td>NCC</td>
<td>National Consultative Council</td>
</tr>
<tr>
<td>PISG</td>
<td>Provisional Institutions of Self-Government</td>
</tr>
<tr>
<td>SRSR</td>
<td>Special Representative of the Secretary-General</td>
</tr>
<tr>
<td>UNMIK</td>
<td>United Nations Interim Administration Mission in Kosovo</td>
</tr>
<tr>
<td>UNTAET</td>
<td>United Nations Transitional Administration in Timor-Leste</td>
</tr>
</tbody>
</table>

References


Coerced transitions in Timor-Leste and Kosovo

Nicolas Lemay-Hébert


Dodd, Mark. “Give Us a Free Hand or We Quit.” *Sydney Morning Herald*, 5 December 2000.

—. “Gusmão gives UN team a serve: ‘We don't want a legacy of cars’.” *Sydney Morning Herald*, 10 October 2000.


Coerced transitions in Timor-Leste and Kosovo


Wilde, Ralph. “From Danzig to East Timor and Beyond: The Role of International Territorial Administration.” *American Journal of International Law* 95, no. 3 (July 2001): 583-606.


---

1 Power, *Chasing the Flame*, 303.
2 Roeder and Rothchild, “Conclusion: Nation-State Stewardship,” 328.
3 Lemay-Hébert, “The ‘Empty-Shell’ Approach”.
4 The armed conflict between the Kosovo Liberation Army (KLA) and the Federal Republic of Yugoslavia (FRY) that took off in February 1998, proved to be the second main challenge posed to Western Europe and the United States in less than a decade. With the Rambouillet Agreement of 18 March 1999 being rejected by the Serbian leadership, military response took over from diplomacy in the Balkans and the NATO Operation *Allied Force* followed on 22 March 1999, with the aim of expelling the Federal Republic of Yugoslavia’s forces out of Kosovo. In response, the Serb military and paramilitaries stepped up their campaign against Kosovo Albanians. At the end of June 1999, more than 10,000 casualties were attributed to Serbian forces in Kosovo, while in the meantime more than 1.5 million of Kosovo Albanians were forcibly expelled from their homes, which represented some 90 percent of the estimated 1998 Kosovar Albanian population. In Timor-Leste, Indonesia agreed on a consultation process whereby the population of East Timor would vote to accept or reject the idea of autonomy within Indonesia. Despite Indonesia’s overt pressure on the Timorese, the result was overwhelming clear. The August 30, 1999 vote showed that 78.5 percent of East Timorese voters, in a 98 percent turnout, rejected the option of autonomy within Indonesia in favor of independence. However, following the vote, certain elements of the Indonesian armed forces, in collaboration with local militias, waged an operation called *Operation Clean Sweep*, a three-week campaign of scorched earth meant to punish the East Timorese for their decision. The operation in which an estimated 1,500 to 2,000 East Timorese were killed and led to the displacement of three-quarter of the total population of 890,000, including the exodus of 250,000 persons.
5 The exit strategy is yet to be completed. An international civilian office was created to follow suit, but any meaningful change in the UN mandate has to come with a new United Nations Security Council Resolution, abrogating Resolution 1244. The international division over the fate of Kosovo impedes this change to happen.
8 Fortna, “Peacekeeping and Democratization,” 43.
9 See among others: Caplan, “Partner of Patron?” Narten, “Dilemmas of Promoting Local Ownership;” Surkhe, “Peacekeepers as Nation-builders”
The events are generally believed to have been triggered by two separate incidents. The first incident was the shooting of a Kosovo Serb youth in the village of Caglavica (Pristina region) on 15 March, which led to a blockade by Kosovo Serbs of the main Pristina-Skopje road just outside Pristina. This road is deemed essential to the Kosovar economy (especially for the Albanian community). The second incident, on 16 March, was the death of three Albanian children by drowning in the Ibar River near the Serb community of Zubin Potok. The story spread by word of mouth that the children were chased by Serbs before their death, which sparked Albanian attacks on Serb enclaves. Though the circumstances of that incident have not been established clearly, the cumulative effects of the two incidents precipitated spontaneous Albanian demonstrations. The demonstrations were quickly taken over by “organized elements”, and intense fighting erupted between the two communities while the violence quickly spread to other cities. In the midst of the events, 19 persons died and more than 1000 were wounded. See: Lemay-Hébert, “State-Building From the Outside-In.”
Coerced transitions in Timor-Leste and Kosovo

Nicolas Lemay-Hébert

---

xliii Lemay-Hébert, “State-Building From the Outside-In”.
xliv ICG, Kosovo: Landmark Election, ii.
xlvii King and Mason, Peace at Any Price, 220.
xlviii UN, Letter Dated 7 October 2005 From the Secretary General Addressed to the President of the Security Council.
xlix King and Mason, Peace at Any Price, vii.
l Power, Chasing the Flame, 328.
lh “SRSG: Executive Authority Shared With the East Timorese.”
lh Quoted in: Chesterman, “East Timor,” 201.
lhiv Dodd, “Gusmão gives UN team a serve;” McBeth, “E Timorese Unhappy About Being Sidelined By UN.”
lhvh Dodd, “Give Us a Free Hand or We Quit.”
lhvi Lemay-Hébert, “Everyday Legitimacy and International Administration: Governance, ‘Legitimacy Dilemma,’ and Other Possible Avenues in Kosovo.”
lhvj Chopra and Hohe, “Participatory Intervention,” 291-292.
lhvjiii Carothers, Aiding Democracy Abroad, 262-266.
lii Boutros-Ghali, An Agenda for Democratization, 4.
lxiv Bueno de Mesquita and Downs, “Intervention and Democracy,” 627.
lxv Chopra and Hoje, “Participatory Intervention,” 289. For examples of “participatory local governance,” see: UNDP, “Participatory Local Governance.”
lxvi UN, No Exit Without Strategy, para. 10.
lxvii UN, No Exit Without Strategy, para. 12.
lxx Chandler, Empire in Denial, 9.
lxxii Galtung, Peace : Research – Education – Action, 245.
lxxiii Chesterman, You, The People, 237.
lxxiv O’Neill, Kosovo : An Unfinished Peace, 139.
lxxv UN, Secretary General Underscores National Ownership.
lxxvi UN, Report of the Secretary-General on Peacebuilding in the Immediate Aftermath of Conflict, para. 7.
lxxix Caplan, “Partner or Patron?” 230.
lxxxi Kreilkamp, “UN Postconflict Reconstruction,” 652.