REGIME–BUILDING:

DEMOCRATIZATION AND INTERNATIONAL ADMINISTRATION

OISÍN TANSEY

....

REGIME-BUILDING

OXFORD STUDIES IN DEMOCRATIZATION

Series editor: Laurence Whitehead

. . . .

Oxford Studies in Democratization is a series for scholars and students of comparative politics and related disciplines. Volumes will concentrate on the comparative study of the democratization processes that accompanied the decline and termination of the cold war. The geographical focus of the series will primarily be Latin America, the Caribbean, Southern and Eastern Europe, and relevant experiences in Africa and Asia.

OTHER BOOKS IN THE SERIES

Regime-Building

*Democratization and
International Administration*

....

OISÍN TANSEY

OXFORD
UNIVERSITY PRESS

Contents

List of Tables

········
Acronyms
········

AAK	Alliance for the Future of Kosovo
APODETI	Popular Democratic Association of Timor
ASDT	Association of Timorese Social Democrats
BiH	Bosnia and Herzegovina
CA	Constituent Assembly
CEC	Central Election Commission
CEP	Community Empowerment Project
CNRT	National Council of Timorese Resistance
CoE	Council of Europe
CoM	Council of Ministers
CPA	Coalition Provisional Authority
DPA	United Nations Department of Political Affairs
DPKO	United Nations Department of Peacekeeping Operations
ECOWAS	Economic Community of West African States
ESI	European Stability Initiative
ETTA	East Timor Transitional Administration
EU	European Union
EUAM	European Union Administration of Mostar
EUSR	European Union Special Representative
Falintil	Forças Armadas de Libertação Nacional de Timor Leste (Armed Forces for the Liberation of East Timor)
FBiH	Federation of Bosnia and Herzegovina
F-FDTL	Falintil-Defence Force of East Timor
Fretilin	Revolutionary Front for an Independent East Timor
FRY	Federal Republic of Yugoslavia
GA	United Nations General Assembly
HDZ	Croatian Democratic Union
HR	High Representative
IAC	Interim Administrative Council
ICG	International Crisis Group
ICTY	International Criminal Tribunal for the Former Yugoslavia

IFOR	Implementation Force
IMF	International Monetary Fund
INTERFET	International Force in East Timor
IPTP	International Police Task Force
JAM	Joint Assessment Mission
JIAS	Joint Interim Administrative Structure
JWG	Joint Working Group on the Legal Framework
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corps
KTC	Kosovo Transitional Council
LDK	Democratic League of Kosovo
MERCOSUR	Southern Cone Common Market
NATO	North Atlantic Treaty Organisation
NC	National Council
NCC	National Consultative Council
NHI	New Croat Initiative
NED	National Endowment for Democracy
OAS	Organization of American States
OAU	Organisation of African Unity
OHR	Office of the High Representative
ONUC	United Nations Operation in the Congo
OSCE	Organisation for Security and Co-operation in Europe
PEC	Provisional Election Commission
PD	Democratic Party
PDK	Democratic Party of Kosovo
PELWG	Permanent Election Law Working Group
PIC	Peace Implementation Council
PISG	Provisional Institutions of Self-Government
PSD	Social Democratic Party of East Timor
R&R	Rules and Regulations
RS	Republika Srpska
RSNA	National Assembly of Republika Srpska
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association Process

SBiH	Party for Bosnia and Herzegovina
SDA	Party for Democratic Action
SDP	Social Democratic Party
SDS	Serb Democratic Party
SFOR	Stabilisation Force
SNSD	Party of Independent Social Democrats
SRS	Serb Radical Party
SRSG	Special Representative of the UN Secretary General
UDT	Timorese Democratic Union
UN	United Nations
UNAMET	United Nations Mission in East Timor
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNPROFOR	United Nations Protection Force
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIT	United Nations Integrated Mission in Timor-Leste
UNMISET	United Nations Mission of Support in East Timor
UNOTIL	United Nations Office in Timor-Leste
UNTAC	United Nations Transitional Authority in Cambodia
UNTAES	United Nations Transitional Authority in Eastern Slavonia, Baranja, and Western Sirmium
UNTAET	United Nations Transitional Administration of East Timor
UNTAG	United Nations Transition Assistance Group in Namibia
UNTEA	United Nations Temporary Executive Authority
USAID	United States Agency for International Development

This page intentionally left blank

Acknowledgements

There are many people I would like to thank for their contribution to this book, which began life as a doctoral thesis. I owe a clear intellectual debt to my academic supervisor Laurence Whitehead, who has influenced my work not only through his many writings on the international influences on democratization, but also through the many meetings and conversations we had throughout my time at Oxford and Nuffield. I am grateful for all the help and guidance he provided. As my college supervisor at Nuffield College, Andrew Hurrell also provided invaluable guidance and his insightful questioning led to many improvements in the following work, as did a set of comprehensive comments from Stephen Whitefield.

I am also grateful to many others for providing support at different stages throughout the writing process. Conversations with Simon Chesterman, Richard Caplan, Dominik Zaum, and Guillermo O'Donnell provided intellectual stimulation and encouraged me to rethink some of my initial assumptions. The empirical work of the book was also greatly enhanced by interviews with many international officials who have worked in the international administrations under investigation here, and I am grateful to all those who gave their time to answer the many questions I put to them. I owe a particular debt of gratitude here to Richard Caplan, Richard Ponzio, Minna Jarvenpaa, and Dominik Zaum, each of whom provided me with invaluable contacts at the early stages of my empirical research and opened doors that would otherwise have remained closed.

Most of these interviews were facilitated by fieldwork research in the Balkans, and I benefited from the provision of supporting funding from a number of bodies, especially the Gilbert Murray Trust and the Department of Politics and International Relations at Oxford through the provision of a Pavry and Winchester Award. My studies at Oxford were generously funded by Nuffield College, and I am extremely grateful for this support and for the stimulating intellectual and social environment that Nuffield provided.

Several people read full chapters of the book and provided helpful comments, and I am grateful in particular to John Gledhill, Dominik Zaum, and Silvia Lauzanna for their time and input. Sara Binzer Hobolt went well beyond the call of duty, and friendship, and read much of the book in its varying stages of development. I would also like to thank my D.Phil. examiners, Nancy Bermeo and Peter Burnell, for their helpful comments. The book has also benefited from the comments of three anonymous reviewers, and

I would like to thank the staff at Oxford University Press, in particular Dominic Byatt, for their support for the project.

Finally, I am profoundly grateful to my family for the presence and encouragement they provided as this book was being written – I owe them a great debt. And I simply could not have done this without Avril, and I thank her for her unstinting support throughout.

Introduction

Processes of regime change have occurred in a wide range of varying political contexts, often involving high levels of international involvement. In certain circumstances, where the domestic context has been especially adverse, the international community has established large-scale multilateral missions known as international administrations that entail an extensive and intrusive governing role for international actors and organizations at the domestic level.

As these international operations have generally been established in territories with severe political, economic and social problems, they have tended to share a number of common goals such as the establishment of peace and security, the strengthening of the rule of law and the reconstruction or development of the economic system. In addition, one of the consistently pursued activities in the context of international administration is the promotion of democracy, which is widely viewed within the international community as a strong stabilizing influence on the internal forces that so frequently lead to instability. In Bosnia, Kosovo and East Timor in particular, international authorities have been mandated to move beyond the basic promotion of democratic development and to oversee and direct the very establishment of a new political regime. The period of transitional international administration thus often coincides with a period of attempted regime change, and these international operations are therefore in a position to play a critical role in the wider process of democratization. The form and impact of this international role, however, have been given only limited attention in recent work in comparative and international politics and thus require focused empirical and theoretical analysis.

This book examines the impact of international administration operations on the processes of regime change in the cases of Bosnia, Kosovo and East Timor. Through a comparative analysis of international 'democratic regime-building' activities in these three cases, the study seeks to identify the nature in which, and extent to which, extensive international intervention at the domestic level can shape the dynamics of democratization. These are highly salient issues given the efforts by international actors in recent years to promote democracy through intervention, but to date the intrusive nature

of some recent regime-building missions remains under-explored. When international actors commit such time and resources to the promotion of democratic development with the explicit aim of establishing new democracies, it is essential to establish both the ways in which these aims are pursued, and the ultimate effects they have on domestic politics. It is only by understanding the mechanisms through which such international actions operate and the mediating role of domestic factors that the ultimate potential of international regime-building efforts can be determined.

Consequently, the primary aim of this book is to analyse the impact that democratic regime-building activities have on the process of political transition, and to do so by identifying the mechanisms through which international administrators influence politics at the domestic level. The central research question here concerns the manner in which, and the ways in which, the presence and actions of international administration operations shape the nature of the regime change process.

The primary contention of this book is that the context of international administration provides a setting for democratization that is systematically different from more conventional cases, where the level of international intervention in domestic politics is not as profound. Crucially, the high levels of authority enjoyed by international actors at the domestic level in these settings enable external actors to assume political roles usually held by domestic elites. As a result, international administrators are in a position to play direct and influential roles in shaping the nature and direction of transition politics through a range of political mechanisms.

The nature of this impact on the regime change process can be seen most clearly with reference to the effects upon the 'mode of transition'. When attempting to categorize the various ways in which democratic transitions can take place, scholars of regime change have frequently used the concept of the mode of transition to highlight the different causal paths that can lead from authoritarian rule to the establishment of a new regime.[1] Yet they have done so with reference primarily to the identity and strategies of the domestic actors involved in the transition. In cases of international administration, however, international actors are clearly key players in the transition period and thus help shape the mode of transition through their actions and their interactions with domestic actors. As will be shown further in the following chapters, one of the most significant implications of this particular international influence is that the unilateral re-imposition of an authoritarian regime by domestic actors, a

---

[1] See in particular Terry Lynn Karl and Philippe C. Schmitter, 'Modes of Transition in Latin America, Southern and Eastern Europe', *International Social Science Journal*, Vol. 128, 1991, pp. 269–284.

common event in other settings, is largely eliminated as an option in the context of international administration given the veto powers of external actors.

However, the influence of international administration operations is not entirely positive, and the empirical analysis highlights a number of potentially damaging ways in which international actors can shape the transition process and potentially undermine democratization efforts. Furthermore, the influence of international administration is not a constant across diverse contexts. Rather, international administration operations can differ in their nature and structure, and the domestic contexts in which they are mandated are also highly variable from case to case.

As a result, I argue that the nature of the international presence will not be felt the same way in all cases, and will in particular be mediated by the nature of the domestic context. More specifically, I show that the final mode of transition in the context of international administration is determined by the interaction between international administrators on one hand, and the nature of the domestic elite balance of power on the other. When local elites are dominated by those that favour the introduction of a new democratic regime, international and domestic actors are likely to interact along consensus lines and work together through a joint pact to establish the institutions of a democratic political system. However, when domestic actors are dominated by those who would rather frustrate democratic development, the nature of the domestic and international interaction is likely to be significantly different, with the result that the mode of transition is likely to be marked more by confrontation than consensus, and new democratic institutions may be introduced only through some form of international imposition.

As a result of these dynamics, the post-transition prospects of new regimes created under the auspices of external governance may vary considerably from context to context. Recent experience shows that there are multiple possible post-transition paths, and that regime change may lead to hybrid regime types and dictatorship as easily as it can to democracy. The findings of the book suggest that similar outcomes are possible in the context of international administration, as international authorities cannot remain on the ground indefinitely. While external administrators can help provide the architecture of democracy during the transition phase, once they withdraw the sustainability of the regime will be determined largely by domestic actors and contexts, which in these difficult settings can often act to frustrate rather than facilitate long-term democratic consolidation. Consequently, one of the firmest conclusions of the book is that the presence of international administrations is no guarantee of successful democratic transition, and that even when international actors wield extensive authority and act intrusively to promote democratic practices, it is domestic actors that determine final regime outcomes.

INTERNATIONAL ADMINISTRATIONS AND
DEMOCRATIC REGIME-BUILDING

The international administration of territory is a practice that pre-dates the activism of the post-Cold War world and was pursued actively at certain stages of the twentieth century. Earlier examples include the Mandates and Trusteeship systems of the League of Nations and United Nations respectively, as well as ad hoc civil administration operations such as those carried out by the United Nations in the Congo and West New Guinea in the 1960s.[2] Yet these instances of international administration were largely linked to the process of decolonization, and since the early 1990s a combination of factors has led to the establishment of external administration missions in a broader range of settings.

After the end of the Cold War, new norms and practices of international intervention emerged and the traditional concept of sovereignty was eroded by the rise of the human rights agenda and greater emphasis on the responsibilities as well as privileges of statehood.[3] This was exemplified by an increasingly active UN Security Council, which in the early years of the 1990s re-interpreted its responsibilities in relation to international peace and security and authorized new 'multidimensional' operations to address domestic rather than international problems.[4]

It was in this context of multidimensional action by the United Nations that contemporary forms of transitional administration emerged. In some territories during the 1990s, the extent of the problems that existed prompted the United Nations, and other international bodies, to embark on international engagement that went beyond even the new expanded form of multidimensional operation. Four issues in particular prompted this level of international involvement, those of disputed sovereignty, state failure, civil conflict and the abuse of state power, with each rarely occurring in isolation.[5] In Cambodia, Bosnia, Eastern Slavonia, Kosovo and East Timor, some or all of these issues combined during the 1990s in ways that led the international community to address the problems at hand by assuming some or all of the governmental powers of the territory involved on a temporary basis, and

---

[2] The history of international governance of domestic territories will be explored further in the following chapter.

[3] See for example, International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, at www.iciss.ca/report2-en.asp

[4] Michael W. Doyle, 'The New Interventionism', *Metaphilosophy*, Vol. 32, Nos. 1–2, January 2001, pp. 212–235.

[5] See Simon Chesterman, *You, the People: The United Nations, Transitional Administration, and State-Building* (Oxford University Press, 2004).

directly addressing the political challenges on the ground through a period of international administration. These developments are similar to, but distinct from, recent experiences of international occupation, especially in Iraq after 2003. International administration and state-led occupation share many common features, yet differ with respect to the role multilateral oversight and authority, and as such represent a separate category of international action. These differences are explored further in the next chapter.

The strategies and activities that international administration operations pursue, often under the heading of 'state-building', are wide-ranging and complex. As Chesterman writes, state-building involves extended international involvement 'directed at constructing or reconstructing institutions of governance capable of providing citizens with physical and economic security' and supporting development in a range of economic, security and political areas.[6] One of the particular end goals that state-building inevitably involves is the establishment of a functioning and self-sustaining democratic system of government. In the majority of state-building operations, efforts to develop state institutions have also entailed focused attention on the reform or reconstruction of the political sector, with an explicit agenda to develop democratic norms and practices at the domestic level.

A number of these international missions, however, have been mandated to go beyond basic democracy promotion activities such as the provision of technical assistance and political aid, and have been authorized to contribute directly to the establishment of entirely new political structures. In Bosnia, Kosovo and East Timor, international administrators have been charged with overseeing the transformation of pre-existing non-democratic structures into democratic political rules and institutions. In these cases, international administrators have pursued what I call here 'democratic regime-building', a concept that, while related to state-building, differs in its concentration on international efforts to develop a particular *regime*, rather than an overall state structure. This is not an effort to replace the concept of state-building, but rather to supplement it with one that captures a particular and very significant element of its many activities.

The concept of the regime remains distinct from that of the state, while maintaining a close connection to it. While the state includes elements relating to security provision, the economy and legal and administrative institutions, the regime refers particularly to the realm of the political system. Definitions of 'regime' vary, but common elements include a core ensemble of rules, procedures and/or norms that together determine the ways in which elites can access power and the manner in which they can wield power once in

---

[6] Chesterman, *You, the People*, p. 5.

office. From a review of the literature on political regimes, Munck has identified three core procedural attributes, those that determine: the number and type of actors who are allowed to gain access to the principal governmental positions; the methods of access to such positions; and the rules that are followed in the making of publicly binding decisions.[7]

The regime therefore concerns a particular aspect of the state's overall structure and functions, incorporating the nature of political representation and policy making, but excluding more stable features of the state such as the administrative structure and the legal source of authority, which rest with the state regardless of the nature of the regime. The concept of democratic regime-building is thus much narrower than the idea of state-building, as it captures only the efforts of international administrators to establish a particular political system and not wider elements of state capacity and performance. In particular, it pertains to international efforts to develop a *democratic* regime, one whose rules, procedures and institutions allow for regular and open competition for access to political power, and guarantee the broad range of political and civil liberties that are necessary for such open competition to take place.[8] It is this particular aspect of the practice of international administration, and its impact on the processes of regime transition, that is the focus of this book.

THE THEORETICAL CONTEXT

The study of democratic regime-building touches in particular on two literatures within political science, the first of which is the evolving body of writing on international administrations themselves. Until recently, these international operations were examined in a relatively ad hoc fashion, largely on the basis of individual case studies that had limited comparative scope. New contributions to the literature, however, have sought to develop a more systematic study of international administrations as a particular form of international intervention, with common features and influences.[9]

---

[7] Gerardo L. Munck, 'Disaggregating Political Regime: Conceptual Issues in the Study of Democratization', Working Paper No. 228 (The Helen Kellogg Institute for International Studies, University of Notre Dame, 1996).

[8] On the difference between democratic and non-democratic regimes, see Juan Linz, 'Totalitarian and Authoritarian Regimes', in Fred I. Greenstein and Nelson W. Polsky (eds.), *Handbook of Political Science*, Vol. 3 (Addison Wesley, 1975).

[9] See especially Richard Caplan, *International Governance of War-Torn Territories* (Oxford University Press, 2005); Simon Chesterman, *You, the People*; Ralph Wilde, *International Territorial Administration: How Trusteeship and Civilizing Mission Never Went Away* (Oxford University Press, 2008); and Dominik Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding* (Oxford University Press, 2007).

While this book is informed by these new writings, it also contributes to this emerging literature in two ways. First, it focuses on one particular dimension of international administration activity, rather than examining the wide range of activities of these missions as a whole. To date there is no comparative study that examines the effects of international administration on the processes of regime change, and this work therefore addresses a research question in need of focused attention. This in turn facilitates the second contribution, which is the goal of developing firmer theoretical statements about the nature of the influence of international administration operations at the domestic level. To date, much of the work on this form of international intervention has been concerned with accounting for the emergence of international administrations and identifying and analysing their various objectives and practices, with limited efforts to develop theories concerning causal effects.[10] Some work in the wider literature on international peace-building has sought to develop firmer theory about causal relationships,[11] but these studies have not closely addressed international administrations as a distinct category from other forms of peace-building efforts, and have not entailed the same degree of process tracing and in-depth case study work pursued here. The aim of this study is thus to build upon the existing work on international administrations and supplement its findings with systematic theoretical statements about the impact of large-scale international intervention on domestic democratic development.

The approach of this book is also heavily informed by the extensive literature on regime transitions. The subject of democratization has long been the focus of a subfield within comparative politics and there is a vast literature on the causes, processes and outcomes of democratic regime change. One of the hallmarks of early research carried out in this field, however, was a concentration on primarily domestic factors relevant to democratization. In many of the early contributions, international factors were explicitly given subordinate roles, and domestic factors were held to be the prime explanatory variables.[12]

---

[10] Zaum's study is an exception, and is explicitly concerned with developing a theoretically guided account of international administration policies.

[11] See in particular Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge University Press, 2004); and Michael W. Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Princeton University Press, 2006).

[12] See for example Guillermo O'Donnell, Philippe C. Schmitter and Laurence Whitehead (eds.), *Transitions from Authoritarian Rule: Prospects for Democracy* (The Johns Hopkins University Press, 1986); Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge University Press, 1991); and Dietrich Rueschemeyer, Evelyne H. Stephens, and John D. Stephens, *Capitalist Development and Democracy* (Chicago University Press, 1992).

Yet since the early 1990s, this concentration has come under scrutiny and criticism, and attention has increasingly been paid to the varieties of international actors and environments that can affect the likelihood and nature of regime change. A broad range of international variables has been identified, as well as a variety of mechanisms through which such factors can influence democratic transition.[13] However, to date there has been limited attention to cases of democratization that have occurred in the context of large-scale international administration,[14] and no single authored comparative study exists on the topic.

This study fills this gap by highlighting how the context of international administration can provide a unique environment for regime transition, in which international authorities assume political positions conventionally held by domestic actors and thus systematically shape the politics of regime change. In doing so, the book makes a conceptual, theoretical and empirical contribution to existing research. Conceptually, the book advances the concept of democratic regime-building and identifies a particular form of international involvement in regime change that takes place in the context of international administration. With international actors enjoying extensive executive authority at the domestic level, democratic regime-building entails a distinct form of international influence on domestic democratic development. The book also modifies the existing concept of the mode of transition as developed in the transitions literature, and presents a new version that incorporates international as well as domestic actors.

Theoretically, the book contributes to existing research in the field of democratization studies and the growing field that addresses state-building and international administration. While both areas of research provide much of the core foundations upon which this work is based, neither on their own has addressed the central theoretical question addressed here, and nor have they provided a theoretical framework for understanding the dynamics of regime transition in these unusual contexts of international administration. This book thus makes a theoretical contribution by identifying a specific set of mechanisms

---

[13] See for example Samuel P. Huntington, *The Third Wave: Democratization in the Twentieth Century* (University of Oklahoma Press, 1991), pp. 85–99; Laurence Whitehead (ed.), *The International Dimensions of Democratization* (Oxford University Press, 2001); Geoffrey Pridham, Eric Herring and George Sanford (eds.), *Building Democracy: The International Dimension of Democratisation in Eastern Europe*, revised edition (Leicester University Press, 1997); and Jon C. Pevehouse, *Democracy From Above: Regional Organizations and Democratization* (Cambridge University Press, 2005).

[14] Exceptions include Edward Newman and Roland Rich (eds.), *The UN Role in Promoting Democracy: Between Ideals and Reality* (United Nations University Press, 2004); and Aurel Croissant, 'The Perils and Promises of Democratization through United Nations Transitional Authority – Lessons from Cambodia and East Timor', *Democratization*, Vol. 15, No. 3, 2008, pp. 649–668.

through which international administrations can shape transition politics, and highlighting the effects this form of intervention will have on the mode of transition. Chapter 2 develops in greater detail the theoretical framework used here and identifies the key variables and mechanisms of interest.

Finally, the empirical contribution of the book is to examine a set of previously under-explored cases of regime change and trace the processes of political transition through a close examination of recent regime-building efforts. Using the process tracing method described below, I provide a comprehensive account of political transition in three cases involving extensive international administration, those of Bosnia, Kosovo and East Timor, and present theoretically driven narratives of the central political developments in each. The following section outlines in greater detail the research design used to carry out this analysis and identifies the sources used to collect original data for the empirical analyses to come.

RESEARCH DESIGN AND METHODS

When dealing with large-scale political phenomena such as democratization, a crucial objective is to determine the processes that drive political change. Identifying the causal mechanisms involved represents a key challenge in explaining political outcomes, and requires explicit attention at the research design stage. In attempting to isolate the international influence in each of the cases I examine here, I use the process tracing method to identify the causal mechanisms that connect international actions to domestic political outcomes. Process tracing involves identifying the intervening causal process – the causal chain and causal mechanisms – between independent and dependent variables.[15] In cases of major international intervention the boundaries between international and domestic action often become blurred, but by using the process tracing method it is at least possible to highlight where political developments were generated primarily by domestic or international actors, or a combination of both. I also disaggregate the overall process of democratization into three arenas and address developments within each one. This takes into account the complexity of democratization and makes it possible to conduct within-case comparisons and assess the nature of the international influence in separate political arenas within the same case.

---

[15] Alexander George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (MIT Press, 2005), chapter 10.

The close attention to detail entailed in process tracing also facilitates the measurement of the key concept of the elite balance of power. In each case, the balance of power is measured according to the balance between different political parties. Once elections take place, the nature of the balance is easily established with reference to election results. Prior to elections, however, identifying the balance is considerably harder, as there is no proxy measure for party strength as clear as electoral support. Consequently, in each case the balance of power prior to elections is measured with reference to the statements and actions of political parties, supported by insights from the secondary literature. The process tracing method helps facilitate this task, as it involves an appreciation of fine detail and a close examination of political events on the ground prior to elections.

In order to compare findings from the within-case analyses, I also utilize the structured, focused approach developed by George and Bennett, which entails examining each case with a similar set of theoretically guided questions and thus facilitates systematic accumulation of comparable data. I compare democratic development in three different cases that have experienced or continue to experience international administration, and approach each case with an identical set of research tasks that concern the impact of external forces on the processes of domestic regime change in three central arenas of transition (see Chapter 2 for more details).[16]

In terms of case selection, the book examines the experiences of three cases that have experienced international administration, those of Bosnia, Kosovo and East Timor. Although a larger number of international administration operations have been mandated in recent years, this set of three cases makes for an appropriate selection for a number of reasons. First, these missions represent the most extensive and authoritative international administration missions established in recent years. In each case international actors have been provided with expansive levels of executive and legislative authority at the domestic level, and have been mandated to involve themselves extensively in domestic political, economic and social processes. The cases thus represent the best tests of the international influence on domestic politics.[17]

Second, and related to the first point above, these cases also represent clear examples of democratic regime-building efforts on the part of international administrators. As mentioned, while some international administration operations seek to promote democratic elections and good governance more

---

[16] George and Bennett, *Case Studies and Theory Development*, chapter 3.
[17] See Stephen Van Evera, *Guide to Methods for Students of Political Science* (Cornell University Press, 1997), chapter 2.

generally, their goals do not include the development of entirely new political systems of self-government. The UN's Balkan mission in Eastern Slavonia (UNTAES), for example, gave international administrators full executive authority, but only for the purposes of transferring that territory from the control of one state to another—while the mission involved organizing elections, it did not entail developing a distinct regime of democratic self-government. In the three cases examined here, however, such regime-building has been an explicit goal, and international administrators have sought to oversee and involve themselves in a full process of regime change. In Bosnia, Kosovo and East Timor, new political systems were introduced in each case and international administrators were mandated to oversee this process and also to engage directly with it. Democratic regime-building was thus a large part of the international mission.

Finally, the three cases also display variation on the primary dependent variable, the mode of political transition. The dangers of selecting cases on the dependent variable have been widely discussed,[18] and the cases in this book have been selected on their appropriateness for the research question rather than for any particular values they hold on the dependent variable. The three are drawn together by their shared experiences of international administration and democratic regime-building, and each shows variation in their domestic political landscapes in terms of the political balance of power and ideology among domestic actors, and in their respective modes of democratic transition.

As the process tracing method requires the accumulation of a large amount of information, a broad range of data sources have been used. These include a series of elite interviews with both international and domestic officials who have been directly involved in the regime-building processes under discussion (see Appendix I). In order to maximize the reliability of these interviews, a wide range of political actors from each case was sought, and interview data was supplemented with alternative sources.[19] In particular, the book utilizes a wide range of primary documents, including resolutions and regulations passed by international administrations, legislative acts of domestic parliaments, and texts of political speeches. Primary sources were also complemented with secondary material from the academic literature (both comparative and area studies) and from non-academic policy centres and think tanks such as the International Crisis Group (ICG), the European Stability Initiative (ESI) and the Carter Center.

---

[18] See especially, Barbara Geddes, 'How the Cases You Choose Affect the Answers You Get: Selection Bias in Comparative Politics', *Political Analysis*, Vol. 2, No. 1, 1990, pp. 131–150.

[19] Jeffrey M. Berry, 'Validity and Reliability Issues in Elite Interviewing', *PS: Political Science and Politics*, Vol. 35, No. 4, December 2002. See also the other articles in the Symposium on elite interviewing in the same issue.

CHAPTER OUTLINE

The following chapters set out the theoretical foundations of the study and present the empirical findings of the three case studies. Chapter 1 traces the emergence of international governance of domestic territory in the twentieth century and its development to the recent period of international activism in this area. It also highlights the rise of international attention to democracy and the increasing role of international actors, especially the United Nations, in democracy promotion. The chapter concludes by drawing the two strands together and examining the emergence and nature of democratic regime-building.

Chapter 2 outlines the theoretical framework of the study, presenting the key variables and the central argument. It highlights the mechanisms that international administrations are able to use to influence domestic-level politics and identifies some key strategies international administrators can employ that are unavailable in other contexts. It also outlines the need for modification of the existing concept of the mode of transition when dealing with cases of international administration and suggests a new account of how this concept might be understood and examined empirically. The chapter concludes by identifying the central points of interaction between international and domestic actors in three key arenas of democratic transition, those of elite access to power, institutional design and the electoral arena.

The subsequent three chapters focus on the case studies of Bosnia, Kosovo and East Timor, and utilize the theoretical framework presented in Chapter 2 to analyse their experience of democratic regime-building under international administration. Each chapter first explores the domestic context of the relevant case and highlights both the reasons for, and nature of, the international administration operation that was established. The chapters then examine the international and domestic interactions in each case, identifying the mechanisms of international influence in the three central arenas of democratic transition. Each of the empirical chapters concludes with a discussion of the mode of transition in each case and the implications for post-transition regime consolidation.

The concluding chapter draws the findings of the study together and places them in their theoretical context. It highlights both the positive and negative implications of international administration for democratization processes, and also identifies theoretical and policy implications of the findings.

1

International Administration and Democratic Regime-Building

1.1. INTRODUCTION

Contemporary international administration missions have been carried out by a range of international actors, and have taken place in a variety of different political contexts. Recent attention has focused, in particular, on activities since the early 1990s, as a combination of factors has led to increased international activism in confronting problems such as state failure and civil war, involving extensive external intervention in local political affairs. Numerous international organizations have played a role in operations that have involved partial or full administration of territory in a variety of domestic contexts. This form of international intervention is not new, however, and as a practice has in fact occurred regularly throughout the twentieth century. Before the United Nations (UN) became involved in external administration, the League of Nations was active in a similar fashion, and this form of international governance thus has deep roots in international politics.

Yet there are some differences between contemporary post-Cold War operations and their earlier counterparts, not least in relation to the nature of their political objectives. Over time, international endeavours at domestic governance have become increasingly ambitious to the extent that the more recent operations have sought to play a direct role in promoting specific forms of political development. In particular, one of the key political concerns of contemporary international administrators is that any system of government established under their auspices be democratic in nature. Where domestic regime type was previously not a significant concern of the international community, in the contemporary international environment there is a strong prevailing, although not universal, norm that holds that all new political regimes should be democratic in nature. As a result, when international administration has been pursued in recent years, it has also entailed strong elements of democratic regime-building, with the direct involvement of international authorities in developing the institutions and practices of a democratic political system.

This chapter thus seeks to explore two issues that are at the heart of this study, namely the rise of international administration of territory as a practice in international relations and the similarly significant emergence of democracy as the preferred form of governance for many in the international community. The first section explores the changing nature of international administration during the twentieth century and culminates in an examination of contemporary international administration missions and a discussion of the particular cases that will be examined in the following chapters. The second section explores the rise of the norm of democracy and the practice of international democracy promotion, addressing the shift in both international ideas and practices regarding democratic governance and the increasing role of international authorities in relation to domestic processes of regime change.

1.2. INTERNATIONAL GOVERNANCE AT THE DOMESTIC LEVEL: HISTORY AND PRACTICE

Although some commentators have suggested that the kind of international administration missions that emerged in the 1990s were unique,[1] more recently there has been an increasing recognition that the contemporary practice of international governance has roots that run throughout the twentieth century.[2] The earliest precedent for multilateral engagement in non-self-governing territories is that provided by the actions of the League of Nations in the 1920s and 1930s. The League was active in two forms of international administration that emerged as a response to the defeat of the German and Ottoman empires in World War I. The first involved the creation of the Mandates system, in which individual states would administer the former colonial territories of the defeated powers according to rules set down in the Covenant of the League of Nations. The Mandates system was established to deal with a large number of former colonies of the German and Ottoman empires, all of which were deemed unfit for self-rule. Despite support in some countries for direct annexation, pressure from the Woodrow Wilson

---

[1] See for example Michael J. Matheson, 'United Nations Governance of Postconflict Societies', in *The American Journal of International Law*, Vol. 95, No. 1, 2001, p. 83.

[2] See especially Simon Chesterman *You, the People: The United Nations, Transitional Administration and State-Building* (Oxford University Press, 2004), chapter 1; and Ralph Wilde, 'From Danzig to East Timor and Beyond: The Role of International Territorial Administration', *American Journal of International Law,* Vol. 95, No. 3, 2001, pp. 583–606.

administration in the US led to a compromise that involved the League overseeing administration of the territories by individual states.

Mandate territories were allocated to 'advanced' powers such as Britain, Australia, France, Belgium and Japan, and while the League had no direct role in administration, it did oversee the system through the Mandates Commission and imposed a certain degree of accountability on the part of Mandate powers through an annual report-writing requirement.[3] More direct League involvement in international administration occurred in a number of cases in the inter-war years, in part with the objective of facilitating self-determination at the local level. Post-war international disputes concerning the German areas of the Saar Basin and the city of Danzig led to the League adopting measures of robust and authoritative direct control to administer the territories in a neutral fashion. Similarly, the League administered the town and district of Leticia in Colombia in order to help overcome a dispute between Colombia and Peru over the territory.[4] In the early decades of the century, therefore, the international community was already heavily involved in the administration of domestic territories.

The Mandates system collapsed along with the League of Nations after the outbreak of World War II, but the principle of international trust over former colonial territories was to continue, and become further entrenched, once the war was over. With the creation of the UN in 1945, the Trusteeship system was created to deal with the increasing shift towards decolonization, primarily by having the UN oversee a system of international administration of non-self-governing territories.[5] While each Trust territory was administered directly by an individual state, it was the role of the UN Trusteeship Council to regulate the system and press the administering states to meet certain standards, including the protection of the Trust populations and promotion of greater social, economic and political progress in the Trust territories. In the political sphere, administrating powers were encouraged to introduce greater local participation in the functions of government, both through increased local electoral representation and through the training and appointment of local officials for work within the administration itself.

As with the League of Nations, the UN also involved itself directly in the international administration of individual territories. In 1960, at a time when the UN's activities were largely directed towards neutral peacekeeping, the UN's presence in the newly independent, and politically unstable, state of Congo became one of its most extensive missions, as it took direct control

[3] F. S. Northedge, *The League of Nations: Its Life and Times 1920–1946* (Leicester University Press, 1986).

[4] Wilde, 'From Danzig to East Timor and Beyond'.

[5] R. N. Chowdhuri, *International Mandates and Trusteeship Systems: A Comparative Study* (Martinus Nijhoff, 1955).

over many aspects of governance due to a lack of local administrative capacity. Senior UN staff directed much of Congolese government for some time, played a critical role in policymaking within the administration and also contributed to the drafting of a new Congolese constitution.[6] During the same period, the UN also became involved in a comparatively less fraught political transition in the Dutch-controlled territory of West New Guinea in Southeast Asia. A prolonged dispute between the Netherlands and the then newly independent Indonesia over the territory led to an internationally brokered agreement providing for direct UN involvement. The territory was administered by the United Nations Temporary Executive Authority in West New Guinea/West Irian (UNTEA) for a period of almost a year before being transferred to the control of Indonesia, which promptly reneged on a promised referendum and held a sham consultation process that affirmed the population's support for continued Indonesian rule.[7]

Overall, therefore, it can be seen that the UN played a significant role in international administration in its early decades. As with the League of Nations, it not only involved itself in overseeing the administration of non-self-governing territories by individual states, but also undertook direct administration of territory itself. The UN also sought to pursue higher standards for international governance, with greater emphasis on the political, economic and social development of administered territories and a more direct oversight role in the case of the Trusteeship system. In the decades that followed the creation of the UN, therefore, the institutional framework for multilateral involvement in international administration became more entrenched, with increased experience and higher standards consolidating the early precedents of international activity of this kind under the League of Nations.

1.2.1. International administration in the post-Cold War world

Contemporary multilateral administration missions are thus clearly not the first examples of significant international involvement in governance at the domestic level. The extensive operations that have taken place since the 1990s, both under the auspices of the UN and outside it, have precedents in international history that frequently involved similar domestic circumstances

[6] Harold Karan Jacobson, 'ONUC's Civilian Operations: State-Preserving and State-Building', *World Politics*, Vol. 17, No. 1, 1964, 75–107.

[7] William J. Durch, 'UN Temporary Executive Authority', in Durch (ed.), *The Evolution of UN Peacekeeping*.

and comparable forms of international engagement. Yet the reasons for the renewed emergence of such international administration in the 1990s cannot be understood purely by examining these previous examples. By the 1970s, the Trusteeship System was in decline and the difficult experiences of the Congo mission, along with Cold War imperatives, limited the UN's appetite for further large-scale intervention. It was only once the restrictive context of the Cold War international system changed at the end of the 1980s that international attention, primarily that of the UN, once again turned to the possibility of externally administering individual territories.

With the collapse of the Soviet Union and the emergence of a new foreign affairs doctrine in Moscow, relations among the Permanent Five members of the UN Security Council thawed considerably, and the use of the veto in the Council reduced significantly.[8] This was coupled with a shift in the norms of international intervention, as the traditional concept of sovereignty, entailing the principle of non-intervention, was redefined to incorporate considerations of the responsibilities as well as rights of statehood.[9] The result was an increasingly active UN Security Council, which in the early years of the 1990s re-interpreted its responsibilities in relation to international peace and security and authorized multilateral operations that related not just to disputes at an international level, but also to intrastate conflicts and their 'spillover' effects, such as the humanitarian crises of mass starvation and large-scale refugee movements.[10] New operations, such as those of Mozambique and El Salvador, used a 'multidimensional' approach that sought not only to observe ceasefires, but also to tackle the roots of the conflict itself by addressing a wide range of issues including demilitarization of warring parties, repatriation of refugees and support for the holding of democratic elections. Others, in cases like Iraq (1991), Somalia, and Yugoslavia went further still by introducing the use of force to impose peace (although with limited success).[11]

It was in this context of multidimensional action by the UN that the contemporary forms of transitional administration emerged. In some territories, the extent of the problems that existed during the 1990s prompted

[8] While the veto had been used 193 times before 1990, between 1990 and 2003 it was used just twelve times. See David M. Malone, 'Introduction', in Malone, *The UN Security Council: From the Cold War to the 21st Century* (Lynne Rienner, 2004), pp. 5, 7.

[9] See J. Samuel Barkin, 'The Evolution of the Constitution of Sovereignty and the Emergence of Human Rights Norms', *Millennium: Journal of International Studies,* Vol. 27, No. 2, 1998, pp. 229–252.

[10] Michael W. Doyle, 'The New Interventionism' in *Metaphilosophy*, Vol. 32, Nos. 1–2, January 2001, pp. 212–235; and James Mayall, 'Introduction', in Mayall (ed.), *The New Interventionism 1991–1994: United Nations Experience in Cambodia, Former Yugoslavia and Somalia* (Cambridge University Press, 1996).

[11] See Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford University Press, 2001), chapter 4.

international authorities to embark on international engagement that went beyond even the new expanded form of multidimensional operation. Four issues in particular prompted this level of international involvement, those of disputed sovereignty, state failure, civil conflict and the abuse of state power, with each rarely occurring in isolation.[12] More importantly, spanning these distinct difficulties was a further underlying reason for the establishment of international administration operations: the realization that the severity of these problems was such that they were highly unlikely to be resolved by local actors. When international administrations were mandated, they were ultimately prompted not just by the existence of severe domestic crises, but also by the fact that there was either a lack of local capacity or a lack of local willingness to deal with them.

Such considerations not only raised concerns on humanitarian bases, but also in terms of national interests. With severe domestic crises threatening to spill across borders and in many places threaten regional stability, international organizations had incentives not only to intervene on humanitarian grounds, but also to protect the security interests of their member states.[13] Shifts in behaviour within the international community have also been complemented by shifts in thinking within academia, as a new consensus emerged suggesting that large-scale intervention in cases of state failure and entrenched civil conflict was justified, and that sovereignty both could and should be compromised, temporarily at least, so that international authorities could help restore order.[14]

It was thus the existence of a cluster of serious internal problems in certain territories or states that led to the authorization of international administrations, as the international community sought to address the problems at hand by assuming some or all of the governmental powers of the territory involved on a temporary basis, and directly addressing the problematic political challenges. Moving away from the extensive peacekeeping operations that were

---

[12] See Chesterman, *You the People*; Richard Caplan, *International Governance of War-Torn Territories* (Oxford University Press, 2005); and Ralph Wilde, 'From Danzig to East Timor'.

[13] On the combined role of humanitarian and national interest motivations for the authorization of international administration operations, see Caplan, *International Governance of War-Torn Territories*, pp. 10–11.

[14] See in particular Robert O. Keohane 'Political Authority After Intervention: Gradations in Sovereignty', and Michael Ignatieff, 'State Failure and Nation-Building', both in J. L. Holzgrefe and Robert O. Keohane *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge University Press, 2003). See also Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge: Cambridge University Press, 2004); James D. Fearon and David D. Laitin, 'Neotrusteeship and the Problem of Weak States', *International Security,* Vol. 28, No. 4, 2004, pp. 5–43; and Stephen D. Krasner, 'Sharing Sovereignty: New Institutions for Collapsed and Failing States', *International Security*, Vol. 29, No. 2, 2004, pp. 85–120.

common in the early 1990s, these more extensive missions mirrored the earlier international governance operations of the twentieth century by involving international authorities in direct administration of the territory involved by 'assuming some or all of the powers of the state on a temporary basis.'[15] As Caplan has observed, what distinguishes these contemporary administration operations from those of multidimensional peacekeeping is their responsibility for the functioning of the territory or state itself. Their most distinctive feature 'is the establishment of interim structures with broad responsibility for the management of public assets and the provision of public services – some of the core functions of a modern government.'[16]

International administration can also be contrasted with state-led occupation of territory, which often entails similarly significant levels of international governance at the domestic level and which has become the subject of intense focus in recent years after the US-led occupation of Iraq in 2003. While the two forms of intervention share significant commonalities, not least the direct involvement of international actors in domestic political and economic administration, they differ in relation to the nature of the international presence. While military occupation missions are generally state-led and involve a single state or coalition of states occupying and administering a territory for a period of time, international administration operations differ through the involvement and oversight of multilateral international organizations. These missions are not based purely on state action, but are both authorized and overseen by international bodies, thus providing a greater level of accountability and legitimacy to international administrators.[17] The UN in particular plays a key role here in establishing, supervising, and directing international administration missions, but other international bodies, such as the Peace Implementation Council that has overseen the Office of the High Representative in Bosnia, are also involved.

The first contemporary operation that signalled a return to large-scale international administration was that in Cambodia during 1992 and 1993. The UN Transitional Authority in Cambodia (UNTAC) was the largest and most extensive operation in the UN's history at the time of its creation. The Cambodian operation involved implementing a peace settlement after more than a decade of civil conflict, and the lack of trust between the various factions prompted the UN to assume responsibility for almost all aspects of

---

[15] See Chesterman, *You, The People*, p. 5.

[16] Caplan, *International Governance of War-Torn Territories*, p. 86.

[17] Ibid., pp. 3–4. See also the discussion of the legitimacy-enhancing functions of multilateral involvement in military occupations, in David M. Edelstein, 'Occupational Hazards: Why Military Occupations Succeed or Fail', *International Security*, Vol. 29, No. 1, Summer 2004, pp. 69–73.

the operation, 'stepping in to help rebuild the legitimacy of the state, after the parties had failed to achieve a reconciliation of their own.'[18]

The mandate given to UNTAC included aspects relating not just to military and security issues, but also to the conduct of free and fair general elections and the civil administration of key governmental functions.[19] UNTAC was mandated to control the areas of foreign affairs, national defence, finance, public security and information, as well to organize and conduct national democratic elections in a neutral environment that would bring about a legitimate democratic government to replace the UN mission.[20] In the electoral sphere, UNTAC's civil administration component was authorized to issue binding directives to enforce the mandate.

Also in the early 1990s, the dissolution of Yugoslavia prompted the creation of a number of international administration operations. The first was the European Union Administration of Mostar (EUAM), which was established in 1994 to administer the city of Mostar after it was divided by clashes between Bosnian Serb and Croat forces. This mission soon came under the remit of a new international operation in Bosnia, however, as the Dayton Agreement that provided for an end to the conflict in Bosnia established the Office of the High Representative (OHR). The Bosnian operation entailed the involvement of a wide range of international organizations, including NATO, the OSCE, and various UN agencies, in monitoring the implementation of the peace agreement, and in exercising decision-making powers in the spheres of peace-building, reconciliation, democratization and economic development. As its powers grew over time, the OHR gained considerable control over the nature of Bosnia's political development.[21]

A third administration operation based in the former Yugoslavia was established in 1996, over a dispute between Serbia and Croatia. During the war, Serb forces had occupied parts of the Croatian region of Eastern Slavonia, and at the peace talks of 1995 it was agreed that the region would be re-integrated into Croatian territory under international supervision. The United Nations Transitional Authority for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) was established in January 1996 to administer the region for a fixed period of time before the final transfer was to be made and was tasked with the primary military goal of demobilization of armed

---

[18] Michael W. Doyle, 'War and Peace in Cambodia', in Barbara Walter and Jack Synder, *Civil Wars, Insecurity and Intervention* (Columbia University Press, 1999), p. 184.

[19] Michael W. Doyle, Ian Johnstone and Robert C. Orr, *Keeping the Peace: Multidimensional UN Operations in Cambodia and El Salvador* (Cambridge University Press, 1997).

[20] UN Security Council Resolution 745, S/RES/745, 28 February 1992.

[21] See General Framework Agreement for Peace in Bosnia and Herzegovina, reprinted in OHR, *Bosnia and Herzegovina: Essential Texts,* fourth edition (Sarajevo: OHR, 2004).

forces, and the civilian objectives of establishing a neutral police force, carrying out civil administration, conducting local elections and overseeing economic development.[22] The goals and time frame were clearly specified and the UN had complete and unified authority over the military and civilian aspects of the operation. The operation lasted for two years, during which time peaceful local elections took place, and the territory was re-integrated without incident to Croatia in 1998.[23]

Such unqualified success has not been the fate of the mission in Kosovo, however, where following NATO military action against Serbia in the spring of 1999 the international community established a complex interim administration for the territory, the United Nations Interim Administration Mission in Kosovo (UNMIK).[24] The UNMIK mission represented a response to the Serb-led campaign of violence and ethnic cleansing against the Albanian population in Kosovo, and the perceived need to halt direct Serb rule in the area. With a complete absence of local trust between the Albanian and Serb communities, along with inter-community violence and fundamental divisions about the future status of the entity, international administration was seen as an essential interim measure before Kosovo's final status could be determined.[25] The UN was joined in the operation by the European Union, the Organization for Security and Co-operation in Europe and the UNHCR, each of which was in charge of a core 'pillar' of the mission. Still ongoing, UNMIK's continued challenge is navigating political development in Kosovo under circumstances where the final status of the region has remained controversial.

In the same year as the mission in Kosovo was established, a political crisis and the outbreak of violence in East Timor led to the authorization of another major UN-led administration by the Security Council. Facing a context of violence and destruction following the 1999 independence referendum, along with an incapacitated economic and administrative infrastructure, the UN established the United Nations Transitional Administration in East Timor (UNTAET). Over the next two and a half years, UNTAET held full executive and legislative authority and oversaw East Timor's transfer to independent statehood.[26]

As can be seen from this overview, the international community has been extremely active in the internal affairs of political entities (states or otherwise) since the early decades of the twentieth century. In a wide range of cases and

[22] UN Security Council Resolution 1037, S/RES/1037, 15 January 1996.
[23] Chesterman, *You, The People*, p. 70.
[24] UN Security Council Resolution 1244, S/RES/1244, 10 June 1999.
[25] See the Independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford University Press, 2000).
[26] UN Security Council Resolution 1272, S/RES/1272, 25 October 1999.

responding to a range of crises, international actors have administered terri-
tory and attempted to guide and monitor domestic political development.
Over time, international administration missions have also become more
ambitious, broadening their objectives to the point where some contempor-
ary operations have entailed international involvement in every aspect of
government and have sought to build fully functioning independent states
in contexts with little experience of self-government.

   Of the many functions that contemporary international administration op-
erations seek to pursue, this book is particularly concerned with activities of
international authorities that have entailed democratic regime-building efforts.
This intensive commitment to a particular regime type reflects a significant shift
in the activities and priorities of international actors. The next section explores
this development in more detail by tracing the rise in stature of democracy as a
form of government, examining the growth of international democracy pro-
motion, and exploring the democratic regime-building goals in the three key
cases that form of the basis of the empirical chapters to come.

1.3. THE RISE OF INTERNATIONAL
DEMOCRACY PROMOTION

As events in the 1990s demonstrated an increasing international willingness to
intervene in the domestic affairs of states in order to promote peace, stability
and political change, so too did they reveal a rising emphasis on the devel-
opment of democracy as a specific goal of that intervention. Towards the end
of the twentieth century, democracy widely came to be seen as the most
appropriate and legitimate form of government and also became increasingly
prevalent as the political system chosen by states as their form of government.
By one count, the number of electoral democracies grew from 76 in 1990 to
121 in 2007, signalling a profound shift in the relationship of governments to
their populations.[27] Alternatives to democracy also began to lose legitimacy
throughout the international environment. Whereas democracy had faced the
competing ideologies of communism and fascism during the interwar years
and had been pitted against communism directly through superpower rivalry
during the Cold War, by the late 1980s it was largely pre-eminent as an
ideological basis for government. The fall of the Soviet Union and the collapse
of communist rule in the Soviet Union successor states added a swath of new

---

[27] See Freedom House, 'Freedom in the World 2008: Selected Data from Freedom House's
Annual Global Survey Of Political Rights And Civil Liberties', 2008. See www.freedomhouse.org

countries to the 'third wave' of democratization and further bolstered democracy's stature as a form of government.[28] This combination of the spread of democracy among states and the steady rise of democracy as ideology combined to make democracy 'the world's most valued political system.'[29]

Furthermore, democratic government came to be seen not only as a benefit in itself, but also a means to other desirable political goals.[30] First, democracy was increasingly recognized as a fundamental element of conflict resolution and long-term reconciliation. By channelling competition through non-violent institutions and providing diverse political parties with the hope of realizing their interests without resorting to force, democratic systems came to be seen as critical elements of post-conflict peace-building.[31] Similarly, the rise of the democratic peace theory, which suggests that democracies rarely if ever go to war with one another, meant international leaders began to see democracy promotion as a means to regional and international stability and peace.[32] The US Clinton Administration was explicit about this, making democracy promotion one of the three pillars of its national security programme given that 'democratic states are less likely to threaten our interests and more likely to cooperate with the United States to meet security threats and promote free trade and sustainable development.'[33] A similar position was taken by George W. Bush, who has cited the spread of freedom as a 'vital interest' of the US, and stated in 2005 that 'it is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.'[34]

Democracy has also come to be viewed as supportive of human rights and development, on the grounds that the accountability and openness that are integral to democratic governance leaves little room for systematic oppression of

---

[28] Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (The Johns Hopkins University Press, 1996), pp. 74–76.

[29] See Michael McFaul, 'Democracy Promotion as a World Value', *The Washington Quarterly*, Vol. 28, No. 1, Winter 2004–2005, 147–163.

[30] On the multiple goals and strategies of democracy promoters, see Peter Burnell, 'Political Strategies of External Support for Democratization', *Foreign Policy Analysis*, 2005, pp. 361–384.

[31] See for example, Terrence Lyons, 'The Role of Post-settlement Elections', in Stephen J. Stedman, Donald Rothchild and Elizabeth M. Cousens, *Ending Civil Wars: The Implementation of Peace Agreements* (Lynne Rienner Publishers, 2002); and Barbara Walter, 'Designing Transitions from Civil War', in *International Security*, Vol. 24, No. 1, 1999, pp. 127–155.

[32] For discussions of the democratic peace theory, see Bruce Russett, *Grasping the Democratic Peace* (Princeton University Press, 1993).

[33] Quoted in Gideon Rose, 'Democracy Promotion and American Foreign Policy: A Review Essay', *International Security*, Vol. 25, No. 3 (Winter 2000/01), p. 189.

[34] See the second inauguration address of George W. Bush, 20 January 2005. Speech available at: http://www.whitehouse.gov/inaugural/, accessed on 18 October 2006.

citizens and also enables those citizens to contribute to social and economic progress.[35]

To some, the shift that has taken place has culminated in the emergence of a 'right to democracy' enshrined in international law, although this has been a controversial issue and debates about 'democratic entitlement' are ongoing in legal and political fields.[36] It has also been suggested that this new international commitment to democracy is part of a broader shift within the international community, or at least among Western countries, towards a new 'standard of civilisation' that modern states are expected to meet. This standard is informally set as a benchmark for governance and development, imposing a moral duty on states to grant their citizens, among other things, the protection of human rights, effective administration and democratic government.[37]

As a result of these ideational shifts at the international level, there has been a similarly significant shift in international practice, with a steady rise of democracy promotion activities by an increasingly wide range of international actors. Some of the earliest examples of democracy promotion can be traced back to the 1960s, with the activities of the German Stiftungen, party foundations that provided political aid for democracy promotion abroad.[38] Developments in the 1970s further broadened the international commitment to democracy, with the foreign policy of the Jimmy Carter Presidency in the US dovetailing with the Helsinki Process to place a greater international emphasis on human rights and political freedoms. US policy was further developed under Ronald Reagan, who sought to promote democracy as a bulwark against the spread of communism and established the National Endowment for Democracy (NED) in 1983 to, among other things, provide financial support for pro-democratic groups abroad.[39]

By the 1990s, democracy promotion was not a rare endeavour but was being pursued by an increasingly wide number of international actors. Regional organizations in Europe, such as the European Union (EU) and the

---

[35] Kofi Annan, 'Democracy as an International Issue', *Global Governance*, Vol. 8, Issue 2, 2002, pp. 135–142.

[36] For the original statement on the issue, see Thomas Franck, 'The Emerging Right to Democratic Governance', *American Journal of International Law*, Vol. 86, January 1992, pp. 46–91. For subsequent discussions, see Gregory H. Fox and Brad R. Roth (eds), *Democratic Governance and International Law* (Cambridge University Press, 2000).

[37] See Zaum, *The Paradox of Sovereignty*, chapter 1.

[38] Peter Burnell, *Democracy Assistance: International Co-operation for Democratization* (Frank Cass, 2000), chapter 2.

[39] Samuel P. Huntington, *The Third Wave: Democratization in the Twentieth Century* (University of Oklahoma Press, 1991); and Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Carnegie Endowment for International Peace, 1999).

Council of Europe (CoE), expanded their activities in the area and developed strong democracy promotion policies. Both the EU and CoE also linked democracy with membership and made democratic government a requirement for applicant countries.[40]

Moves also took places outside Europe, with both the Organization of American States (OAS) and the Southern Cone Common Market (MERCO-SUR) in Latin America introducing democratic conditionality provisions.[41] In Africa, developments were more limited but still significant, as the Organization of African Unity made statements in the late 1990s to discourage the overthrow of democratic governments, suggesting coup leaders would not be welcome at OAU summits.[42] The OAU's successor organization, the African Union, also pledges to support democracy and commits itself, on paper at least, to the 'condemnation and rejection of unconstitutional changes of governments' and the suspension of governments that have come to power by unconstitutional means.[43] The Commonwealth also agreed on the Harare Declaration in 1991, which pledged the organization to promoting democracy, and in 1995 it established a monitoring mechanism to identify violations of the Declaration.[44]

At the international level, six International Conferences on New and Restored Democracies have been held since 1988, with participation rates sharply increasing with each conference. Each conference has included states, international organizations and NGOs, and has sought to advance democratic ideals and promote international support for democracy. Similarly, a Community of Democracies was established in 2000 by over 100 states and presents itself as the only global forum whose sole purpose is to promote democratic development throughout the world. The Community seeks to consolidate existing democracies, encourage new democratic transitions and facilitate cooperation between democracies. While it has largely been an informal association of states, it is becoming increasingly institutionalized, and in 2007 announced plans to establish a permanent secretariat in Warsaw, the location of its first meeting.[45]

---

[40] On European efforts at democracy promotion, see Richard Youngs, *The European Union and the Promotion of Democracy* (Oxford University Press, 2002).

[41] Jon C. Pevehouse, *Democracy from Above: Regional Organizations and Democratization* (Cambridge University Press, 2005).

[42] Tom J. Farer, 'The Promotion of Democracy: International Law and Norms', in Edward Newman and Roland Rich, *The UN Role in Promoting Democracy: Between Ideals and Reality* (United Nations University Press, 2004).

[43] Constitutive Act of the African Union, Articles 4, 30.

[44] James Mayall, 'Democratizing the Commonwealth', in *International Affairs*, Vol. 74, No. 2, 1998, pp. 379–392.

[45] For more on the Community of Democracies, see www.state.gov/g/drl/c10790.htm

Some of the most significant changes with respect to international democracy promotion have taken place in the UN, which ended decades of neutrality on the issue of democracy and assumed a new role as one of the most important international actors in the democracy promotion arena. The following section explores this shift in more detail, before discussion turns to the particular democratic regime-building elements of recent international administration missions.

1.3.1. The UN and democracy

Since its inception, and derived from its founding Charter, the UN has traditionally been strongly associated with the principles of state sovereignty and non-intervention. Article 2 of the Charter explicitly places sovereignty at the centre of its conception of international politics and stipulates that 'Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.'[46] The promotion of democracy has thus been considered to be a problematic exercise for the UN, as it would clearly involve addressing the domestic political arrangements of member states. The Cold War also heightened disagreement within the UN system over the most appropriate form of government, and democracy promotion was thus an inherently contested subject.

Yet the UN system was not entirely inimical to democracy promotion, and the emphasis on self-determination that was enshrined in the UN Charter suggested a concern with democratic rights and freedoms.[47] With the easing of the Cold War in the late 1980s, the ideological obstacles to the promotion of democracy began to be lifted, and the UN began to shift both its thinking and activities in relation to the issue, moving away from its relatively rigid policies of the Cold War years.[48] One important signifier of this shift in the UN's position was a 1988 resolution by the General Assembly (GA) that explicitly stressed 'its conviction that periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed.'[49]

---

[46] See United Nations Charter, Article 2(7).

[47] Nigel D. White, 'The United Nations and Democracy Assistance: Developing Practice Within A Constitutional Framework', in Burnell, *Democracy Assistance: International Cooperation for Democratization.*

[48] For a comprehensive overview of this shift, see Caroline E. Lombardo, *The United Nations and Democratization, 1945–1996: Ideas, Institutions and Action*, D.Phil. Thesis, University of Oxford, 2004.

[49] General Assembly Resolution A/RES/43/157, 8 December 1988.

Yet, while this early GA resolution was path-breaking, it was also limited in scope and balanced with repeated references to state sovereignty and non-intervention. During the 1990s, however, the tenor of the annual GA elections resolutions began to shift, not least due to the appointment of a new and activist Secretary General, Boutros Boutros-Ghali, who was strongly committed to UN involvement in democracy promotion. His language increasingly referred to democracy and democratization, rather than simply elections, and over time his views began to affect the GA resolutions, which, by 1995, referred to assistance 'before and after elections,' and explicitly supported the 'promotion of democratisation.'[50]

Further support for democracy came in two pivotal reports of the Secretary General in the 1990s, the *Agenda for Peace* and the *Agenda for Democratization*. In his 1992 *Agenda for Peace*, Boutros-Ghali not only acknowledged conflict between the norms of sovereignty and self-determination, but also stated that 'respect for democratic principles at all levels of social existence is crucial: in communities, within States and within the community of States. Our constant duty should be to maintain the integrity of each while finding a balanced design for all.'[51] This was followed in 1996 with the *Agenda for Democratization*, which identified the emerging consensus on the desirability of democratic governance and outlined a key role for the UN in encouraging it. While emphasizing continued respect for sovereignty and non-intervention, and clearly stating that the UN should not be in the business of recommending particular models or templates of democracy, the report identified the increasing scope of member state requests for assistance in democratization processes and outlined a range of areas where the UN could play a role, including electoral assistance and institution-building.[52]

This increased commitment to a UN role in promoting democracy was also reflected in a second trend within the UN system since the late 1980s: the increase in operational involvement as well as rhetorical support for democratization.[53] In earlier stages of its activity, the UN has been involved in election assistance in the context of its Trusteeship system and thus had a considerable bank of experience in the area. The operational capacity was significantly expanded towards the end of the 1980s and 1990s, as the UN involved itself much more heavily in the practice of democracy promotion and began to become involved in member states as well as Trust territories. In 1989, the UN took over responsibility for transitional elections

---

[50] See for example, UN General Assembly Resolution, A/RES/49/190, 9 March 1995.

[51] See United Nations, 'An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping', Report of the Secretary-General, A/47/277–S/24111, 17 June 1992.

[52] United Nations, 'An Agenda for Democratization', A/51/761, 17 December 1996.

[53] Lombardo, *The United Nations and Democratization*, chapter 7.

in Namibia, a former mandate territory under the League of Nations that had become a de facto colony of South Africa. The UN operation in Namibia, UNTAG, was a significant departure for the UN in both size and scope, as the Organization not only organized and certified the election but also committed significant numbers of troops to ensure the environment was conducive to a free and fair vote.[54]

Also in 1989, the UN received its first request for election assistance from a member state, Nicaragua, and took a significant step in the development of its democracy promotion policy by agreeing to play a political role in the country. The Secretary General took the lead on the Nicaragua issue and without opposition from either the General Assembly or the Security Council decided to respond positively to the request and authorize a large-scale election verification mission that was to oversee the entire electoral process. This was to be the first of many UN electoral assistance operations in member states, and during the early 1990s, the electoral assistance division of the UN developed from a series of ad hoc responses to member state requests to an institutionalized set of electoral support programmes operating within a newly created Electoral Assistance Division. Other democracy promotion activities that were developed included support for democratic political culture, media, political parties and specialist assistance on institutional design issues.[55] The UN also established a UN Democracy Fund (UNDEF) in 2005 in order to provide funds for projects designed to support democracy. Since its creation, UNDEF has funded a wide range of country-based and global projects designed to facilitate democratization by, among other things, promoting political participation, human rights protection and civil society development. The UN itself now claims that it 'does more than any other single organization to promote and strengthen democratic institutions and practices around the world.'[56]

The extent of the break with traditional UN activities also became clear when the UN Security Council began to approve coercive intervention with the explicit aim of promoting, or at least restoring, democracy.[57] In two cases in particular, the UN used its Chapter VII powers to authorize the use of force for the purposes of re-establishing deposed democratic regimes, in both cases citing a 'threat to international peace and security.' In Haiti, a coup in 1991 that overthrew the democratically elected government of Jean-Bertrand Aristide

---

[54] Christopher C. Joyner, 'The United Nations and Democracy', *Global Governance*, Vol. 5, Issue 3, July–September 1999, pp. 333–357.

[55] Gregory H. Fox, 'Democratization', in Malone, *The UN Security Council: From the Cold War to the 21st Century*; and Joyner, 'The United Nations and Democracy'.

[56] See UNDEF website: www.un.org/democracyfund/XSituatingDemocracy.htm

[57] See Chesterman, *Just War or Just Peace?*, chapter 4.

ultimately led to a UN resolution in 1994 that authorized 'all necessary means' to restore the Aristide government.[58] This was followed in 1997 by a Security Council resolution that called for the military junta that took power in Sierra Leone in May 1997 to step aside and allow the pre-existing democratic government to be restored. The UN also authorized the Economic Community of West African States (ECOWAS) to cut off foreign supplies to the coup leaders, the Armed Forces Revolutionary Council, thus validating ECOWAS's use of force up to that point.[59] Both cases highlighted an increased willingness of the UN not only to promote democracy, but also to respond to threats to democracy with coercion for the purpose of ensuring its survival.[60]

Finally, and most relevant for this book, the UN has also authorized international administration operations that have entailed large-scale intervention in order to meet a wide range of objectives, including the establishment of democratic regimes. Going beyond the standard practices of democracy promotion, these operations have entailed direct oversight of and involvement in the processes of democratic transition.

Combined, these different developments and policies suggest a strong commitment to democracy promotion within the UN, but at the same time also hint at some of the limitations. The tension between the promotion of democracy and respect for sovereignty remains, and some UN member states are less comfortable with the new emphasis on democracy promotion. The UN Democracy Fund receives money from only a minority of UN states, and some members of the UN have criticized it for presuming to interfere in domestic politics. Furthermore, the activities of the UN Electoral Assistance Division are primarily reliant on the consent of target countries, and the UN generally has to be invited in by a member state in order to carry out its democracy promotion activities. When it pursues coercive intervention with democracy in mind, as in Haiti and Sierra Leone, there is clearly no guarantee of a successful outcome. Divisions within the UN over the emphasis on democracy and the very complexity of the process of regime change itself mean that the UN is not always in a position to act coherently on the question of democracy promotion and is not always able to act effectively. In cases of international administration, where levels of UN authority at the domestic level are highest, there is thus significant potential not only for success, but also for error and failure. The following section highlights more closely how in cases of international administration democracy has been a central objective, and the next chapter sets out in detail how this international role can be both

---

[58] See UN Security Council Resolution 940, S/RES/940, 31 July 1994.
[59] See UN Security Council Resolution 1132, S/RES/1132, 8 October 1997.
[60] Morton H. Halperin and Kristen Lomasney, 'Guaranteeing Democracy: A Review of the Record', *Journal of Democracy*, Vol. 9, No. 2, 1998, pp. 134–147.

conceptualized and theorized, taking into account the potential for both failure and success.

1.4. DEMOCRATIC REGIME-BUILDING

As outlined above, the re-emergence of international administrations in the 1990s was part of an expansion in activism of the Security Council and a response to severe domestic crises in troubled states and territories. Apart from their extensive levels of authority at the domestic level, one of the factors that distinguished some international administrations from other forms of multidimensional peacekeeping operations was a concern not just with the promotion of democracy, but with direct involvement in the establishment of new democratic political regimes.

The UN operations in East Timor and Kosovo were thus provided with explicit democratic regime-building mandates. In East Timor, UNTAET was established in order to prepare for East Timor's independence after nearly twenty-five years of Indonesian occupation and provide security and humanitarian assistance in the aftermath of widespread violence surrounding the independence referendum of 1999. Among other long-term goals, Security Council Resolution 1272 mandated the UN administration to 'support capacity-building for self-government' and consult and co-operate with the East Timorese people on the 'development of local democratic institutions.'[61]

Similarly, in Kosovo, the UNMIK mission was mandated to 'provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo.'[62] Although Kosovo's future status was inherently unclear, the UN and the OSCE made clear their intention to promote a strategy of 'democratization' in Kosovo.[63]

While the operation in Bosnia was not a UN operation, it too entailed explicit commitments to democracy and democratic regime-building. The international presence in Bosnia was established on the basis of the Dayton Agreement, a comprehensive peace agreement that covered a wide range of political and military issues. Along with provisions relating to the peaceful settlement of disputes, the return of refugees and economic matters, the agreement also included a number of references to democratic government.

[61] UN Security Council Resolution 1272, S/RES/1272, 25 October 1999.
[62] UN Security Council Resolution 1244, S/RES/1244, 10 June 1999.
[63] See UNMIK, 'Report of the Secretary-General Pursuant to Paragraph 10 of Security Council Resolution 1244', S/1999/672, 12 June 1999, para. 13.

The new Constitution of Bosnia and Herzegovina formed part of the Dayton Agreement and proclaimed that 'democratic governmental institutions and fair procedures best produce peaceful relations within a pluralist society,'[64] also stating simply and clearly that 'Bosnia and Herzegovina shall be a democratic state, which shall operate under the rule of law and with free and democratic elections.'[65] The OSCE in particular was given a significant role in the electoral arena, where international and domestic authorities were mandated to work together 'in order to promote free, fair, and democratic elections and to lay the foundation for representative government and ensure the progressive achievement of democratic goals throughout Bosnia and Herzegovina.'[66]

Democratic regime-building has thus been a central concern of each of the three cases examined here, with international actors aiming to oversee a process of regime change while enjoying extensive levels of authority. In contrast to earlier forms of external administration, international ambitions now often include the highly political and complex task of establishing democratic government where none existed before. As will be seen in the following chapters, this commitment to democracy can represent an important source of support to democratization processes and can entail international actors playing key roles in the democratic transition. Through their extensive authority at the domestic level and their explicit aims to promote democracy, international administrations can ensure that some avenues are closed off for those who would seek to undermine democratic development, and thus create opportunities for successful democratization that would otherwise not have existed.

Yet it is also the case that in each of the three cases of international administration examined here, democracy promotion has not been the only goal pursued by international authorities, and international authorities have generally pursued democratic regime-building in a wider context of peace- and state-building efforts. Democracy promotion has thus been prioritized alongside a range of other objectives, most notably those relating to conflict resolution and the strengthening of the state apparatus. As discussed above, the political crises that international administrations are created to address are often severe, and these unfavourable settings consequently pose particular challenges for would-be democratizers, both domestic and international.[67]

---

[64] Constitution of Bosnia and Herzegovina, General Framework Agreement for Peace, Annex 4, Preamble.

[65] Ibid., Article 1.2.

[66] General Framework Agreement for Peace, Annex 3.

[67] Laurence Whitehead, 'Democratization with the Benefit of Hindsight: The changing international components', in Newman and Rich, *The UN Role in Promoting Democracy*.

Post-conflict environments, for example, create difficulties for democratization given the lack of trust between former adversaries and the danger that political differences might lead to renewed conflict. Consequently, for democracy to be successful in post-conflict societies, domestic and international elites must find ways to increase the costs of the use of force and reduce the costs of electoral competition.[68] Similarly, if significant groups within the state question the boundaries of the territory or political community, the lack of state cohesion can pose a threat to democratic development even if there is no direct threat of violence.[69] Democracy also requires strong state institutions, and the lack of state capacity in these territories creates significant challenges for international authorities.[70] While democratic regime-building is a concept that can be explored separately from wider state-building efforts and analysed as a distinct category of international action, it is also the case that it concerns events that are intrinsically linked to the other activities entailed in broader state-building efforts. Democratic regime-building, if pursued successfully, can enhance overall state-building objectives, as democratic governments help overcome some of the problems associated with weak or failing states. Conversely, however, democratic regime-building efforts are unlikely to be successful if wider state-building efforts fail to make progress. Democracy can thrive in challenging settings, but will remain highly vulnerable if core state structures and institutions are under-developed or absent.

As a result of these multiple challenges, international administrations face a difficult task in achieving their ambitious mandates. At times, their various objectives are perfectly compatible with one another, and international activities can be co-ordinated to achieve multiple objectives simultaneously. On occasions, however, this multiplicity of goals can create tensions, as actions that might further one goal may undermine the promotion of alternative objectives, including democratic regime-building. Similarly, the very nature of international administration, entailing the use of executive authority by unelected external actors, can sometimes undermine the very democracy promotion goals that international authorities are striving to achieve.

The following chapter explores these complex and sometimes competing dynamics of international administration in greater detail and presents the theoretical framework through which the primary research question of this book will be examined in the subsequent empirical chapters.

---

[68] Nancy Bermeo, 'What the Democratization Literature Says—or Doesn't Say—About Postwar Democratization', *Global Governance*, Vol. 9, Issue 2, April–June, 2003, pp. 159–177.

[69] Linz and Stepan, *Problems of Democratic Transition and Consolidation*.

[70] On the importance of state capacity for democracy, see in particular Guillermo O'Donnell, 'On the State, Democratization, and Some Conceptual Problems: A Latin American view with Glances at Some Postcommunist Countries' in *Counterpoints: Selected Essays on Authoritarianism and Democratization* (University of Notre Dame Press, 1999).

Democratization Theory and International Administration

As discussed in the previous chapter, there is a vast literature that focuses on explaining the influences on and outcomes of democratization. Various elements of regime change have been examined, and numerous explanatory variables have been proposed to account for the variation in observed outcomes. The majority of this existing literature, however, has dealt with cases of transition that have taken place in relatively stable states, where intrusive international involvement in the processes of regime change has often been limited. Correspondingly, the majority of the theoretical insights that have been derived from these analyses prioritize domestic rather than international variables, in accounting for the similarities and variation that can be seen across diverse experience of democratic transition. This book, however, seeks to contribute to the increasing body of work that takes international variables into account in explaining regime change, and does so by exploring the theoretical implications of democratic development under external administration, where international variables clearly play a central role.

In this chapter, I both use and modify some of the concepts developed in the transitions literature in the past in order to develop a theoretical framework that can incorporate the extensive international involvement in these contexts. In particular, this involves re-examining the idea of the mode of transition, which has usually been accounted for with reference to domestic variables alone, and modifying it to incorporate the role of international actors. I also explore the particular mechanisms through which international forces influence domestic level politics, and highlight the unique role of international administrations in this respect. Finally, I identify three core arenas of democratic transition and highlight the key points of interaction in each arena between domestic and international forces. Before addressing the particular international influences on domestic politics, however, I first set out the parameters of the theoretical discussions to come.

2.1. DEMOCRATIC TRANSITION:
PROCESS AND OUTCOMES

It has often been said that democracy is an essentially contested concept, and that label can as easily be attached to its necessary predecessor, democratization. The two are in many ways inseparable, and the complexity that has plagued the effort to arrive at consensus concerning the definition of the former has also marked discussion of the latter. It is difficult, indeed, to discuss the concept of democratization without first having clarified a definition of democracy itself, and as Munck points out, one of the problems with previous efforts at theoretical development on this topic is the fact that different scholars have defined the underlying concept of democracy in different ways and left the implications of these definitions unexplored.[1]

In broad terms, the principal divide between different conceptions of democracy is that between those who favour a minimal and procedural definition that focuses on institutions and rules, and those who favour a more extensive definition that incorporates rights, freedoms and values. Huntington has made the distinction between procedural and normative approaches. The first, which Huntington favours, holds that the only definition that is helpful for the purposes of social scientific comparison is that which defines democracy in terms of its procedures and institutions, concepts that are empirical and descriptive and can form the basis of comparative analysis.[2] Consequently, Huntington follows a minimalist approach and defines democracy in narrow institutional terms that identify the popular election of top decision makers as the essence of democracy.[3] The second approach is broader, and defines democracy in terms of both institutions and practices. In this sense, democracy entails not only rules and elections, but also a range of essential freedoms that enable citizens to have their preferences weighted equally by the government of the day.[4]

The divide on this issue naturally has implications for discussions of democratization, as conflicting conceptions of democracy lead to conflicting conceptions of what is required of democratic transitions. For minimalists

[1] Gerardo L. Munck, 'The Regime Question: Theory Building in Democracy Studies', *World Politics*, Vol. 54, No. 1, 2001, pp. 119–144.

[2] Samuel P. Huntington, 'The Modest Meaning of Democracy', in Robert A. Pastor *Democracy in the Americas: Stopping the Pendulum* (Holmes and Meier, 1989).

[3] Samuel P. Huntington, *The Third Wave: Democratization in the Twentieth Century* (University of Oklahoma Press, 1991), chapter 1.

[4] See Philippe C. Schmitter and Terry Lynn Karl, 'What Democracy is . . . and is Not', *Journal of Democracy*, Vol. 2, No. 3, 1991, pp. 75–88.

such as Huntington, the requirements are purely procedural, and centre largely on the holding of free and fair elections. For others, democratization is a more extensive and open-ended process, measured over a lengthy period of time and with no clear or easily identifiable cut-off point.[5]

It is possible, however, to find a middle ground between these varying conceptions, and to reconcile the views of democratization as a short-term procedural or long-term substantive process through the practice of disaggregation. While democratization as broadly understood can be viewed as a long-term process with no fixed endpoint and with no inevitable progress towards democratic consolidation, it can nonetheless be fruitful to examine its separate stages and elements, and highlight quite distinct sub-processes that are significant in their own right. Such disaggregation has conventionally highlighted the three stages of authoritarian breakdown, democratic transition and democratic consolidation, although here the final stage is viewed as highly conditional and contingent and is referred to primarily as 'regime consolidation', thus acknowledging the empirical record of failed attempts at democratization.

This analysis focuses primarily on the middle stage, the period in which the new political system is established, and does so for two primary reasons. First, this approach allows for focused attention on the period of time in which international administrators are on the ground in the cases under examination, and thus furthers the research objective of the book, which is to examine the particular influences of this international presence on regime change dynamics. Second, this strategy of disaggregation also improves the prospects of theory building, as it enables the construction of causal explanations one step at a time, rather than through attempts at theorizing about a complex macro-political process as a whole.[6] Democratization is a complex and multi-faceted political process, and as this study is the first attempt to theorize about the impact of international administration missions on democratization politics, it therefore seeks a relatively limited goal in the first instance, and largely focuses on the central period of regime building. As will become clear, however, the book does not ignore regime consolidation entirely, and presents some more limited and tentative theoretical propositions concerning the international influence on consolidation as well as transition processes.

As the focus of the research question is directed primarily towards the regime-building process, much of the analysis concentrates on the elite

---

[5] See especially Laurence Whitehead, *Democratization: Theory and Experience* (Oxford University Press, 2002), chapter 1. See also Guillermo O'Donnell, 'Illusions About Consolidation', *Journal of Democracy*, Vol. 7, No. 2, 1996 pp. 34–51; and Thomas Carothers, 'The End of the Transition Paradigm', *Journal of Democracy*, Vol. 13, No. 1, 2002, pp. 5–21.

[6] Barabara Geddes, *Paradigms and Sandcastles: Theory Building and Research Design in Comparative Politics* (University of Michigan Press, 2003), p. 43.

dynamics that take place concerning the establishment of the rules and institutions of the new political system, and in particular, the interactions between international and domestic political actors that ultimately shape the mode of transition. Consequently, the study fits into the strand of research on regime change that has concentrated more closely on elite actions rather than structural variables as the key determinants of regime change.[7] However, the theoretical framework also seeks to assess the ways in which the mode of transition can contribute to post-transition regime consolidation, and in doing so highlights the important role of structural factors in presenting potential obstacles to the institutionalization of democratic practices. In particular, as the contexts in which international administration operations are established are likely to be particularly inhospitable ones, the book seeks to highlight key challenges of state capacity and state cohesion that even the most democratically committed elites will have to overcome if the overall democratization project is to be successful.

Finally, this book is particularly concerned with the process of democratization, rather than on the specific nature or quality of the regime that emerges from that process. While some studies in the literature define democratic transition in terms of its outcome (a democratic regime), another approach is to focus on the process of transition and how it may differ from context to context. One advantage of this process-based approach is that it becomes possible to identify transitions as they occur, and thus makes it possible to use the insights of the transitions literature to address cases that may otherwise be excluded from examination on the basis that a full transition has not taken place. This is particularly important for this study, which includes examination of two cases, Bosnia and Kosovo, where the transition periods are extended due to prolonged international presence, and thus where the processes of democratic transition are not yet complete. While political development in these cases may never ultimately result in successful democratic transitions, by using a process-based approach it is possible to examine them as cases of attempted democratic transitions. Yet this approach does not exclude consideration of outcomes entirely, and it also remains important to address the implications of different transition modes for regime consolidation. Consequently, each of the empirical chapters entails discussions on the nature of the regime that has been established, and the prospects for regime consolidation.

---

[7] For a review of this divide, see James Mahoney, 'Knowledge Accumulation in Comparative Historical Research: The Case of Democracy and Authoritarianism', in James Mahoney and Dietrich Rueschemeyer (eds), *Comparative Historical Analysis in the Social Sciences* (Cambridge University Press, 2003).

Overall, therefore, this study concentrates on the process of regime transition as the dependent variable, and focuses on the impact of international administration activities on the nature, or mode, of the political transition. Through an examination of the interaction between international and domestic elites, it seeks to highlight the nature of the international influence on the dynamics of regime change.

2.2. MECHANISMS OF INTERNATIONAL INFLUENCE

The existing literature on democratic transitions has already highlighted many ways in which international actors and environments can affect the politics of democratization, but I argue here that the extensive powers of international administrations provide these missions with a greater range of mechanisms through which to influence domestic politics during the transition phase than is available to other forms of international intervention. International administrations pursue a wide range of activities and enjoy a wide range of powers, and thus have the potential to effect changes in a number of different ways. Most importantly, in the context of international administration, external actors assume positions of power conventionally held by domestic elites, and in so doing gain the ability to affect political development in ways unavailable to international actors in more conventional settings. International administrators are in a position not only to pressurize or persuade local actors into changing their behaviour, but can also draft and impose their own solutions to political questions under discussion and thus remove the very need for any action on the part of domestic elites themselves.

To date, research within both comparative politics and international relations has identified a wide range of different mechanisms of international influence on domestic-level regime change.[8] A key distinction that can clarify these different international influences and the ways in which they operate in relation to domestic developments is that between direct and indirect international influences. The key variable here is actor intention, the presence or

---

[8] See especially Samuel P. Huntington, *The Third Wave: Democratization in the Twentieth Century* (University of Oklahoma Press, 1991), pp. 85–100; Geoffrey Pridham, 'International Influences and Democratic Transition: Problems of Theory and Practice in Linkage Politics', in Pridham (ed.), *Encouraging Democracy: The International Context of Regime Transition in Southern Europe* (Leicester University Press, 1991); Laurence Whitehead, *The International Dimensions of Democratization: Europe and The Americas* (Oxford University Press, 2001); and Jon C. Pevehouse, *Democracy from Above: Regional Organizations and Democratization* (Cambridge University Press, 2005).

absence of a particular policy linked to the regime type of a country or set of countries. The following section outlines the range of key mechanisms of international influence that have been identified in relation to democratization, highlighting both indirect and direct external influences on domestic democratic development.

2.2.1. Indirect mechanisms

One indirect influence identified by Juan Linz and Alfred Stepan is what they term *zeitgeist*, a variable probably best understood as a form of international political culture. Linz and Stepan argue that if the idea of democracy holds a strong position in an international ideological community, without competing alternatives, a country will have a greater chance of successful transition. The principal contrast is between the international political culture that exists today, and that which existed during the inter-war years in Europe, when both communism and fascism represented competing ideologies to democracy. The contemporary *zeitgeist* is seen to have contributed to a discrediting of non-democratic regimes in the contemporary environment, such as with Latin American military dictatorships and African one-party regimes.[9] As McFaul argues, 'democracy as an international norm is stronger today than ever, and democracy itself is widely regarded as an ideal system of government'.[10]

A second form of indirect international influence involves the diffusion of democracy from one area to another. Generally held to be most effective among countries within a single region, diffusion is particularly linked to the growth of interdependence, expanding modes of communication and the spread of information through international media. In this account, cross-border linkages connect policies or developments, and models in one environment can be accessed and observed from another. Individual leaders and policymakers can then use openly available information on political change and openness in other environments as cues and sources of emulation.[11] The consequence, it is argued, is a rate of democratization and distribution of democracy that is fundamentally structured by the international, and particularly, regional environment.[12]

[9] Linz and Stepan, *Problems of Democratic Transition and Consolidation*, p. 74.
[10] Michael McFaul, 'Democracy Promotion as a World Value', *The Washington Quarterly* Vol. 28, No. 1, Winter 2004–2005, pp. 147–163.
[11] Harvey Starr, 'Democratic Dominoes: Diffusion Approaches to the Spread of Democracy in the International System', *Journal of Conflict Resolution*, Vol. 35, No. 2, 1991, pp. 356–381.
[12] Kristian Skrede Gleditsch, *All International Politics is Local: The Diffusion of Conflict, Integration, and Democratization* (The University of Michigan Press, 2002).

An associated approach highlights the important role that 'linkage' to Western countries plays in undermining authoritarian regimes and increasing the likelihood of democratic transition.[13] In this account, regional proximity, shared histories or socio-economic development can lead to increased economic, social and political linkages between non-democratic regimes and Western states. As these linkages increase, they raise the costs of authoritarian repression by highlighting awareness of human rights violations in the West, increasing the importance of sustained cooperation of the ruling governments with Western governments and strengthening domestic opposition parties who may gain prestige from their associations with Western parties. The result is heightened sensitivity among non-democratic domestic elites regarding shifts in the regime's international image, and the creation of a range of pressure points where businesses, politicians, technocrats and others can help undermine the regime's authority.[14]

It has also been argued that international organizations can positively influence democratic transitions in indirect ways by facilitating a process of socialization. Membership of international organizations can involve routine interaction with elites from other fully democratic member states, and may result in the socialization of political factions in the values of democracy. For example, ruling military elites can develop new belief systems concerning the role of the military in the society through repeated interaction with military figures from democratic countries.[15]

2.2.2. Direct mechanisms

In each of the examples above, the mechanisms at work derive not from direct action by international agents, but from the transmission of ideas, experiences and norms across borders, that have the potential to change perceptions and subtly alter the balance of power between democratic and non-democratic forces. As well as these indirect influences, however, a number of more direct intentional effects on democratization have been identified that are derived from specific actions taken by states or international organizations.

[13] Geoffrey Pridham, 'International Influences and Democratic Transition: Problems of Theory and Practice in Linkage Politics', in Pridham (ed.), *Encouraging Democracy: The International Context of Regime Transition in Southern Europe* (Leicester University Press, 1991).

[14] Steven Levitsky and Lucan Way, 'International Linkage and Democratization', *Journal of Democracy*, Vol. 16, No. 3, July 2005, pp. 20–34.

[15] Jon C. Pevehouse, 'Democracy from the Outside-In? International Organizations and Democratization', *International Organization*, Vol. 56, No. 3, Summer 2002, pp. 515–549.

Democracy assistance is one that involves either unilateral or multilateral actors targeting particular countries and providing political aid for the specific purpose of promoting transition to, or consolidation of, democracy. Agents of democracy assistance range in identity, with the United States the largest unilateral actor and many more working through regional multilateral groups. Types of assistance in this area include financial aid to democratic political parties, advice on democratic politics and assistance in elections.[16] As Burnell points out, what distinguishes democracy assistance from other forms of international influence on democracy is that it recognizes that the main forces driving democratization are internal to the country in question, and focuses on supporting them.[17]

A more intrusive form of international influence, however, is political conditionality which differs from assistance in that it is not simply a one-way provision of aid and support, but is rather a two-way process between donor and recipient countries that involves some form of economic or political benefit only in return for domestic action on the development of democracy. Political conditionality sometimes involves the provision of economic assistance on the condition that the recipient countries meet some specific criteria in relation to levels of democratic government.[18] Similarly, international organizations such as the European Union commonly attach conditions to membership that provide incentives for candidate states to democratize and member states to refrain from moving towards authoritarianism. In particular, international organizations that already contain a large number of democracies are likely to place specific democracy-related conditions on membership, and are also more likely to enforce those conditions.[19]

Arguably, the most direct and forceful international influence identified in the literature concerns the international factor of control, entailing the use of force. As Whitehead points out, two-thirds of the democracies that existed in 1990 had come about in some measure due to deliberate acts of intervention by external actors.[20] Such acts can be varied, but will often fall into two camps.

---

[16] See Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Carnegie Endowment for International Peace, 1999); and Graham Allison and Robert Beschel, 'Can the United States Promote Democracy?', *Political Science Quarterly*, Vol. 107, No. 1, Spring 1992, pp. 81–98.

[17] Peter Burnell, 'Democracy Assistance: The State of the Discourse', in Burnell (ed.), *Democracy Assistance: International Co-operation for Democratization* (Frank Cass, 2000).

[18] Philippe C. Schmitter, 'The Influence of the International Context Upon the Choice of National Institutions and Policies in Neo-Democracies', in Whitehead, *The International Dimensions of Democratization*.

[19] Pevehouse, *Democracy from Above*, pp. 47–49.

[20] Laurence Whitehead, 'Three International Dimensions of Democratization', in Whitehead, *The International Dimensions of Democratization*.

On one side, international actors can contribute to democracy by removing an element of control, and thus allowing greater freedom for political development. This particular form of influence can be seen in relation to decolonization in the post-World War II period, and also the collapse of the Soviet Union in the 1980s and 1990s. The other form of influence involving international control has been the direct use of force in order to overturn a non-democratic government and install a democratic one, or to bolster a fragile democratic government when under threat from non-democratic forces.[21] The United States is a principal actor in this area, and it has used direct control, with mixed effects, to influence regime change in a number of countries, including Grenada, Panama, the Philippines, and most recently, Afghanistan and Iraq.

This brief survey highlights a number of the international variables and their mechanisms of influence on democratization. However, to date there has been very little focused attention given to the role of large-scale international administration missions in promoting democratic development,[22] and I suggest here that these missions may entail an extensive set of influences on regime change. In particular, I suggest that international administrations have access to forms of conditionality and control that are directly linked to the high levels of authority these missions enjoy at the domestic level, and thus unavailable to international actors in the context of other forms of international engagement.

In relation to conditionality, international administrations have in their power a significant 'reward' for domestic actors that they can use to extract particular political outcomes, namely the timing of their own withdrawal. As international administrations are by definition temporary operations, they can use the timing of their withdrawal, and thus the promise of independent self-government, as a tool to promote certain types of behaviour, making withdrawal conditional only on certain political outcomes. The involvement of international organizations in international administration can also entail a second form of conditionality, as bodies such as the European Union make membership conditionality an integral part of their role during the transition phase.

Aside from conditionality, international administrations also have extensive powers of control that go beyond those enjoyed by other types of international actor. When international administrators are deployed at the domestic level, they assume roles usually held by domestic actors, and are thus

---

[21] See Alfred Stepan, 'Paths Toward Re-democratization: Theoretical and Comparative Perspectives', in O'Donnell, Schmitter and Whitehead, *Transitions from Authoritarian Rule*.

[22] One exception is Laurence Whitehead, 'Democratization with the Benefit of Hindsight: The Changing International Components', in Edward Newman and Roland Rich (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality* (United Nations University Press, 2004).

in a position to have leverage over domestic actors and political outcomes through a number of direct mechanisms. These include:

– *agenda-setting powers*, which can enable transitional administrations to influence which issues are subject to discussion
– *veto powers*, which can include the ability to strike down laws that are proposed by domestic actors, and remove domestic officials from their positions of authority or prevent them from gaining positions of power in the first place
– *drafting powers*, where international actors can involve themselves in drafting basic legislation or more significant institutional provisions for the entity in question
– *imposition authority*, which provides international administrations with the ability to bypass domestic actors entirely and enforce measures they deem necessary.

Given these powers, the need for action on the part of domestic parties can sometimes be eliminated completely, as international administrators effectively replace domestic politicians and officials. Similarly, when domestic actors do make decisions, if they are not compatible with international priorities and interests, they can be overruled and essentially nullified.

Overall, therefore, international transitional administrations share both the intention and ability to influence the trajectory of political change during the transition period. The ultimate impact of these influences, however, varies from case to case. Not all international administrations are the same, and their influence is neither constant across time in each case nor across different arenas of the political system. More importantly, the impact of international administration activities is heavily mediated by domestic factors, which retain a fundamental role in the politics of political transition. The following section examines how best these dynamics can be captured, and argues that a pre-existing concept in the transitions literature – the mode of transition – needs to be reconceptualized to take into account the particular role of international administration operations and their role in democratic regime-building.

2.3. THE MODE OF TRANSITION: ACCOUNTING FOR PROCESSES AND OUTCOMES

An important feature of the recent spread of democracy has been that the processes of democratic transition have not been uniform across cases. Regime change can occur in a wide range of contexts, involve a similarly wide

range of political actors, and can progress by one of a limitless number of trajectories. Hence, the process of transition is almost guaranteed to vary from context to context and from case to case, and a key challenge is thus to analyse transition processes in a theoretically fruitful way in the face of so much variation. One effort to capture this diversity has been to categorize democratic transitions according to their mode, that is, their particular path from *ancien* to nascent regime. This approach has explicitly sought to focus on the process of transition itself, and account for the different ways in which democratic regime change can occur over time. Like much of the recent theoretical work in the transitions literature, it has placed a premium on the analysis of political actors and actions rather than broad social or economic structures, and has suggested that much of the explanatory power in explaining transition processes can be found in the manner in which elite (and sometimes mass) actions and interactions combine at the domestic level to shape political development. By distinguishing the different mix and interests of the actors involved from one transition to another, scholars have developed a number of categories of mode, with each different type of mode dependent on a different set of domestic features.[23] In one of the most influential contributions in this vein, Karl and Schmitter identify four 'ideal type' modes of transition, each based on a different combination of elite and mass actors and their strategies:

– Pact: when elites agree upon compromise among themselves
– Imposition: when elites use force unilaterally to bring about regime change
– Reform: when masses mobilize from below and leverage a compromised outcome without violence
– Revolution: when masses rise up in arms and defeat the previous authoritarian rulers militarily.[24]

While this account has been the most influential treatment of transition modes, other approaches have sought to develop alternative conceptualizations. Munck and Leff, for example, expand the categorization to incorporate three more modes, and focus on the division between incumbent and opposition

---

[23] See Terry Lynn Karl and Philippe C. Schmitter, 'Modes of Transition in Latin America, Southern and Eastern Europe', *International Social Science Journal*, Vol. 128, 1991, pp. 269–284; Alfred Stepan, 'Paths Toward Re-democratization: Theoretical and Comparative Perspectives', in O'Donnell, Schmitter and Whitehead, *Transitions from Authoritarian Rule*; Gerardo L. Munck and Carol Skalnik Leff, 'Modes of Transition and Democratization: South American and Eastern Europe in Comparative Perspective', *Comparative Politics*, Vol. 29, No. 3, 1997, pp. 343–362; Michael McFaul, 'The Fourth Wave of Democracy *and* Dictatorship: Noncooperative Transitions in the Postcommunist World', *World Politics*, Vol. 54, No. 2, 2002, pp. 212–244.

[24] Karl and Schmitter, 'Modes of Transition in Latin America, Southern and Eastern Europe'.

elites, rather than elites and masses more generally.[25] Michael McFaul also focuses on elites, and considers only three modes, imposition by democrats from below, imposition by authoritarian forces from above and stalemated transition (I explore the details of McFaul's conceptualization further below).[26] While many different modes have thus been identified in the literature, each serves the same purpose of capturing the variation in transition processes in a theoretically meaningful way. When the mode is taken as the dependent variable, it highlights the way in which the nature of the interaction between diverse political actors can influence the principal political processes of a particular case.

The mode has also been viewed as an independent as well as dependent variable, and as such it has been used to highlight the explanatory power of the path of transition itself in relation to transition outcomes and the potential for successful transition and consolidation of democracy. Each of the existing accounts of the mode of transition highlights this relationship, with different modes entailing different implications for the politics of regime consolidation. Schmitter and Karl, for example, suggest pacts are most likely to lead to stable democracy, impositions most likely to lead to restricted democracy, and revolutions most likely to lead to enduring patterns of non-democratic domination.[27] In contrast, McFaul underplays the role of pacts in transition, and suggests that democracy is likely to endure when democratic institutions are imposed by a dominant set of democratically committed political actors. Similarly, continued authoritarian rule is likely if elements of the old regime retain sufficient authority to impose non-democratic institutions. Where the balance of power is relatively equal between democratic and non-democratic forces, stalemate and conflict become likely, often resulting in the establishment of an unstable hybrid regime.[28]

One of the problems with the work on the mode of transition, however, is that it has focused almost entirely on domestic variables, and given little or no attention to international considerations and the ways in which international factors might affect transition processes. Yet it is the contention of this study that international variables can be crucial factors in shaping democratic transitions, and that in particular, international administration missions have specific implications for the processes of democratization that are not present with other, less intrusive, forms of international democracy promotion.

---

[25] Munck and Leff, 'Modes of Transition and Democratization'.

[26] McFaul, 'The Fourth Wave of Democracy *and* Dictatorship'.

[27] Karl and Schmitter, 'Modes of Transition in Latin America, Southern and Eastern Europe'.

[28] McFaul, 'The Fourth Wave of Democracy *and* Dictatorship'.

I thus argue that for these rare cases the concept of the mode of transition needs to be reconsidered and modified to take into account international as well as domestic dynamics. In the context of international administration, international actors play a role in the very governance of the territories in question, and are thus directly involved in the central processes of regime change. External elites explicitly promote the development of a democratic regime, interact with local actors, and often play roles that in more conventional cases are associated with domestic actors.

Yet concurrently, it is important to recognize that the status of the external actors always remains separate from that of their local counterparts. As Killick has highlighted with reference to international aid provision, international and domestic authorities retain separate identities and interests for a number of reasons. First, they have different histories and political origins, which can lead to contrasting perceptions regarding the desirability of political change. Second, the constituencies they need to satisfy are also separate, with domestic actors having to address the demands of local electorates, while international authorities are often accountable to international bodies such as the UN Security Council, which in turn are made up of individual states that have their own domestic electorates to consider. Third, the fact that one party to the relationship (the international authorities) does not bear the full consequences of its actions (for example, does not have to abide by institutional arrangements it recommends or imposes at the domestic level) gives rise to a separate set of attitudes regarding the risk and desirability of political change.[29]

I suggest that much of this complexity can be captured theoretically by viewing the interaction of these international actors with their domestic counterparts in terms of modes of transition. Rather than viewing a mode as a function of the relationships between domestic forces, in these cases it is more appropriate to view different modes of transition as a function of the identity of and interaction between both domestic and international elites. By pursuing this approach, the impact of the international presence on the processes of democratic transition can be incorporated into a theoretical account of the transition politics, which can in turn highlight the type of causal paths that can lead to democracy, or other regime types, in these contexts. It should also be noted that while some treatments of the mode of transition have used it to conceptualize the transition *from* authoritarian rule,[30] the primary focus here is on the mode of transition in the period after the prior non-democratic regime had fallen. In each of the cases examined here, the establishment of an international administration has represented a

[29] Tony Killick, *Aid and the Political Economy of Policy Change* (Routledge, 1998), chapter 4.
[30] See especially Munck and Leff.

clear break with the prior regime, and has initiated a separate process of regime building in a systematically altered political context. It is the particular international influence during this new stage of political development that is the primary focus here, and I thus take the mode of transition from establishment of international administration onwards to be the principal process of interest.

2.3.1. An international and domestic balance

The key question of this book, therefore, relates to the particular influence that international administrations have on the process of transition. In essence, as they constitute a core set of actors during the transition phase, in what ways do international administrators shape the transition mode? I argue here that the mode of transition in the context of international administration is a function of two separate factors: first, the presence of the international administrators, and second, the balance of authority and ideology among domestic elites.

As discussed above, conventional accounts of the mode of transition focus purely on domestic variables, and Michael McFaul in particular has argued persuasively that the key determinants of the transition process are the balance of ideology and power between different political elites. In this sense, the authority and political objectives of elites are crucial, as they are the factors which can determine whether democrats or autocrats are in a position to have the initiative in a period of regime change. Where the balance of power favours democrats, they will be able to impose the elements of a democratic political regime, and conversely, where those opposed to democratic reform wield the power during transition, they will use their authority to impose a set of institutions that restrict rather than facilitate political freedom. If there is a relatively even balance of power between the two, McFaul suggests the mode of transition will be marked by stalemate and potential conflict, as both sides struggle to gain the advantage. Each of these modes in turn has implications for regime stability and consolidation (see Table 2.1).

In the context of international administration, however, these dynamics cannot operate in isolation from the international presence. With international administrators assuming key political roles at the domestic level, the mode of transition becomes not just a function of the domestic balance of power, but of the interaction between international and domestic forces. The implications for thinking about the mode of transition in these terms can be seen in Table 2.2, which presents a theoretical framework that takes into account the presence of an international administration and its interaction with each of the three balance of power possibilities as originally envisaged by

Table 2.1. McFaul's causal paths[31]

Balance of Power ⇒ and Ideology	Mode ⇒	Regime Type
Democrats in position of authority	Imposed democracy	Stable democracy
Dictators in position of authority	Imposed autocracy	Stable dictatorship
Evenly balanced	Stalemated transition	Unstable illiberal democracy or dictatorship

Table 2.2. Modes of transition in the context of international administration

Balance of Power ⇒ and Ideology	Mode ⇒	Regime Type
Democrats in position of authority	Joint International/Domestic Pact	Stable democratic regime
Dictators in position of authority	International imposition	Fragile democratic regime
Evenly balanced	Joint Pact with Imposition	Fragile democratic regime

McFaul. It also explores the implications of the domestic and international interaction not only for the mode of transition, but also for regime type and the prospects for regime consolidation.

As can be seen, the incorporation of international administration leads to a separate set of modes, and a separate set of post-transition consolidation options. One of the most important aspects of the new table is that, unlike the McFaul model, there is no room in these contexts for the unilateral imposition of a non-democratic regime by domestic forces. In cases where the domestic balance of power favours those who would frustrate democratization, the presence of an international administration ensures that at least some form of democratic regime will be established.

In this respect, the presence of international administration operations thus reduces the scope for purely non-democratic transition modes. In conventional cases of democratization, where the transition period is dominated by domestic political actors, it often remains uncertain whether the interim forces will in fact permit elections to be held and allow for a democratic change in power, and transitions from authoritarian rule can

[31] Table adapted from McFaul, 'The Fourth Wave of Democracy *and* Dictatorship'.

quickly become transitions to another form of authoritarian rule.[32] In cases of international administration, however, the explicit democracy promotion agenda of the international administrators, along with their authority and resources, suggest that such outcomes are unlikely. In cases where the balance of power among domestic actors favours those who would frustrate democratic development, international administrators are in a position to veto their demands and resist the imposition of non-democratic institutions and government, and instead establish the core foundations of a democratic political system.

In contrast, where local actors are largely supportive of democracy, it is likely that interaction between international and domestic actors will lead to a mode of transition that entails some form of joint pact, as both sets of actors share a common aim and negotiate and agree upon a particular democratic regime. In the third situation, when the domestic distribution of power is evenly balanced, international authorities will tend to side with the democratic forces and seek to ensure that democratic measures are introduced in spite of the presence of powerful non-democratic actors. Thus the mode of transition will largely take the form of a joint pact, as international authorities and domestic democrats combine to introduce a democratic regime. Yet, the presence of non-democratic forces means that resistance to the democratic regime-building process may be strong in some quarters, and that international authorities may thus deem it necessary to impose elements of the transition when certain local actors are in a position to frustrate democratic development.

2.4. THE LIMITATIONS OF DEMOCRATIC REGIME-BUILDING

Incorporating the presence of international administration operations thus suggests that there are a different range of possible modes of transition in these contexts, and that international administrators play a central role in shaping transition politics. Furthermore, an initial look at Table 2.2 would suggest that the international impact on the transition phase is largely positive, as it can remove non-democratic options and thus increase the prospects of a successful democratic transition. While the modes outlined above are

---

[32] Yossi Shain and Juan Linz, *Between States: Interim Governments and Democratic Transitions* (Cambridge University Press, 1995), Introduction.

ideal types, they suggest a pattern in which the presence of international administration will contribute towards the establishment of a democratic political regime, even in unfavourable contexts.

Yet it is also the case that the influence of international administrations on the process of domestic development is not always positive, and that there is also no guarantee that any advantages it does bring to the process of democratic development will be enduring after international authorities withdraw. As such, I outline here three caveats to the discussions above that highlight both the potential side-effects and limitations of democratic regime-building in context of international administration.

First, it is important to note that there are several aspects of this form of international intervention that may have negative as well as positive effects on the politics of democratic development. While the presence of powerful international authorities with a mandate to promote democracy can further the project of democratic transition in contexts where it otherwise might have limited prospects, the prolonged use of executive powers by unelected international actors can sometimes lead to tensions with local counterparts, and also set a precedent for the use of executive office that runs counter to the norms and practices of democracy. With limited channels of representation and accountability linking international administrators to the populations they govern, external actors can undermine their own efforts to promote democracy by pursuing their policies through essentially undemocratic means.[33]

Similarly, international administrations are not single unitary actors, but rather consist of multiple international actors, often representing multiple international organizations. As a result, there is a risk that these multiple elements will work at cross-purposes to each other, and pursue competing objectives. Often, the various objectives of international administrators are perfectly compatible with one another, and international activities can be coordinated to achieve multiple objectives simultaneously. On occasions, however, the multiplicity of actors and goals can create tensions, as actions that might further one goal, such as the rule of law, may undermine the promotion of alternative objectives, including democratic regime-building.[34] For example, democracy promotion activities in Kosovo (see Chapter 4) often had to be

---

[33] These problems are a common theme of recent writings on international administration and state-building. See for example Richard Caplan, *International Governance of War-Torn Territories* (Oxford University Press, 2005), chapters 8 and 9; and Simon Chesterman *You, the People: The United Nations, Transitional Administration and State-Building* (Oxford University Press, 2004), Conclusion.

[34] On the dilemma of peace versus democracy objectives, see Eva Bertram, 'Reinventing Governments: On the Promise and Perils of United Nations Peacebuilding', *Journal of Conflict Resolution*, Vol. 39, No. 3, 1995, pp. 387–418.

compromised due to international divisions on the issue of Kosovo's status, and a subsequent reluctance to devolve extensive powers of self-government. The case studies highlight several instances in which international administrations have shaped domestic politics in ways that were both unintended and ultimately damaging to international objectives.

The second and third caveats relate to the fact that democratization is not, and cannot be, a purely top-down process. While international democratic regime-building efforts can close off space for non-democratic actors during the transition phase, and help ensure that at least the institutional foundations of a democratic regime are established, they cannot in themselves be the driving force behind a full and enduring process of democratization. For that, domestic political actors and contexts are critical, and once international authorities withdraw from their presence at the domestic level, it is these local factors that become paramount.

The second caveat thus relates to the enduring influence of the domestic elite landscape once international administrations withdraw. When post-transition political dynamics are considered, it becomes clear that the advantages for democratic transition that appear to be entailed in international administration, namely the reduced likelihood of the introduction of a new authoritarian regime, are somewhat qualified. As Table 2.2 highlights, when the domestic balance of power favours democratic forces, the result is likely to be stable democracy. This is in part because, as McFaul writes, what is most important for democratic transitions is that the powerful are committed to the democratic project.[35] In these contexts, even when the international administrations leave, the domestic landscape is dominated by those who are committed to democratic rule.

Thus, in contexts where the domestic political forces are deeply divided on the issue of political system, or when they largely favour non-democratic outcomes, the prospects of successful consolidation come into question. While international administrations can help ensure that some form of democratic regime is introduced during the transition period, once these operations withdraw, the international mechanisms of influence on domestic politics are also withdrawn, and domestic dynamics become paramount. In cases where domestic forces are dominated by, or evenly consist of, non-democratic forces, consolidation of a regime created in part by international intervention will be considerably more difficult. When international administrations leave, the powerful may no longer be committed to democracy, and consolidation may not follow transition.

---

[35] McFaul, 'The Fourth Wave of Democracy *and* Dictatorship', p. 225.

Indeed, much of the evidence from the third wave of democracy suggests that even where the institutions of formal democracy are put in place, rulers who are not committed to democracy can easily violate formal democratic rules and compromise democratic standards, thus introducing some form of 'hybrid regime'.[36] In these cases, the institutions of democracy are shown to co-exist with non-democratic behaviour, resulting in a form of 'competitive authoritarianism' that has more in common with authoritarian than democratic rule.[37] Path dependence may help reinforce certain democratic procedures, and ensure that at least some democratic practices continue beyond the transition phase, but in the context of a domestic balance of power that favours those who lack any commitment to democracy, institutional lock-in may be insufficient to guarantee democratic consolidation. International influence may therefore be more pronounced at the transition stage, as it reduces the transition options and ensures at least the architecture of democracy is put in place. However, democratic political development after international withdrawal may be subject to separate dynamics, with domestic rather than international factors determining the nature and direction of political development.

The final caveat regarding the influence of international administrations relates to more structural issues rather than the commitment of elite actors. As discussed above, while agency may be paramount during the transition period, particularly when international and domestic elites are interacting with one another over the foundational issues of the regime-building project, regime consolidation is dependent on more than just elite commitment. Structural variables are also important and are especially salient in contexts where international administrations are present, which are generally associated with severe domestic problems such as civil conflict or state weakness. Consequently, even where the dominant elites are committed to democracy, there may be significant obstacles in the way of the long-term consolidation of a democratic regime. Democratic regime-building is thus inextricably linked with wider state-building efforts, as it relies on the development of strong states in order to be sustainable in the long term.

One such state-related obstacle concerns the nature of state capacity, and particularly the extent to which the existing state apparatus has the resources and presence within a territory to maintain authority over and protect the political

---

[36] Larry Diamond, 'Elections without Democracy: Thinking about Hybrid Regimes', *Journal of Democracy*, Vol. 13, No. 2, 2002, pp. 21–35. See also Larry Diamond, *Developing Democracy: Toward Consolidation* (Johns Hopkins University Press, 1999).

[37] Steven Levitsky and Lucan A. Way, 'The Rise of Competitive Authoritarianism', *Journal of Democracy*, Vol. 13, No. 2, 2002, pp. 51–65.

community. State capacity is fundamental to the exercise of democracy; unless central state institutions can exercise authority throughout the territory over which they have jurisdiction, effective government will not be possible. In particular, liberal democratic rule requires that political rights and the rule of law can be enjoyed evenly across a given polity, and that state authorities provide both the legal foundations for this to take place and the mechanisms through which it can be enforced.[38] Democracy (and at times, peace) can thus be threatened when central state structures are weak, or when local state institutions and actors operate according to local priorities and refuse to work according to the rules or norms advocated by central government.[39]

In contexts that are the target of international administration, however, one of the problems is frequently the weakness, or entire absence, of central state institutions. As discussed, state-building is often the over-arching goal of international intervention in these cases, and regime-building is a part of that wider effort. When domestic institutions lack the ability to enforce democratic rights and freedoms throughout a territory, regime-building efforts will face significant long-term obstacles.

A second principal concern is the issue of state cohesion, and has been dealt with most extensively in the work of Linz and Stepan and their discussion of what they term as 'stateness' problems. These emerge when social divisions, for example, along ethnic or national lines, raise questions over the boundaries of the territory itself and the appropriate membership of the political community. Specifically, Linz and Stepan argue that the greater the percentage of people in a territory that do not wish to be members of the state as it exists in its current form, the harder it will be to consolidate democracy. If the population within a territory is divided along national, linguistic, religious or cultural cleavages, the challenge of reaching agreement on the fundamentals of democracy, especially citizenship rights, becomes more difficult.[40]

These problems are particularly pronounced in post-conflict contexts, and pose particular problems for two of the three cases examined here. Disagreement over the membership of the political community, as well as over the boundaries of the territorial unit, has been the hallmark of social and political divisions in both Bosnia and Kosovo, and presents fundamental challenges to long-term democratic consolidation.

---

[38] Francisco E. González and Desmond King, 'The State and Democratization: The United States in Comparative Perspective', *British Journal of Political Science*, Vol. 34, No. 2 (2004), p. 196.

[39] See Carrie Manning, 'Local Level Challenges to Post-conflict Peacebuilding', in *International Peacekeeping*, Vol. 10, No. 3, 2003, pp. 25–43.

[40] Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (The Johns Hopkins University Press, 1996), p. 29.

Regime transitions in the context of international administration thus face multiple challenges, and involved particularly complex interactions. The theoretical framework outlined here seeks to cut through some of these complexities by framing these quite unconventional cases of regime change in terms of the mode of transition, and exploring how international and domestic actors and contexts interact to shape the transition path. As this study represents the first comparative analysis of its kind that deals with democratization in these rare contexts, the aim here is to identify the key causal mechanisms that link international actions to domestic politics, and generate bounded generalizations rather than wide-ranging covering laws.[41] With such large-scale and complex political activities and processes as international state-building and regime change, it would not be possible to encapsulate their full interactions in one treatment alone. The analysis here thus addresses the regime-building activities of international administrations, and focuses in particular on the elite interactions that occur in the core period in which the structures of the new political regime are established. The findings derived from the empirical chapters to follow do not therefore represent the final word on these issues, but rather represent a set of conditional conclusions that will form part of the foundations upon which further and extended studies can be developed.

The difficulties in exploring the full implications of the political relationship of interest in these complex contexts are further complicated by the fact that there are very few cases of international administration in which democratic regime-building has been a primary objective, and that they include very recent developments. Indeed, two of the three cases examined here, Bosnia and Kosovo, are still subject to some form of international administration at the time of writing, and making final judgements about regime consolidation in such contexts is thus clearly difficult, if not impossible. Many of the observations made in the empirical chapters, especially concerning post-transition consolidation, are thus tentative in nature, and will need to be pursued further through follow-on studies.

2.5. ARENAS OF INTERNATIONAL INFLUENCE

Exploring the full impact of international administration on domestic contexts and actors, both positive and negative, requires examining the specific

---

[41] See Laurence Whithead, 'Comparative Politics: Democratization Studies', in Robert E. Goodin and Hans-Dieter Klingemann, *A New Handbook of Political Science* (Oxford University Press, 1996).

points of interaction between international and domestic actors in different arenas of transition. The case studies that follow each address three political arenas that are central to democratic transition, and that are subject to outside influence in the context of international efforts at democratic regime-building: the competition for elite access to power, the process of institutional design and the politics of founding democratic elections. Although there are many other issues that are relevant to the wider process of democratization, together these three arenas incorporate the central elements of democratic change in terms of elites and institutions, and thus provide the means by which to study the creation of a new regime. The following sections briefly examine each one of these central arenas in turn, and highlight the ways in which international administrators can interact with domestic actors as part of democratic regime-building and shape the central arenas of transition.

2.5.1. Elite access to power

As discussed above, the balance of power between domestic political groups, as well as their ideological stances, can be key determinants of the nature of the transition and its ultimate outcome. In cases of international administration, however, international actors themselves often attempt to alter the prevailing balance of local power in order to improve the position of those political elites deemed most in line with international goals.

In all, there are five separate mechanisms through which international administrations can influence the manner in which elites gain, and lose, power during the administration period. First, external administrators rarely exercise their authority without some level of contact and consultation with local actors, and one of the major roles of the intervening powers is thus to select local political interlocutors.[42] This choice is not necessarily an easy one, as it is often the case that many different domestic political groups lay claim to legitimacy, with no clear way prior to democratic elections of determining which parties do in fact enjoy local support.[43] Given the power of international administrations, their choice of interlocutors can therefore have important consequences. Not only can it confer legitimacy on some groups over others, it can directly involve them in the process of governance during the transition phase and provide a position of relative power compared to other political forces that could be advantageous once it is time for open elections.

---

[42] Chesterman, *You, The People*, chapter 4.
[43] Mark Baskin, 'Review Article: Post-conflict Administration and Reconstruction', *International Affairs*, Vol. 79, No. 1, 2003, pp. 161–170.

Second, international administrations can appoint members of domestic parties to key political positions, including positions that are usually filled by public elections. Correspondingly, the third route available for international authorities to act as gatekeepers to power is to dismiss officials from office in an effort to remove those who do not share international priorities from the political scene. Similarly, international actors can also vet domestic politicians before they are allowed either to run for office or take up ministerial positions. This represents a preventative mechanism used to pre-empt potential problems and to ensure that the difficulties that lead to the need for dismissals are overcome at source.

Finally, international administrations are also in a position to involve themselves directly in one of the most important elements of domestic politics: post-election coalition formation. Recent studies of coalition formation emphasize the role of strategic interaction between various elected political parties, as they negotiate over membership of a coalition and an agreed programme for a term in office.[44] But in the context of international administration, domestic parties must interact and negotiate not only among themselves, but also with the external authorities. In particular, international administrations have the ability to veto certain coalition options, using the authority they have to ensure certain parties are excluded from the government. Conversely, however, international administrations can also use more indirect means to facilitate rather than veto certain options, and can use persuasion or mediation in an attempt to bring certain broad and inclusive coalitions about.

2.5.2. Institutional design

Another central arena of democratic transition is that which involves the negotiations that develop among political forces over the rules and institutions of the new regime. Under debate are the rules that will govern not just the remainder of the transition period, but also the operation of the future political system. As is well documented in the literature on institutional choice and design, a wide array of institutional options exist for political actors to consider, most of which carry with them significant implications for the nature of political competition and governmental style in any new democratic regime.[45] Major design issues include choices regarding the form of

[44] Wolfgang C. Müller and Kaare Strøm, *Coalition Governments in Western Europe* (Oxford University Press, 2000).

[45] See Arend Lijphart and Carlos Waisman (eds), *Institutional Design in New Democracies, Eastern Europe and Latin America* (Westview Press, 1996).

representation and the location of authority within the political system, with choices between federal or unitary, or parliamentary or presidential structures having the potential to affect the nature and style of government.[46] Often these institutional decisions are made in the context of the drafting of an entirely new constitution.

When it comes to the design and creation of these new political institutions in the context of international administration, international actors can play a major part in decisions that are more usually viewed as the work of domestic actors alone. On one level, international forces may influence institutional design by shaping the environment in which domestic actors develop the new rules of the game.[47] Their executive authority and agenda setting roles enable external administrations to reduce the scope for opponents of democracy, and remove certain non-democratic options from the choices available to local actors. With a powerful authority that can veto proposals from domestic actors, the possibility of institutional choices leading to the preservation of 'reserve domains', areas where democratic politics do not apply, is considerably lessened.[48] In such an environment, domestic actors will be reluctant to propose measures that are likely to be vetoed, and such actors may also refrain from pursuing their real preferences in an environment where the prevalent political discourse is well informed by the norms of democracy.

In some situations, international actors play a larger role in this arena by taking the lead in creating certain institutions themselves. This involves international agents not simply advising domestic parties on technical issues or suggesting particular institutional forms, but rather authoring the very legal provisions that create the political institutions in question. This international mechanism of influence is sometimes shared with certain domestic actors, as they co-operate together in developing the rules of the new political regime, but in cases where domestic actors are opposed to international aims, international administrators are in a position to draft the measures unilaterally, and impose final outcomes according to their own preferences. International administrators can thus not only shape the environment of institutional design and influence the behaviour of domestic actors in this arena, but can also substitute international actions for domestic behaviour, thus essentially replacing domestic elites as the primary authors of the regime transition.

---

[46] See Arend Lijphart, 'Constitutional Design for Divided Societies', *Journal of Democracy*, Vol. 15, No. 2, 2004, pp. 96–109; and Matthew S. Shugart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge University Press, 1992).

[47] On the importance of the institutional design environment, see Linz and Stepan, *Problems of Democratic Transition and Consolidation*, pp. 81–83.

[48] Ibid.

2.5.3. Electoral arena

Often the last process to be completed in the period of democratic transition is that of organizing and holding free and fair elections. However, one of the biggest questions during regime transition, and particularly in post-conflict situations, is often whether elections will actually be held, and if so, whether they will be free and fair.[49] In contexts where electoral competitors have recently fought each other at war, they may perceive the costs of electoral competition to be too high, and may seek to eliminate the uncertainty that comes with elections by subverting the democratic process.[50] International administrations, however, are in a particularly strong position to influence developments in this arena, as the holding of founding elections is frequently one of their central aims, and these operations are usually in a position to ensure that elections not only take place but that their administration meets international standards.

There are three further issues regarding electoral politics in transitional contexts that international administrations are also in a position to influence. The first relates to the timing of elections, which is one of the most significant decisions to be made in relation to the election process in post-conflict settings. The experience of post-conflict elections suggests that setting the timing of the elections too soon can favour those forces that still rely on the structures of war, and can thus entrench and legitimize the power of authoritarian parties.[51] Yet proposing a lengthy period of time prior to the first round of democratic elections also has problematic implications, as it prolongs the phase in which international administrations govern without local legitimacy or accountability, and can raise suspicions in some quarters about the democratic process. Considerations of timing are thus important factors in shaping the dynamics of political transition, and in the context of international administration such decisions are usually the preserve of the international authorities.

International administrations enjoy similar power in relation to the sequencing of elections, and have the authority to decide between the options of regional or national contests for the first competitive polls. Some argue that in divided societies going through transition, national elections should be held before regional elections in order to 'create all-union parties and an all-union

[49] Krishna Kumar (ed.), *Postconflict Elections, Democratization and International Assistance* (Lynne Rienner, 1998).

[50] Nancy Bermeo, 'What the Democratization Literature Says – or Doesn't Say – About Postwar Democratization', *Global Governance*, Vol. 9, No. 2, April–June 2003, pp. 159–177.

[51] Terrence Lyons, 'The Role of Postsettlement Elections', in Stephen John Stedman, Donald Rothchild and Elizabeth M. Cousens (eds), *Ending Civil Wars: The Implementation of Peace Agreements* (Lynne Rienner, 2002).

agenda'. If the first elections are regional, the argument suggests that there will be incentives for parties to focus on anti-state ethnic issues and contribute to a reduction in the legitimacy of the state.[52] Others, however, suggest that building democracy from the ground up is the best approach, and consequently place an emphasis on the advantages of starting with regional elections before moving to the national arena.[53] As with the issue of timing, the authority to decide this issue rests with the international administrators, and thus confers upon external actors significant influence on the way in which transitional politics will unfold.

Finally, another central element of electoral politics that international administrations deal with is the design of the electoral system. In relation to this issue, the authority and mechanisms of influence that are at the disposal of international administrations are similar to those discussed in the section above on institutional design: external actors can advise on the choices that exist, and if necessary can both draft and impose final electoral system choices. Recent practice suggests that international authorities have a clear preference for proportional over majoritarian systems,[54] and in the context of international administrations, external actors are in a position to introduce such systems even in the face of domestic opposition. Moreover, in cases where imposition is not required, international organizations involved in the administration nonetheless wield considerable influence over domestic choices, as they are usually involved in informing domestic actors of the electoral system choices available, and can thus determine what information local actors receive and structure their perceptions of the different alternatives on the table.

2.6. CONCLUSION

The argument presented here is that the context for democratic transition that exists in cases of international administration is systematically different from more conventional cases, where such extensive levels of international involvement are absent. With far-reaching political authority on the ground, coupled with explicit democratic regime-building policies, these international operations are in a position to play an integral role in the development of

---

[52] Juan J. Linz and Alfred Stepan, 'Political Identities and Electoral Sequences: Spain, the Soviet Union and Yugoslavia', *Daedalus*, 121, Spring 1992, pp. 123–139.

[53] Benjamin Reilly, 'Post-Conflict Elections: Constraints and Dangers', *International Peacekeeping*, Vol. 9, No. 2, 2002, pp. 118–139.

[54] Reilly, 'Post-conflict Elections'.

democracy. More specifically, it is the particular interaction between the international administrators and the domestic balance of power that determines the nature of the mode of regime transition. When domestic elites are favourable to democracy, international administrations can either work with them to co-author a new democratic regime, or monitor a domestically driven democratic transition. When dominant local parties are opposed to democratic development, however, international administrations may ultimately impose the institutions of a democratic regime against local resistance. In the latter cases, however, the prospects for consolidation are likely to be weaker, with a greater potential for hybrid rather than fully democratic regimes developing over time.

This chapter has also highlighted principal mechanisms by which international administrations can affect domestic politics. External actors can assume roles conventionally held by domestic actors, and have available to them mechanisms of influence on domestic democratic development that do not arise in other forms of international engagement. Among other things, international agents can limit political choices through agenda-setting and veto powers, and ultimately provide and enforce solutions through both drafting and imposition. These mechanisms, utilized in the core arenas of democratic development, enable international administrations to both guide and direct the processes of democratic development in ways simply not available to other forms of international engagement.

Following from the theoretical framework presented here, each case in the following chapters is examined with reference both to the domestic balance of power and ideology, and the international administration's democratic regime-building activities. Focusing on each of the three central arenas of regime transition outlined above, each chapter seeks to establish the impact of the interaction between international and domestic authorities on the mode of transition, with reference also to the implications for subsequent regime consolidation. The findings of the empirical chapters are then addressed together in the concluding chapter of the book, which seeks to identify the positive and negative impact of the practice of international administration on the process of regime change, and highlight the commonalities that exist between the three separate cases of external governance.

This page intentionally left blank

UNTAET in East Timor

Political developments in East Timor in recent years highlight many of the issues raised in the chapters above. In 1975, this former Portuguese colony declared independence, only to be the subject of military intervention and sustained occupation by its nearest neighbour, Indonesia. After nearly twenty-five years of Indonesian occupation, international factors played a significant role in bringing Jakarta's rule in East Timor to an end in the late 1990s, after which a UN administration assumed political authority from October 1999 to May 2002. This mission, the United Nations Transitional Administration in East Timor (UNTAET), oversaw a process of transition to democracy and independence in East Timor and international actors became central players in the processes of political change. At key junctures of the political transition international administrators directly affected the nature and pace of development within the territory, and contributed to the design and establishment of East Timor's nascent political regime.

Of the three cases examined here, East Timor is the only one in which the international administration has withdrawn and a transition to democracy has been largely completed. Unlike the experiences in Bosnia and Kosovo that will be examined in the coming chapters, the mode of transition in East Timor was relatively brief and primarily based on consensus rather than conflict or imposition. Although distinct tensions emerged between international and domestic actors, the transition process in East Timor entailed little serious political deadlock between international and domestic actors, and thus entailed limited imposition on the part of the international administrators. Indeed, the most critical element of the transition in East Timor, the drafting process of a new constitution, was largely domestically driven. Similarly, while the international administration in East Timor sought to guide and shape the nature and direction of the political transition, it never relied on the extensive levels of political conditionality used in the context of the Balkan administrations, and at no stage were the withdrawal of UNTAET or the granting of political independence to East Timor used as political tools to lever certain forms of political behaviour out of resistant domestic actors.

Consistent with the theoretical framework of this book, a principal explanation for this particular mode of transition can be found in the nature of East

Timor's domestic politics, and particularly the balance of power and ideology among domestic elites. Compared to both Bosnia and Kosovo, East Timor enjoyed a comparatively benign domestic political environment. Security problems in East Timor were derived from Indonesian occupation and its aftermath, rather than from deep internal cleavages within Timorese society itself, and the relative lack of political polarization in the country reduced the scope for conflict over the transition process. The political forces within East Timor were also largely united in their objective of achieving an independent and democratic state. Without fundamental political or ethnic cleavages, and with political goals that were largely consistent with those of the international community, domestic actors in East Timor were thus able to minimize international concerns about the risks of local self-government in the country and contribute to a largely consensual and pacted political transition. Events since 2002 have raised serious questions about the strength of the new political regime and the extent of political cohesion within East Timor, but during the transitional administration phase the political and social divisions that would later lead to political violence were latent rather than explicit.

Using documentary and elite interview data, this chapter analyses the process of democratic regime-building in East Timor, concentrating in particular on the period of administration by the UN mission between 1999 and 2002. To fully appreciate the dynamics of this period, however, it is also necessary to examine recent East Timorese political history, and the first section below outlines the core political developments in East Timor since 1975. The subsequent sections examine the nature of the international administration mission and its mandate, and explore developments within the three core arenas of regime transition, those of elite access to power, institution building, and the politics of founding elections. The chapter concludes with reflections on the nature of the mode of transition in East Timor and its implications for post-independence politics since 2002, which has seen the emergence of some significant challenges to stable democratic politics in the country.

3.1. DECOLONIZATION, INVASION, AND OCCUPATION

The seeds of modern East Timorese politics were germinated in the mid-1970s, after nearly four centuries of colonial rule by Portugal. In 1974, mid-level officers in the Portuguese army conducted a successful coup, and set about extricating Portugal from its colonial outposts.[1] The developments had

---

[1] James Dunn, *Timor: A People Betrayed* (The Jacaranda Press, 1983).

immediate effects in East Timor, creating a political vacuum in which a number of new local political parties established themselves for the first time in Timorese history.[2]

Three principal political parties emerged, each representing very different political aims. The Timorese Democratic Union (UDT) favoured continued affiliation with Portugal as an initial step before future independence. A small pro-integrationist party, the Popular Democratic Association of Timor (Apodeti), favoured becoming part of the Indonesian state before any moves in the direction of independence could take place. Both of these parties, however, were to become overshadowed by the Revolutionary Front for an Independent East Timor (Fretilin), which was highly influenced by the nationalist movements in Angola and Mozambique (both Portuguese colonies) and was firmly in favour of immediate and full independence for East Timor.[3] After local elections in July 1975 saw Fretilin win 55 per cent of the vote, violent conflict between the parties broke out, and Fretilin ultimately established itself by force as the ruling party, promptly declaring East Timor an independent state on 28 November 1975.[4]

However, Indonesia's Suharto regime was increasingly concerned by regional security and the possible spread of communism in South-East Asia, and initiated a propaganda campaign against Fretilin and its Marxist ideology, and initiated a full-scale armed invasion on 7 December 1975. By mid-1976, East Timor was comprehensively occupied, and the Indonesian government had ratified the integration of the territory as Indonesia's twenty-seventh province, a move Jakarta claimed was supported throughout East Timor. Over the next two decades, Indonesia subjected East Timor to a brutal occupation, with the Indonesian army spearheading a campaign of violence, including widespread torture and murder, to enhance the twin political goals of pacification and integration of Timor. Rather than succeeding in bringing East Timor closer to Indonesia, however, these methods sowed fear and distrust in the wider Timorese society, and led to the emergence of a well-organized resistance campaign which sought to end the military occupation through two primary means: armed resistance within East Timor, and diplomatic advocacy on the international stage.[5]

---

[2] Stephen McCloskey, 'Introduction: East Timor – From European to Third World Colonialism', in Paul Hainsworth and Stephen McCloskey (eds), *The East Timor Question: The Struggle for Independence from Indonesia* (I. B. Tauris Publishers, 2000).

[3] Dionisio Babo Soares, 'Political Developments Leading to The Referendum', in James F. Fox and Dionisio Babo Soares (eds), *Out of the Ashes: Destruction and Reconstruction of East Timor* (Crawford House Publishing, 2000).

[4] Peter Carey and G. Cater Bentley, *East Timor at the Crossroads: The Forging of a Nation* (Social Science Research Council, New York, 1995).

[5] For a comprehensive account of the occupation period that relies in large part on first-hand interviews with key participants, see 'The Report of the Commission for Reception, Truth, and Reconciliation Timor-Leste', 2005, available at www.etan.org/news/2006/cavr.htm.

By the late 1990s, the collapse of the Suharto regime in Indonesia and the increasing international concern about the nature of the occupation in East Timor led to a significant shift in Indonesian policy. Suharto's successor, B. J. Habibie, immediately initiated a process of democratization in Indonesia and a new approach to East Timor.[6] After a period of high-level international diplomacy, principally involving Indonesia, Portugal, which was still legally East Timor's administering power, and the United Nations, Habibie announced he was willing to allow a vote on autonomy in East Timor, and most importantly, that should the vote for autonomy be rejected, Indonesia would be willing to grant full independence.[7] These diplomatic developments culminated on 5 May 1999 in an agreement between Indonesia and Portugal, mediated by the United Nations, to hold a 'popular consultation' in East Timor on a position of autonomy within Indonesia, with the understanding that if the majority rejected the autonomy deal, independence would be allowed.[8]

It was at this point that UN intervention in East Timor first came onto the agenda, as it was agreed that the referendum, scheduled for August, would be organized and monitored by a UN operation, the United Nations Mission in East Timor (UNAMET). The most controversial aspect of the agreement, however, was the provision that responsibility for security would remain with the Indonesian military, a concession to Indonesia that would have drastic consequences. Once it became clear that the Timorese population had voted against the autonomy arrangement by a margin of 78 per cent, Indonesian-sponsored militia groups initiated a coordinated wave of attacks and began a period of intense violence involving both widespread murder and vast destruction to towns and infrastructure across the country. Through a 'scorched earth' policy, the capital Dili was decimated, an estimated 230,000 people were forced into refugee camps in West Timor, and a further 200,000 fled into the mountains in central East Timor.[9] Although Indonesia claimed not to be involved, and alleged that the violence was an understandable reaction of the East Timorese people to UN electoral fraud, all independent observers agreed the militia campaign was funded, supported and coordinated by the

---

[6] O. Tornquist, 'Dynamics of Indonesian Democratisation', *Third World Quarterly*, Vol. 21, No. 3, June 2000, pp. 383–423.

[7] Grayson J. Lloyd, 'The Diplomacy on East Timor: Indonesia, the United Nations and the International Community', in Fox and Babo Soares (eds), *Out of the Ashes: Destruction and Reconstruction of East Timor*.

[8] The vote was referred to as a 'popular consultation' due to Indonesian resistance to the term 'referendum'.

[9] Paul Hainsworth, 'Conclusion: East Timor After Suharto – A New Horizon', in Paul Hainsworth and Stephen McCloskey (eds), *The East Timor Question: The Struggle for Independence from Indonesia* (I. B. Tauris Publishers, 2000).

Indonesian military, which itself played a significant role in the violence and forced population displacement.[10]

As a result of the violence and refugee crisis, the United Nations significantly altered plans for its post-referendum presence in East Timor. The original agreement for United Nations involvement in East Timor envisaged the establishment of a mission to organize and conduct the referendum, to be followed, in the event of a vote for independence, by a small international presence for a short period of time that would make way for a larger-scale operation to assist with the transfer of sovereignty to East Timor.[11] After the violence, however, the Security Council dispatched an ambassadorial group to Dili, which immediately recommended the deployment of an international UN peacekeeping force. Although initially rejected out of hand by Indonesia and the military, the extent of international pressure, both moral and material, forced Habibie to agree on 12 September to an Australian-led multinational force in East Timor, INTERFET.[12]

The UN also decided that once the territory was secure, it would require full international administration. By October 1999, with peace achieved throughout the territory and the militias largely expelled to West Timor, the UN Security Council approved Resolution 1272 and established UNTAET. At this point, UNTAET replaced all authorities that previously had claims to the territory, including both Portugal and Indonesia, and East Timor officially came under the control of the United Nations.[13]

3.2. UNTAET AND DEMOCRATIC REGIME-BUILDING IN EAST TIMOR

Much of UNTAET's influence in the political sphere was derived from the authoritative nature of its mandate. The combination of circumstances that existed in the post-referendum setting, particularly the physical destruction, population displacement, and widespread insecurity, prompted the Security Council to authorize one of the most powerful missions in UN history.[14] The

---

[10] Harold Crouch, 'The TNI and East Timor Policy' in Fox and Babo Soares (eds), *Out of the Ashes: Destruction and Reconstruction of East Timor*; author interview with former UNAMET official.

[11] Jarat Chopra, 'The UN's Kingdom of East Timor', *Survival*, Vol. 43, No. 1, Spring 2000, pp. 27–40.

[12] Wheeler and Dunne, 'East Timor and the New Humanitarian Interventionism'.

[13] Chopra, 'The UN's Kingdom of East Timor'.

[14] Joel C. Beauvais, 'Benevolent Despotism: A Critique of UN State-Building in East Timor', *New York University Journal of International Law and Politics*, Vol. 33, 2001.

structure of the mission was also influenced by internal UN politics and the UN's perceptions regarding the situation it faced in East Timor. For the negotiations over the 5 May 1999 agreement and the organization of the August referendum, the UN's Department of Political Affairs (DPA) was the division in charge of UN operations. It led the UNAMET mission that oversaw the referendum process and had developed a significant degree of expertise regarding the East Timor situation after a number of years of coordinating UN diplomacy in the area. After the violence of September 1999, however, and the deployment of a large number of military troops under a UN mandate with INTERFET, the Department of Peacekeeping Operations (DPKO) in the United Nations gained a significant role, and after a protracted turf war within the United Nations, the DPKO assumed control of the new UNTAET mission. Authorized under Chapter VII of the UN Charter, UNTAET was empowered with overall responsibility for the administration of East Timor and the exercise of all legislative and executive authority, and was mandated to deal with a wide range of security, political and economic issues.[15] Among other things, the mission was mandated to:

- provide security and maintain law and order throughout the territory of East Timor
- establish an effective administration
- assist in the development of civil and social services
- ensure the coordination and delivery of humanitarian assistance, rehabilitation, and development assistance
- support capacity-building for self-government
- assist in the establishment of conditions for sustainable development.[16]

Further, UNTAET was structured around three main pillars – a governance and public administration component, a humanitarian assistance and emergency rehabilitation component, and a military component, with an overall strength of up to 8,950 troops and up to 200 military observers. A Brazilian diplomat, Sergio Vieira de Mello, was appointed as the Secretary-General's Special Representative (SRSG) in charge of the entire mission.[17]

Aside from core objectives of humanitarian relief and economic and infrastructural reconstruction, a fundamental part of UNTAET's mandate was directed at promoting East Timor's political development. With East Timorese 'self-government' one of its principal aims, the UN mission was charged with

[15] Boris Kondoch, 'The United Nations Administration of East Timor', *Journal of Conflict Resolution and Security Law*, Vol. 6, No. 2, 2001.

[16] UN Security Council Resolution 1272, S/RES/1272, 25 October 1999.

[17] Jarat Chopra, 'The UN's Kingdom of East Timor', *Survival*, Vol. 43, No. 1, Spring 2000; and UN Security Council Resolution 1272, S/RES/1272, 25 October 1999.

establishing the foundations of a future democratic government, and building not only democratic political institutions, but also the local capacity to use and maintain them. In order to carry out this and its other goals, UNTAET had been assigned an unprecedented extent of authority, and was authorized by the Security Council 'to take all necessary measures to fulfil its mandate' and to exercise all legislative and executive authority. From October 1999, therefore, East Timor's transition to democracy, a process that ran largely in parallel to its transition to independence, was in many respects coordinated and overseen by an international United Nations mission.

Yet the extent of the mandate also created certain problems during East Timor's transition, as the strength of UNTAET's authority led to dissatisfaction among the East Timorese political elite. Joel C. Beauvais has written of UNTAET's 'dual mandate', and the tension between its role and authority as the governing power of East Timor on one hand, and its task of preparing the territory for self-government on the other. Conceptually compatible, these separate mandates came into conflict on a practical level when it came to control over decision-making and allocation of resources, and local actors increasingly demanded greater self-government and political independence from the UN mission.[18] Part of the problem derived from the fact that the DPKO's initial approach to structuring the mission reflected its experience in peacekeeping contexts, while the situation in East Timor presented a somewhat different challenge.[19] Unlike with more conventional UN peacekeeping operations, which provided much of the model for UNTAET's mandate, the conditions in East Timor did not clearly constitute a post-conflict situation complete with formerly warring factions.[20] The root of the conflict during 1999 had largely been resolved, and one of the parties to earlier conflict, the Indonesian authorities and their proxy militias, had withdrawn from the territory.

Similarly, the population was largely supportive of the UN presence and East Timor had a largely united and moderate political leadership. As such, the domestic balance of power and ideology in East Timor firmly favoured those who supported democratic transition – all the significant parties in East Timor were unequivocally pro-democratic and were supportive of the democratic regime-building project. As a result, UNTAET soon found itself reassessing its initial approach, and modifying its interpretation of the mandate. While the political transition began as a UN-led process, it was not long before domestic

[18] Beauvais, 'Benevolent Despotism'.

[19] Astri Suhrke, 'Peacekeepers as Nation-builders: Dilemmas of the UN in East Timor', *International Peacekeeping*, Vol. 8, No. 4, winter 2001, pp. 1–20.

[20] Conflict, Security and Development Group, 'A Review of Peace Operations: A Case for Change. East Timor Report', King's College London, 10 March 2003, para 289, available at http://ipi.sspp.kcl.ac.uk/

political pressure, and UNTAET's own rethinking about the local context it faced, ensured that the nature of the international and domestic interaction shifted to entail a greater level of local involvement in the process of democratic regime-building. For the most critical periods of Timor's process of regime change, the mode of transition was thus closest to a joint pact between international and domestic actors, as local parties and UN administrators worked together to introduce the new structures of a democratic regime. By the final months of the UN presence, UNTAET even became a minor partner in the transition, observing but not intervening in the drafting of East Timor's new constitution.

The following sections outline in much closer detail how these dynamics unfolded, and how the core arenas of East Timor's regime transition were shaped in part by international administrators, and in part by domestic political forces. The next section explores how UNTAET sought to interact with local political forces in East Timor, and highlights the ways in which it mediated the access of local elites to political power, initially through selective selection of interlocutors and later by the promotion of the concept of national unity.

3.3. ELITE ACCESS TO POWER

UNTAET's experience in East Timor highlights the choice facing international administrations of how to liaise with local actors when their relative public support and legitimacy is not fully clear in the absence of democratic elections. Unlike the Balkan cases to be examined in the coming chapters, the political context in East Timor was generally dominated by those who were supportive of democratic norms and practices, and the UN mission did not have to deal with the presence of hard-line nationalist politicians and political parties who sought to act as spoilers to democratic political progress. Nonetheless, politics in East Timor was sufficiently diverse that UNTAET's decisions regarding its choice of interlocutors and its preference for working closely with some actors over others were not without political implications, and some of UNTAET's choices both created controversy and influenced the dynamics of political competition within East Timor during the transition period. UNTAET's activity in this arena entailed the selection of interlocutors during the period of international administration before elections were held, and also extended to the post-election environment, as UNTAET sought to

use its influence to shape the composition of East Timor's first elected government, and pursue a policy of promoting 'national unity' in East Timor.

3.3.1. Selection of local interlocutors

At the time of the 1999 referendum, the local forces in East Timor were largely united around the cause of independence from Indonesia, and there were few political cleavages other than those related to East Timor's international status. In the political arena, many of the political parties and individuals that dominated Timorese politics in the mid-1970s remained at the forefront of political activity. On the pro-independence side, Fretilin was still by far the largest part, although in the late 1990s it had come together with other political movements in East Timor to create the National Council of Timorese Resistance (CNRT). This umbrella coalition represented almost all of the political parties in the territory, and had a firmly pro-independence stance. Large and well mobilized, it held considerable moral authority as the front of the pro-independence resistance movement, and was led by the popular and well-respected former resistance fighter Xanana Gusmão. Having spear-headed East Timor's diplomatic and political resistance to Indonesian rule, it sought to present itself to the United Nations as the domestic 'government in waiting'.[21]

Yet the position of the CNRT raised difficult questions for UNTAET regarding the location of political support and legitimacy within East Timor. On one hand, the CNRT was a broad-based and inclusive umbrella organization that appeared to represent the full range of pro-independence political society within East Timor. It included a disparate range of parties and individuals of varying political persuasion, and it was the most well-established political organization in East Timor. At a convention in Darwin, Australia, in October 1999, the CNRT had also established a Transitional Council, composed of the CNRT's most senior figures, with the purpose of liaising with the United Nations during the period of international administration.[22] On the other hand, as the organization was formed to coordinate a struggle for independence, once the Indonesian occupation was over it was not fully clear on what basis the CNRT now represented the population. The group was also not without its internal divisions, and several senior members – especially the key figures of Xanana Gusmão and Fretilin's Mari Alkatiri – had troubled

---

[21] Sarah Niner, 'A Long Journey of Resistance: The Origins and Struggle of CNRT', in Tanter et al. (eds), *Bitter Flowers, Sweet Flowers: East Timor, Indonesia and the World Community.*

[22] Suhrke, 'Peacekeepers as Nation-builders', p. 9.

relationships with each other dating back to disagreements over resistance policies against the Indonesian occupation.[23] As such, it did not always act, and thus could not always be treated, as a unified and unitary actor. The political landscape was further complicated by the fact that new political parties were beginning to emerge, and a small number of pro-integration parties also existed who were clearly outside the CNRT framework.[24]

UNTAET thus faced a certain dilemma in its dealings with the CNRT, and local Timorese political parties more generally, as it sought to identify the appropriate interlocutors with which it would liaise. As with similar international administrations missions, UNTAET was mandated to engage with the local population, and Resolution 1272 stressed 'the need for UNTAET to consult and cooperate closely with the East Timorese people in order to carry out its mandate effectively with a view to the development of local democratic institutions'.[25] The key questions, therefore, were how the UN mission would undertake this consultation and cooperation, and who UNTAET would turn to as representatives of 'the East Timorese people', and the answers were initially unclear.

The UN itself was divided on the issue, with some quarters arguing that the CNRT was a legitimate and obvious interlocutor, while others questioned a reliance on a single political organization as a domestic partner. The UN's DPA had worked closely with the CNRT before and during 1999, and those in the UNAMET mission felt strongly that the organization was a legitimate representative of the vast majority of the Timorese population.[26] Yet DPKO, which was heading up the UNTAET mission, had limited direct experience of dealing with East Timor, and approached the political situation with many of the assumptions it held in relation to post-conflict situations, not least the need for UN neutrality. As a result, it objected to the notion of a privileged relationship with CNRT, which it initially viewed as a political party, and resisted efforts to have a partnership between UNTAET and the CNRT entrenched in Resolution 1272. Although the CNRT had established a Transitional Council and proposed a formal role for that Council in the transition period, the final UNTAET mandate did not include reference to the CNRT and did not specify any specific mechanism for consultation with local actors.[27]

---

[23] Gusmão left Fretilin in 1987 over doctrinal differences with the party leadership, especially Alkatiri. On the origins and implications of these divisions, see Dennis Shoesmith, 'Timor-Leste: Divided Leadership in a Semi-Presidential System', *Asian Survey*, Vol. XLIII, No. 2, March/April 2003, pp. 231–252.

[24] See Pat Walsh, 'East Timor's Political Parties and Groupings: Briefing Notes', Australian Council for Overseas Aid, April 2001.

[25] UN Security Council, Resolution 1272.

[26] Author interview with senior UNAMET official.

[27] Conflict, Security and Development Group, 'A Review of Peace', paras 291, 295.

Nonetheless, many UN staff on the ground in East Timor continued to argue that CNRT was not a political party that the United Nations should avoid association with on the grounds of neutrality, but rather an umbrella organization that included all the significant Timorese political parties that favoured independence from Indonesia.[28] These debates came to a head when UNTAET established its first interim consultative institution in East Timor in December 1999, the National Consultative Council, a fifteen-member body created for the 'purpose of establishing a consultative mechanism that ensures the participation of the East Timorese people in the decision-making process during the period of the transitional administration in East Timor'.[29] The process for selecting the membership of the National Consultative Council (NCC) was heavily mediated by the international authorities, and revealed a firm role for UNTAET in mediating local competition between political forces and in privileging some actors over others.

By this point, the head of the UNTAET mission, Sergio Vieira de Mello, had arrived in East Timor, and proceeded to take a direct role in taking two important decisions regarding the membership of the NCC. The first issue to be addressed was whether any of the pro-autonomy parties would be represented on the Council, as some in the CNRT initially opposed the idea of having pro-autonomy groups within the NCC. After the lengthy struggle for independence, and a successful referendum, many within the CNRT felt that only pro-independence forces should have a say in the post-referendum political structures. The United Nations, however, was particularly committed to promoting political reconciliation, and intervened to encourage inclusion of all sectors of Timorese political society in the Council.[30] Xanana Gusmão also favoured this approach, and along with the UN succeeded in persuading his more hard-line CNRT colleagues to accept the allocation of three of the ten Timorese seats to representatives of pro-autonomy parties, giving them a somewhat larger proportion of seats in the NCC than the proportion of the pro-autonomy vote in the August referendum.[31]

The second issue facing the new SRSG was the division within the United Nations on the approach to be taken to the CNRT. Although the DPKO had clear reservations about dealing exclusively with the CNRT, Vieira de Mello

[28] Author interview with former senior UNAMENT official.

[29] UNTAET Regulation 1999/2, 'On the Establishment of a National Consultative Council', 2 December 1999.

[30] See United Nations, 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2000/53, 26 January 2000, para 5.

[31] Author interview with former senior UNTAET official. The three pro-autonomy members were to be representatives from the Forces of the East Timorese People (BRTT), the Timorese Nationalist Party (PNT) and the Forum for Unity, Democracy and Justice (FPDK), although the latter did not take up its seat.

was of the view that it was a legitimate body to work with, and decided to allocate all seven seats reserved on the Council for pro-independence forces to representatives from the CNRT, thus in effect granting recognition to the CNRT as the sole representative of the pro-independence political society in East Timor.[32] According to one senior UNTAET official, the CNRT's role representing East Timor in international negotiations for a number of years prior to the 1999 referendum meant it came to be seen by the UNTAET leadership as the 'obvious choice' for the role of '*de facto . . .* chief interlocutor'. With a leadership that included well-known and moderate figures including Gusmão and the Nobel Peace Prize winner José Ramos-Horta, UNTAET also perceived a 'political affinity' between itself and its more like-minded counterparts within the coalition group.[33] As a result, the SRSG tended to work very closely with a select group of CNRT leaders, especially Xanana Gusmão, and when it came to creating the NCC, the CNRT leadership was allowed to nominate their own representatives.[34] The final choice reflected the extent to which East Timor's pro-independence political landscape had changed little since the mid-1970s, as many of the key political leaders in that period became representatives on the NCC, including Mari Alkatiri of Fretilin and Joao Carrascalao of the UDT.

Yet, this close relationship between the UN administration and the CNRT was not without implications. The relationship has been criticized by some for marginalizing elements of East Timorese political society and leading to a consolidation of power in the hands of a group of political parties whose legitimacy as representatives was unclear.[35] Before elections were held, at a stage when it could not be certain which political groupings were most representative of the wider Timorese population, the international administration provided significant informal influence over transitional policy to a select leadership of the CNRT. While there is no doubt that the CNRT and its leadership were extremely well known and popular within East Timor, its political basis for unity relied principally on opposition to Indonesian rule, and it was less clear whether its status within the transitional period accurately reflected the extent to which it was representative of the population on other political issues.[36] A particular example of the CNRT's questionable representative nature, derived mainly from the fact that its leadership was dominated by an

---

[32] Author interview with former senior UNTAET official.

[33] Anthony Goldstone, 'UNTAET with Hindsight: The Peculiarities of Politics in an Incomplete State', *Global Governance*, Vol. 10, No. 1, pp. 83–99.

[34] The only stipulation was that two of them should be women.

[35] Simon Chesterman, 'East Timor in Transition: Self-Determination, State-Building, and the United Nations', *International Peacekeeping*, Vol. 9, No. 1, pp. 45–76.

[36] Beauvais, 'Benevolent Despotism' p. 1162.

older generation that had grown up under Portuguese rule, was its decision in the summer of 2000 to specify Portuguese as the official language of East Timor, despite the fact that less than 10 per cent of the population, and almost no one under the age of 30, could understand it.[37]

Nonetheless, the relationship with the CNRT and its leadership continued in 2000 when a new set of interim institutions was established, although the exclusive reliance on the CNRT was reconsidered. Partly due to pressure from groups excluded from the NCC, in July 2000 the consultative body was replaced by a new, larger, and more authoritative National Council (NC), which would include representatives from wider civil and political society outside of the CNRT. At the same time, an eight-member Transitional Cabinet was introduced, to be composed of four Timorese members and four UNTAET officials (these institutions will be discussed further below).

In the selection of appointees for these two bodies, UNTAET sought to satisfy two conflicting aims, first, to strengthen its own legitimacy by introducing a greater degree of democratic politics to the political process, while at the same time preserving its final executive authority. With full elections still some way off, the NC was to be established only as an appointed body, but UNTAET officials tried to develop appointment procedures that would be 'approximations to democratic elections', and that would be 'the kind of undemocratic procedures that were good incremental steps toward democracy'.[38] Criteria of selection for the NC were drafted within UNTAET, with an emphasis on the qualities deemed to be required of legislators within a democratic system, such as patriotism and a willingness to compromise. UNTAET sought to be inclusive during the process, and incorporate members from a broad spectrum of East Timor's political society, but it ultimately had the authority to act as gatekeeper to the NCC and made choices that granted political representation to some sectors of political society and not others. According to one of its own senior officers, UNTAET's role in granting local access to the NCC on a selective basis raised questions about the democratic nature of the process and 'ran the risk of incrementally developing not democracy, but a corporatist alternative to democracy'.[39]

UNTAET also played a role in shaping the membership of the new transitional cabinet, and worked in particular with Gusmão to shape its composition and ensure broad participation. According to the Regulation that established the

[37] Chesterman, 'East Timor in Transition: Self-Determination, State-Building, and the United Nations'.

[38] Karol Soltan, 'The United Nations and the Development of Constitutional Order', unpublished paper, 2002, on file with author. Soltan was a senior political officer within UNTAET during 2000.

[39] Ibid.

cabinet, 'the Transitional Administrator shall appoint the Cabinet after appropriate consultation with representative East Timorese groups',[40] and the mission's Head of Political Affairs, Peter Galbraith, had also made clear that UNTAET would 'strive to create a provisional government of national unity', one that included the 'broadest possible spectrum of political life taking into account the dominant role of the CNRT'.[41] Consequently, UNTAET sought to ensure that the cabinet was a broad-based one, and not dominated by any single political faction.[42] In keeping with its close relationship with the CNRT leadership, it also left the selection of the four domestic ministers largely to Xanana Gusmão[43]—although UNTAET retained the right to veto local nominations for ministerial positions, it was happy with the proposed individuals and its only stipulation was that at least one of the local cabinet members should be a woman.[44] Two of the chosen ministers were Fretilin members (Ana Pessoa and Mari Alkatiri) and one was the head of the UDT party (João Carrascalão). The final representative came from outside the political establishment, with Filomeno Jacob of the Catholic Church taking the fourth post. José Ramos-Horta also joined the cabinet in October 2000, becoming East Timor's first foreign minister.[45]

UNTAET was thus intrinsically involved in mediating the access of local parties and politicians to key positions of authority in the period before democratic elections, and used its authority on a number of occasions to select interlocutors directly, or oversee and monitor local selection processes. This role was to continue even after East Timor's first elections were held in 2001, however, as UNTAET sought not only to influence the composition of the interim institutions it had created, but also to shape the political make-up of East Timor's first elected government.

3.3.2. Post-election government formation

As well as influencing the selection of local representatives on the interim administration bodies created during the transition, UNTAET's role in shaping

[40] UNTAET Regulation 2000/23, 'On the Establishment of the Cabinet of the Transitional Government in East Timor', 14 July 2000.

[41] Speech by Peter Galbraith, Tibar Conference, 29 May–2 June 2000, document with author.

[42] Author interview with former senior UNTAET legal officer.

[43] Chesterman, 'East Timor in Transition: Self-Determination, State-Building, and the United Nations'.

[44] Author interview with former senior UNTAET legal officer.

[45] UNTAET Daily Briefing, 'First Meeting Of Transitional Cabinet', 17 July 2000; and UNTAET News, 'Nobel Peace Laureate takes over foreign affairs portfolio in East Timor', 19 October 2000.

East Timor's elite political landscape also entailed interventions in post-election government formation. In the run-up to the August 2001 elections, which were to elect members of East Timor's first democratic legislature, UNTAET began to place a strong emphasis on national unity, which would have further implications when it came to East Timor's post-election government formation. During 2000 and 2001, the CNRT began to dissolve, and by the spring of 2001 sixteen political parties had registered for the first national elections. However, many in East Timor supported established political leaders rather than political parties, and some opposition existed within East Timorese society to the idea of multiparty politics due to the violence that followed multiparty elections in 1975.[46] Partly in response to this fear, the SRSG urged the sixteen registered parties to agree a pact of national unity, which was eventually signed in early July 2001. The SRSG referred to the Pact as 'an essential part of our strategy to guarantee security during the electoral campaign' and suggested it was 'intended to reassure those East Timorese who are fearful that the electoral process will be marred by political violence'.[47] Among other things, the Pact committed its signatory parties to respect the results of the 2001 elections, defend the principles of non-violence, multiparty democracy and peace and stability, and promote national unity and equality throughout East Timor. The Pact of National Unity was ultimately signed by fourteen of the sixteen registered parties, with the youth party Parentil and pro-Indonesian PNT refusing to sign it.[48]

UNTAET's emphasis on national unity was maintained in a more significant fashion after the elections were held, and played a key role when a new cabinet, known as the 'Second Transitional Cabinet' was established in September 2001. Well before the elections, the SRSG had made clear his plans that the government should be one of national unity, and that he would be heavily involved in appointing it:

I support the formation of a government of national unity based on the spirit of a pact of national unity that I am currently encouraging political parties to conclude. . . . We will all respect the outcome of the August 30 election and the choices made by the Timorese people, and thus the Cabinet will broadly reflect the results of the ballot. But I will be urging the victorious party or parties to reach out to those who were less successful in the ballot.[49]

This view was sustained beyond the August 2001 elections, in which Fretilin won an overall majority and thus gained the right to control the cabinet as a

[46] Soltan 'The United Nations and the Development of Constitutional Order'.
[47] UNTAET Daily Briefing, 'Political Parties Agree To Pact Of National Unity', 4 July 2001.
[48] Pact of National Unity, 8 July 2001, document with author.
[49] Mark Dodd, 'People to have their say – but so will the UN', *Sydney Morning Herald*, 29 June 2001.

single-party government. Despite the results, and Fretilin's majority position, the SRSG placed sustained pressure on the Fretilin leadership to include non-Fretilin members in the cabinet, and resisted demands from Fretilin's leader, Mari Alkatiri, that the cabinet should be appointed from the Fretilin party.[50] The authority of the SRSG won out, and the cabinet included members not only of Fretilin, but also of the second largest party in the new Constituent Assembly (CA), the Democratic Party, and a broad number of independents. Of the ten full ministers in the final cabinet, only six were from Fretilin, along with four independents. At the sub-ministerial level, several independents and three members of the Democratic Party were also awarded posts, with Fretilin representatives ultimately gaining only one-half of the twenty positions that comprised the cabinet despite their overall majority in the CA.[51] Through their involvement in post-election government formation, international administrators thus played a direct and intrusive role in one of the most basic elements of democratic politics, and showed both a willingness and ability to shape the nature of East Timor's political transition. Although no official veto was used, and there was no public threat of such a veto, the SRSG used the authority available to him behind the scenes to ensure that UNTAET's priorities were met and that East Timor's first government would not be a single-party government.[52]

Overall, therefore, by virtue of considerable authority at the domestic level, and its concurrent need to liaise with domestic interlocutors, UNTAET had in its power the ability to shape the nature of the domestic political landscape in East Timor. The UN administration involved itself closely in the dynamics of elite access to power, and in its selection of local interlocutors and involvement in post-election coalition formation directly mediated East Timor's process of political transition, initially favouring some elites over others, and ultimately seeking to promote the concept of national unity at the expense of East Timor's largest political party. Such instincts were also present in the arena of institutional design, where at several critical stages of East Timor's transition, UNTAET officials structured and guided the nature of the

---

[50] Author interviews with former senior UNTAET officials.

[51] See list of cabinet positions, included as annex to UNTAET Daily Briefing, 'New East Timorese Government Sworn-In', 20 September 2001.

[52] UNTAET had also earlier rejected a proposal by some sectors of the Timorese leadership that the cabinet appointed in July 2000 would continue in office after the elections. The proposal came especially from those senior members of the CNRT who were outside Fretilin and were concerned about its likely domination of an elected assembly. UNTAET's Political Department was opposed to the measure, however, on the grounds that it would be untenable and undemocratic to have an elected legislature being led by an unelected government. Senior international officials made clear that proposal would not be approved, and it was ultimately dropped by its Timorese advocates. Author interview with former senior UNTAET official.

emerging political regime. Section 3.4 explores this political dynamic and highlights how UNTAET used its position, and the mechanisms available to it, to shape the development of East Timor's founding political system.

3.4. INSTITUTIONAL DESIGN

As can be seen from the discussions above concerning UNTAET's shifting approach to East Timor's political leaders over the period of administration, the relationship between UNTAET and local forces was not uniform over time. Initial assumptions and approaches were relaxed and altered, and the international and domestic relationship changed quite considerably from the beginning to end of UNTAET's tenure. In terms of institutional political relations, similar dynamics took place, and the transition period in East Timor has been identified by some as incorporating three distinct stages of institutional political relations.[53] The first stage involved the early months of the administration until the summer of 2000, when UNTAET operated largely independently of domestic actors, with only the NCC providing limited local political input. The second phase ran from July 2000 to August 2001, when UNTAET shared executive authority with Timorese leaders in the joint cabinet, and Timorese participation in administrative structures of government was increased. Finally, the third stage involved a form of cohabitation between the UNTAET mission and an elected Timorese parliament and government.

Throughout the transition period, institutional arrangements thus changed considerably, and East Timor went through a number of important periods of institutional design. From the initial creation of the interim institutions of co-government to the design of East Timor's more permanent political structures, international and domestic authorities engaged in a complex and shifting set of relations and negotiations over the nature of political representation and authority in the country. While international involvement was dominant in the early stages, the relationship was to shift comprehensively over time to the point where UNTAET became largely an observer of East Timor's most significant point of institutional design, when its new constitution was drafted in 2001/2. The following sections explore these shifting relations, and highlight how, and why, the UN administration changed from being a leading political player to an interested bystander.

---

[53] See for example Jonathan Morrow and Rachel White, 'The United Nations in Transitional East Timor: International Standards and the Reality of Governance', *Australian Year Book of International Law*, Vol. 22, 2002, pp. 1–45.

3.4.1. Interim institutions

As discussed above, one of UNTAET's first acts was to establish the NCC in early December 1999. This fifteen-member body was envisaged as a consultative mechanism to ensure close liaison with the East Timorese people and their representation within the political process.[54] The NCC was charged with advising the UNTAET administration and with making recommendations on major legislative and executive issues. Its role, however, was limited to this purely advisory function, and its mandate explicitly reaffirmed the overall authority of UNTAET and made clear that the right of final decision lay with the Transitional Administrator, Sergio Vieira de Mello.[55] As the members of the NCC also lacked experience of government, many of the technical issues that were dealt with by UNTAET were pushed through the Council without significant Timorese input. All regulations that UNTAET passed were also sent to UN Headquarters in New York to be cleared, and the UN staff thus had the final say on all political decisions.[56] As a result, many Timorese both within the NCC and outside of it began to criticize the institutional structures that UNTAET had established, and argue for increased local involvement in political decision-making

By early 2000, this East Timorese dissatisfaction with the levels of representation and consultation came to a head in what has been described as a 'crisis of legitimacy' of UNTAET.[57] The perception grew that UNTAET was uninterested in incorporating local East Timorese people into an administration that was overwhelmingly staffed by international personnel, particularly at senior levels. The concentration of international advisers and administrators also had the result of severely limiting the extent of local recruitment, leading to more general complaints about the lack of local training and capacity building and the extent of local unemployment.[58] As a result of these interrelated problems, demonstrations against the manner of UNTAET rule became common and pressure grew on the UN mission to reform its structures of local representation and incorporation.[59]

[54] See United Nations, 'Question of East Timor: Progress Report of the Secretary-General', A/54/654, 13 December 1999.

[55] See UNTAET Regulation 1999/2, 'On the Establishment of a National Consultative Council', 2 December 1999.

[56] Author interview with former UNTAET official.

[57] Beauvais, 'Benevolent Despotism', p. 1127.

[58] James J. Fox, 'East Timor: Assessing UNTAET's Role in Building Local Capacities for the Future', paper presented at the Council for Asia Europe Co-operation (CAEC) Conference, 'Comparing Experiences with State Building in Asia and Europe: The Cases of East Timor, Bosnia and Kosovo', October 2001.

[59] Dionísio Babo Soares, 'Successes, Weaknesses and Challenges: A Critical Overview of the Political Transition in East Timor', paper presented at the Council for Asia Europe Co-operation

In response to the growing dissatisfaction, the SRSG Sergio Vieira de Mello announced in April 2000 that UNTAET would initiate a 'Timorization' process, which would begin with civil service recruitment and moves to hire East Timorese candidates for more senior positions within the UNTAET administration.[60] In its early stages, UNTAET envisaged that the Timorization process would proceed from the bottom up, with Timorese politicians only taking over as departmental ministers in the final stages of the transition. However, the extent of the domestic dissatisfaction with the lack of involvement in political decision-making prompted UNTAET to consider a more fundamental shift in political relations, entailing a significant devolution of political authority to local actors. The motivation for this reconsideration also stemmed from an increasing recognition within UNTAET that local political parties were committed to democratic rule in East Timor and that there was little risk of endangering the transition process by devolving more power to the local level. Finally, there was also a desire within UNTAET to share the burden of governance, and increase the Timorese participation in the political structures so that responsibility for perceived failures would not rest solely with the UN mission.[61] While some within UNTAET felt that any power-sharing with local leaders was inappropriate, and that the United Nations should retain full control,[62] there was sufficient support for a new approach within UNTAET to lead to a new announcement by the SRSG.

In May 2000, Vieira de Mello acknowledged the local dissatisfaction with the lack of communication and East Timorese involvement in the political process, and suggested two potential models that might improve the situation. The first 'technocratic' model reflected the initial thinking about Timorization, and envisaged UNTAET retaining full authority over political affairs, but with the possibility that international heads of department within UNTAET could be replaced by local administrators. East Timorese actors would thus have greater involvement in the administration of government, but would not gain significant new levels of political responsibility or accountability. The second 'political' model, on the other hand, entailed East Timorese politicians taking over a number of departments and assuming policymaking authority and ministerial-style political responsibility. As Vieira de Mello described it, 'UNTAET will join in a sort of coalition government with East Timorese leaders'.[63] It was this

(CAEC) Conference, 'Comparing Experiences with State Building in Asia and Europe: The Cases of East Timor, Bosnia and Kosovo', October 2001.

[60] Beauvais, 'Benevolent Despotism', p. 1143.
[61] Author interview with former senior UNTAET officials.
[62] See Soltan, 'The United Nations and the Development of Constitutional Order'.
[63] Speech by Sergio Vieira de Mello, Tibar Conference, 29 May–2 June 2000, document with author.

model that was also aimed at providing Timorese politicians with experience of government and ensuring that they assumed political responsibility so that the costs of political decision-making would be shared by international and domestic political actors. UNTAET also hoped the move would further the democratic regime-building project, and that the increased level of self-government entailed in the co-government arrangement would help democracy to 'put down roots' in East Timor.[64]

Given their demands for greater political involvement, the East Timorese political elite quickly chose the latter option, and in mid-July the result was the establishment of two new significant interim political institutions that would significantly increase Timorese participation in the transitional political process. The new NC was created to replace the much-criticized NCC, and the first Transitional Cabinet was set up to operate as its executive counterpart. The NC was created with the express purpose of acting as a legislative mechanism to further enhance the participation of East Timorese people in the decision-making processes of the administration period.[65] Its authority was broader than that of the NCC, as it was empowered not only to make recommendations to the Transitional Administrator, but also to recommend draft regulations, amend regulations proposed by the United Nations, and require the appearance of Cabinet Officers to answer questions.[66]

Coupled with the creation of the NC, a Transitional Cabinet was also established and was put in charge of the newly formed East Timor Transitional Administration (ETTA), a structure that was in turn to replace UNTAET's original governance and public administration pillar. The functions of the cabinet were to formulate policies and programmes for the government of East Timor, supervise the administration as a whole, and make recommendations to both the NC and the Transitional Administrator.[67] As with the NC, however, final executive authority remained with the head of the UNTAET mission.

By the end of 2000, therefore, and despite initial problems and criticisms, UNTAET had devolved considerable powers to the East Timorese that had previously been centralized within the UN command structures in Dili. A wider range of East Timorese groups and interests were represented within the administration, and the power they had at their disposal was more

---

[64] Speech by Peter Galbraith, Tibar Conference, 29 May–2 June 2000, document with author; and author interview with Peter Galbraith.

[65] See UNTAET Regulation 2000/24, 'On the Establishment of a National Council', July 14, 2000.

[66] Ibid.

[67] UNTAET Regulation 2000/23, 'On the Establishment of the Cabinet of the Transitional Government in East Timor', 14 July 2000.

far-reaching than had existed previously. Yet the result was not a total devolution of power, and certain tensions remained between the international and domestic parties. While UNTAET was stepping back from its initial micro-management of East Timor's political development, and was incorporating greater local input, the mode of transition remained one that was driven in large part by international priorities and actions. The following section highlights how UNTAET continued to play a fundamental role in one of the most critical stages of Timor's political transition, as international and domestic actors negotiated, and at times clashed, over the pace and structure of the remaining path to independence.

3.4.2. Political calendar and UNTAET Regulation 2001/2

After the system of co-government was established, local input into political decision-making was increased, but tensions also remained between the international and domestic counterparts within the new political system. Just five months after it was first established, the cabinet faced a crisis when four of its five Timorese members threatened to resign, citing a lack of genuine authority. In a letter addressed to the SRSG, the ministers stated 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'.[68] Although the crisis was resolved within a matter of days after the SRSG provided assurances of future increases in authority,[69] it highlighted the tensions that existed between the local and international actors that derived from the continued UN role in East Timor. Just weeks later, in his New Year's Eve address to the public, Xanana Gusmão also expressed frustration with East Timor's 'international masters', citing remote-control-style recommendations from abroad, a constant demand for Timorese to meet international standards that may not be appropriate for East Timor at its early stage of democracy, and the maltreatment of CNRT staff working within UNTAET.[70]

Some of these dynamics were to be reflected in the next critical stage of the political transition, as UNTAET and the East Timorese leadership began to develop more permanent political structures of self-government. This process highlighted the complex nature of the interaction in East Timor between the local parties and the UN administrators, as both sought to influence

---

[68] Mark Dodd, 'Give us a free hand or we quit, E. Timor leaders say', *Sydney Morning Herald*, 5 December 2000.

[69] See 'Timor Cabinet Members Renege Threat', *Associated Press*, 9 December 2000.

[70] Speech by Xanana Gusmão, New Year's Eve, December 2000, document with author.

the remaining stages of the transition process and shape the structures of the new democratic regime that was being established. As the domestic balance of power in East Timor firmly favoured those who were supportive of democracy, the international authorities did not ultimately feel the need to resort to the full range of mechanisms of influence they had at their disposal. UNTAET had full legislative and executive authority in East Timor, and in theory could have introduced the required institutions of self-government through the unilateral introduction of an UNTAET Regulation. Yet on most key issues, it sought to work with local actors, and ensure that political progress was based on joint cooperation. However, the process was not entirely without controversy or contention, and on a number of issues international administrators were at odds with at least some sectors of Timor's local political forces. On these occasions, UNTAET's actions highlighted both its willingness to sidestep local actions it disapproved of, but also its preference for relatively unobtrusive intervention. UNTAET never officially vetoed proposals that came from the local institutions, or imposed its own measures, but it did take actions that directly affected the nature of the transition process and the content of the new political structures. As such, the interaction between UNTAET and local Timorese political actors contributed to a joint mode of transition in East Timor, one that was based largely on cooperation and consensus, but that was also not entirely free of contention and confrontation.

Much of this crucial interaction took place in late 2000 and early 2001 as UNTAET and the East Timorese leadership developed a political calendar for the remainder of the transition period and co-authored UNTAET Regulation 2001/2, which contained the key political provisions that would structure the political path to independence. In terms of UNTAET's time frame, the UN had initially envisaged a transition period of two to three years, determined in large part by the political and financial commitment of the UN's principal contributory powers, and the CNRT had talked in terms of a five-year UN-monitored transition. The growing dissatisfaction with UNTAET, however, led to a desire for a more expeditious timetable of international withdrawal among the Timorese, and financial pressures ensured the UN Security Council was interested in a relatively swift withdrawal.[71]

By the end of 2000, the CNRT leadership had developed a timetable of transition that would see international withdrawal by the end of 2001.[72] The

---

[71] Goldstone, 'UNTAET with Hindsight: The Peculiarities of Politics in an Incomplete State'.

[72] See CNRT, 'Broad Timeline for the Process Leading to East Timor's Declaration of Independence', document with author. When Gusmão first passed the timetable to the National Council in early December 2000, the body rejected it in on the grounds that it had not been consulted sufficiently regarding its content. As a result, Gusmão threatened to resign as speaker of the National Council, and it was only after internal negotiations within the Council that he

timetable set out a number of steps for the transition to independence, including:

- consultation throughout East Timor regarding the process of electing a Constituent Assembly that would draft a constitution
- a period in which the CA would draft a constitution
- the establishment of a government
- the holding of presidential elections (assuming a presidential system was included in the constitution)
- transition of the CA into the first legislature of the independent East Timor.[73]

Yet even though the broad outline of the political calendar was approved among the Timorese, a number of key issues remained to be determined, and the following months represented a critical period in East Timor's political transition, as UNTAET and the Timorese negotiated with each other, and internally, on how political developments would proceed, with UNTAET at times having to use its formal and informal authority to ensure its priorities were met despite domestic resistance. Each stage in the political timetable represented an important political process that in turn entailed a series of negotiations involving international and local officials before the next step could be reached. Critical issues that remained the subject of debate, and that needed to be resolved, included the forum in which the constitution would be drafted (an appointed or elected body), the timescale of the political calendar and the electoral system that would be used for East Timor's first parliament.

3.4.2.1. *Time frame and constitution-writing forum*

In order to obtain local involvement in the process of finalizing these issues, UNTAET and the NC initiated a series of public hearings in January 2000. The National Council's Committee on Political Affairs sent a letter, signed by Xanana Gusmão, to a wide cross-section of East Timor's political and civil society on 23 December, seeking feedback for public hearings on the timetable to be held in January 2001. The letter presented the key issues that would be under discussion, including the different options for East Timor's electoral system, the size and nature of the CA, and possible eligibility requirements for voting rights.[74]

---

agreed to remain as Speaker. Gusmão ultimately withdrew the resignation, however, and agreement was reached in the NC on the outlines of a political timetable on 12 December 2000.

[73] See United Nations, 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2001/42, 16 January 2001.

[74] Alipio Baltazar, 'An Overview Of The Constitution Drafting Process In East Timor', *East Timor Law Journal*, 9, 2004.

From 18 January, the Committee held five days of public hearings on the timetable, in which civil society and smaller political parties were invited to present testimony on the proposed timetable that had been accepted by the NC in December.

When the public hearings were held in January 2001, a range of opinions and views regarding the transition timetable were presented by those giving testimony, ranging from those broadly in favour of the proposed transition structure to those strongly against. Several parties, including established parties such as Apodeti and the UDT signalled their broad approval of the timetable, while making clear their specific preferences on some of the issues that were open for debate. However, many of those who provided written or verbal testimony objected strongly to central elements of the proposals.[75] Two issues in particular caused concern at this stage of the political debates, those of the timing of the transition, and the forum in which the constitution would be drafted. At one end of this spectrum of opposition to the proposed timetable was the Council for the Popular Defense of the Democratic Republic of Timor Leste (CPD-RDTL), a radical party that firmly opposed UNTAET's presence, and was implicated in series of political disturbances during the transition period.[76] In a letter to Xanana Gusmão, the party's spokesperson criticized the 'privileged partnership' between UNAET and the CNRT and called for immediate recognition of East Timor's independence.

More moderate voices also gave critical testimony, however, with many arguing for more sustained UN involvement rather than a hasty withdrawal. The Catholic Church presented strong objections to the draft timetable, suggesting that elections for a CA would be confusing for the public, as many would not know what they were voting for. The Church submission instead called for an interim constitution, drafted by an expert commission, to operate for three to five years after which a new and permanent constitution drafted by an elected assembly could be introduced. Submissions from Yayasan Hak, an East Timorese human rights non-governmental organization (NGO), as well as the East Timor Human Rights Commission, also criticized the timetable for being too rushed, with Yayasan Hak suggesting that it reflected UN rather than East Timorese priorities. These views were not only presented by those in civil society, and some political figures, most notably the Nobel Peace Prize winner and senior CNRT figure José Ramos-Horta, also criticized elements of the proposed calendar. Speaking at the NC hearings, Ramos-Horta highlighted the fragile nature of peace in East Timor, and argued that it

---

[75] Transcripts of the public hearings, documents with author.
[76] United Nations, 'Interim Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2001/436, 2 May 2001.

would be better to move slowly so that institutions could become firmly established, rather than accelerate the political process and jeopardize peace and security. Ramos-Horta also spoke against the idea of having a directly elected chamber draft the constitution, and argued instead for an appointed convention that would be larger and more representative than the NC, but that would also include constitutional experts operating in drafting committees.[77]

There was thus considerable support in some quarters, in both political and civil society, for a prolonged transition that would entail a role for an appointed constitutional commission before elections would take place. However, despite this testimony at the hearings, UNTAET pushed instead for a relatively short timetable and an elected Assembly to draft the constitution. The UNTAET position, advocated most strongly by the Head of the Political Affairs department within UNTAET, Peter Galbraith, was that the fundamental decisions that would be made about East Timor's political future in the process of drafting a constitution should be made by an elected body, rather than an appointed commission. Arguing that it was undemocratic for unelected officials and politicians to bind the hands of a future elected body, Galbraith strongly promoted the election of a constituent assembly, and ensured it became UNTAET policy.[78] This stance was also supported by the Fretilin party, which knew that it would be able to dominate any elected chamber due to its popularity, and would thus be able to oversee the design of a political system that would place greater authority in parliament's hands relative to the presidency. UNTAET was also in favour of a relatively short timetable due to the financial costs involved in maintaining the mission and pressures from the UN Security Council to avoid a lengthy UNTAET tenure.[79]

As a result, and despite the objections in some quarters raised at the NC hearings, the final political calendar was heavily influenced by UNTAET's priorities. While UNTAET supported the public hearing process for the purpose of consulting with wider Timorese political and social society, it did not feel compelled to alter its initial preferences on the basis of much of the testimony given, and it contributed heavily to the final decision—it was determined that the constitution would be drafted by an elected eighty-eight-member CA and that the political transition to independence would not be prolonged much beyond 2001.[80]

---

[77] See for example the testimony of José Ramos-Horta to the NC hearings on the political calendar, January 2001, with author.

[78] Author interview with former senior UNTAET officials.

[79] Goldstone, 'UNTAET with Hindsight: The Peculiarities of Politics in an Incomplete State'; and see below for more on the constitution-drafting process.

[80] In early 2001, the United Nations had even anticipated the possibility that East Timor would achieve independence before the end of 2001. See UNTAET, 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2001/42, 15 January 2001.

3.4.2.2. The electoral system

Once these foundational issues were decided, negotiations moved to the structure and function of the CA, the manner in which it was to be elected, and the rules surrounding political party participation in electoral politics, each of which were to be dealt with in Regulation 2001/2. At this point in the political process, senior voices within UNTAET argued that the UN mission should finalize these significant political provisions unilaterally, and introduce the new Regulation without involvement of the NC or the cabinet. Based on the view that the United Nations was the guarantor of free and fair elections in East Timor, the initial position in UNTAET was that the United Nations was obliged to ensure that elections for the new constituent assembly would be designed according to international standards, and should thus prepare the necessary legislation itself.[81] However, local pressure for involvement in drafting these politically significant provisions proved intense, and UNTAET officials decided instead to achieve their goals through engagement and negotiation with the Timorese leaders. In the subsequent period, relations between local and international officials over the Regulation were largely consensual, but a number of issues also proved contentious, and the interaction was at times fraught with tension and disagreement over key political issues. Although UNTAET never resorted to the direct imposition of its preferred outcomes, at certain points it faced significant local resistance and used the mechanisms of influence it had available to ensure that its priorities were met.

One of the core issues to be dealt with in Regulation 2001/2 was the electoral system for the CA.[82] UNTAET was heavily involved in electoral considerations, as was the Electoral Assistance Division of the United Nations based in New York. The early UN position was to have the CA elected primarily through a proportional representation system, with most or all the seats drawn from a single national district. In part, the UN's preference for a proportional representation system reflected a desire within UNTAET to ensure the maximum representation in the Assembly of different voices from East Timorese political society, and also to make sure that Fretilin's already strong position was not exaggerated by a majoritarian system.[83]

---

[81] Author interview with senior UNTAET official. See also speech by Sergio Vieira de Mello on the occasion of the signing of UNTAET Regulation 2001/2, 16 March 2001, document with author.

[82] As the electoral system was an integral part of Regulation 2001/2, it will be dealt with here rather than in the following section on the Electoral Arena.

[83] Chesterman, 'East Timor in Transition: Self-Determination, State-building, and the United Nations'.

This position gained the support of many of the smaller parties, who recognized that a proportional representation would allow parties with small vote shares to win seats in the Assembly. Initially this idea was resisted by Fretilin, however, who knew that as the largest party their position would be weakened by a highly representative system. As a result, a compromise solution was agreed and a mixed electoral system was selected as the most appropriate. To accommodate some of Fretilin's concerns about a purely proportional system, it was agreed that thirteen of the eighty-eight seats in the Assembly would be elected by a first-past-the-post system, with one representative elected in this manner in each of East Timor's districts. As this majoritarian vote would favour the candidate with the largest number of votes in each district, it was widely, and correctly, believed that most of the district representatives would ultimately be from Fretilin.[84] This system was also favoured as it would provide a channel of representation in the political system for each of East Timor's districts, some of which, such as the isolated enclave of Oecussi that was situated in West Timor, had not been well represented in the transitional period.

The final electoral system contained within Regulation 2001/2 was thus a mixed system, with thirteen of the Assembly's eighty-eight seats selected by first-past-the-post from each of the country's districts, and the remaining seventy-five seats distributed according to a proportional representation list system, with parties winning seats in proportion to the share of votes that they received for national representation.[85] The process by which the core electoral system was designed highlighted in many ways the political dynamics at work in East Timor, where the divisions among the domestic political parties were not excessive, and where UNTAET was in a position to consult with local politicians and arrive at consensus on important political issues without the need to impose, or even threaten to impose, its preferences.

Yet negotiations over other aspects of the electoral system also highlighted the delicate nature of relations between local leaders and the UN administrators, and the potential for disagreement between them. As the electoral system regulation was being prepared, UNTAET's Gender Affairs unit proposed a quota system that would have required parties to ensure that at least

---

[84] Author interview with former senior UNTAET official. Concerns that Fretilin had were also allayed by the fact that their preference for having the constitution drafted in an elected assembly had already been met – even with a proportional electoral system many in Fretilin felt they could dominate the Assembly and draft a constitution that would include a strong parliament, and thus entrench their authority in the political structure.

[85] UNTAET Regulation 2001/2, 'On the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor', 16 March 2001, Section 2.4.

one-third of the candidates on their party lists were women.[86] The proposal was approved by the Political Affairs Committee of the NC, but was ultimately rejected when it came to a vote in the NC itself. UNTAET's own departments of Political Affairs and Electoral Affairs spoke against the proposal before the NC, arguing that the quotas would damage the legitimacy of the elections by forcing the parties to propose candidates that may not be preferred by the electorate.[87] National Council members also later suggested that introduction of the quotas would lead to the 'commercialization' of women.[88]

Yet UNTAET did not have a united stance on the issue, and the SRSG was personally committed to gender equality and was in favour of the quotas, and at the time considered imposing the measure against the wishes of the NC.[89] Vieira de Mello thus faced a dilemma, and his response to the NC's decision reflected both an increased emphasis in 2001 on the devolution of authority to the East Timorese leadership, but also a continued intention that UNTAET would play an active role in shaping East Timor's political transition. The SRSG ultimately decided not to impose the provision, which would have represented the first imposition of its kind in East Timor, and rather announced his intention to respect the decision of the NC and allow the law to stand. Yet at the same time, it also became clear that while de Mello was willing to state his acceptance of the NC's decision publicly, he was less willing to accept its political implications. Rather than allow the NC to have the final word on the issue, Vieira de Mello announced a set of measures intended to affect the gender balance in East Timorese politics in indirect ways, although with the intention of bringing about similar outcomes to those that gender quotas would have produced. A new paragraph was added to the preamble of the election law regulation 'encouraging the equal participation of women and men at all stages of the electoral and constitutional process, and undertaking to promote the full enjoyment by women of their civil and political rights'.[90] More significantly, the SRSG also introduced concrete measures intended to 'convert this language from a promise into a reality' and 'accomplish the spirit' of the gender quota proposals.[91] These included in particular the

---

[86] For background information on the debate about gender quotas in East Timor, see Milena Pires, 'East Timor and the Debate on Quotas', 2000, available at www.idea.int

[87] See Morrow and White, 'The United Nations in Transitional East Timor: International Standards and the Reality of Governance'.

[88] *Lusa*, 'National Council Members Explain Rejection of Quotas for Women', 16 March 2001.

[89] Author interview with senior UNAET official.

[90] UNTAET Regulation 2001/2, Preamble.

[91] See speech by Sergio Vieira de Mello on the occasion of the signing of UNTAET Regulation 2001/2, 16 March 2001, document with author.

introduction of strict broadcasting regulations requiring that equal broadcast time be given to men and women candidates. Heavy incentives were also created to encourage political parties to increase the representation of women on their candidate lists, with new rules allowing political parties to double their media broadcast time as long their party lists included more than 30 per cent of women candidates placed in winnable positions on the list.[92] The SRSG also tasked UNTAET's Gender Affairs unit with identifying 100 women candidates and providing them with special training in campaign skills.[93]

The UNTAET leadership thus proved itself willing to counteract a majority decision of the NC, and take the measures it deemed necessary to ensure its preferred outcomes were achieved. While lip-service was paid to the NC decision, and UNTAET refrained from directly overruling the NC vote and imposing gender quotas as they were originally envisaged, the SRSG's package of alternative measures to promote gender equality provided heavy incentives for political parties to act in ways that produced outcomes similar to those that would have been provided by the quotas. Political parties that did not comply with the measures would receive heavy penalties in terms of broadcast time compared with parties that did comply, and UNTAET thus highlighted its willingness to use its authority to structure the rules of political competition in East Timor in intrusive ways in order to ensure the transition proceeded according to its preferred trajectory.

3.4.2.3. *Political party registration*

A similar stand-off in the preparation of Regulation 2001/2 was seen when it came to finalize the provisions that would regulate the registration and behaviour of political parties in East Timor. As the SRSG had previously highlighted, the emergence of divergent viewpoints among the East Timorese required a legal framework for the electoral process, one that would set the boundaries of acceptable political behaviour to provide for constructive and non-violent political competition.[94] Yet the legacy of political conflict in East Timorese resulted in a desire among some Timorese leaders to limit the scope of that political competition, and particularly to exclude pro-Indonesian parties from electoral politics. As the Regulation was being prepared, a number of Timorese leaders sought to ensure that parties that supported political integration with Indonesia would be denied political registration,

---

[92] See Pires, 'East Timor and the Debate on Quotas'.
[93] UNTAET Daily Briefing, 'First Democratic Elections in East Timor To Be Held On 30 August 2001', Dili, 16 March 2001.
[94] See speech by Sergio Vieira de Mello at the CNRT Congress, 21 August 2001, with author.

and also that all parties would have to submit their political platforms prior to registration, not least so that those with pro-Indonesian policies could be clearly identified.[95] UNTAET was opposed to introducing this extent of regulation, however, viewing any strict ban on political parties due to their political platforms as an unacceptable breach of political freedom.[96] Rather, it negotiated a compromise solution with the Timorese, whereby all parties would be allowed to register in principle, without first submitting their party platforms, but two conditions would be applied.

The first was largely symbolic, but was significant in that the final Regulation stipulated that parties would confirm, in writing, they were seeking to register for 'election to a Constituent Assembly to prepare a constitution of an independent and democratic East Timor'.[97] The provision thus made clear that the status of East Timor, and especially the possibility of integration with Indonesia, would not be a permissible topic of debate in any negotiations over the future constitution. The second measure was a stipulation that parties wishing to register must declare that their officers will reside in East Timor for at least three months prior to the elections, and that they were habitual residents in East Timor. This measure was designed in part to ensure that pro-Indonesian forces based largely in West Timor or Indonesia could not register for the elections with the aim of frustrating the electoral process.[98]

Once again, UNTAET's actions highlighted its extensive involvement in the design of East Timor's transition arrangements, and its efforts to ensure that political development was achieved according to political standards set by the international administrators. While UNTAET was reluctant to impose measures, and succeeded in never doing so outright, it was perfectly willing to intervene when it felt that Timorese proposals were inappropriate. Using a combination of negotiation, pressure, and as with the gender quotas issue, elements of conditionality, UNTAET sought to ensure that central institutional elements of East Timor's political transition were compatible with its own standards of democratic governance.

When agreement was finally reached on all of these elements, Regulation 2001/2 was promulgated by the SRSG on March 16 2001, and in his speech of that day, Sergio Vieira de Mello's remarks reflected the complexity of the situation. On one hand, the SRSG welcomed the Regulation and paid tribute to the NC for its involvement in drafting and approving a law that met

---

[95] See Morrow and White, 'The United Nations in Transitional East Timor: International Standards and the Reality of Governance'.

[96] Author interview with former UNTAET official.

[97] See UNTAET Regulation 2001/2, Section 22.

[98] Morrow and White, 'The United Nations in Transitional East Timor: International Standards and the Reality of Governance'.

international standards. On the other hand, it was in this speech that the SRSG expressed his regret about the defeat of the gender quota provision, and outlined his package of alternative proposals, thus highlighting UNTAET's own position that international standards could only be conformed to in this instance by international action.[99]

In the next stage of institutional design, however, these dynamics were to change significantly, as the CA set about drafting East Timor's constitution. As an elected body, it had a legitimacy that was lacking from the NC, and UNTAET took a different approach to its engagement with local leaders throughout this process, acting more often as interested onlooker than authoritative participant. The next section explores this process in greater detail, and highlights how the international administration in East Timor exercised its role in the final months of its tenure in a significantly modified role.

3.4.3. Constitution-drafting process

After the first democratic elections of 2001, East Timor's CA convened in September with a comfortable Fretilin majority – even with the predominantly proportional electoral system, Fretilin gained fifty-five out of eighty-eight seats. In this final stage of East Timor's transition, when UNTAET coexisted with a directly elected assembly and a second transition government composed purely of East Timorese ministers, the international administration significantly reduced its role in the political sphere. During the period between the elections of August 2001 and the move to independence in May 2002, the most significant political process that took place was the drafting of a new constitution by the CA, and the international authorities in East Timor explicitly took a backseat role in the constitutional development once local parties were elected to power.

Representing UNTAET's views on the issue, the head of Political Affairs, Peter Galbraith, emphasized that the constitution-drafting process should be led by local leaders and the local population. In a speech to the public hearings on the political transition timetable that were held in January 2001 by the NC, Galbraith outlined the wide range of decisions that needed to be made in drafting a constitution, and stated that 'these decisions should be made by the elected representatives of the Timorese people, not by appointed officials. Thus, all constitutional decisions will be derivative of a founding democratic

---

[99] See speech by Sergio Vieira de Mello on the occasion of the signing of UNTAET Regulation 2001/2, 16 March 2001, document with author.

act, the election of the Constituent Assembly'.[100] He went on to outline the
'full plenary powers' of the CA, including its authority to determine the
method for drafting the constitution, the type of constitution to be chosen
and the method of its ratification.

Yet despite these remarks, UNTAET was not entirely unconcerned with the
constitution-drafting process. Galbraith himself did not shy away from making
some prescriptive remarks concerning both the content of the constitution and
its method of drafting, and in the same speech he provided some guidance for
what the 'best constitutions' should entail, suggesting that they should reflect a
consensus of the society, and this might be best achieved by avoiding social and
economic questions that should be left to legislation. Galbraith also recom-
mended a process for drafting the constitution that would involve the wider
Timorese population, and he proposed the creation of thirteen constitutional
commissions, one for each district. The commissions would be supported by
UNTAET in terms of logistics and expert legal advice, and would hold public
hearings to inform the population of the relevant constitutional issues and report
their opinions back to the CA.[101] This recommendation, however, was to become
the one significant issue of contention between UNTAET and local Timorese
parties, especially Fretilin, concerning the constitution-drafting process, and in
the months before the general elections the two sides clashed on the issue.

3.4.3.1. *The debate on constitutional consultations*

In a dispute that began immediately after Regulation 2001/2 was passed in
March 2001, international officials and sectors of the Timorese elite were at
odds on the role and necessity of public consultations on the constitution,
and UNTAET had to react to local resistance by asserting its own authority
and introducing measures officially rejected by the domestic institutions.

Much of the problem stemmed from the fact that Regulation 2001/2 itself
did not include specific provisions for consultative mechanisms, and stated
only that in its deliberations over the constitution the CA 'should give due
consideration to the results of the consultations conducted by any duly
constituted Constitutional Commission or Commissions'.[102] The day after
the Regulation was introduced, the East Timor NGO Forum, an umbrella
organization representing local NGOs, wrote to the UN Security Council to
request that a constitutional commission be established as a mechanism for

---

[100] Testimony of Peter Galbraith, Cabinet Minister, Department of Political Affairs and
Timor Sea, to National Council, 20 January 2001, document with author.
[101] Ibid.
[102] UNTAET Regulation No. 2001/2, Section 2.4.

consultation throughout East Timor.[103] The NGO community was also promoting a draft law being discussed in the NC that would lead to the creation of national and district constitutional commissions for the purposes of consultation over the constitution, and it was over this proposed law that the debate on this topic would come to a head. As well as having the backing of the NGO community, the measure was also supported by the NC President Xanana Gusmão and senior UNTAET figures, including the SRSG.

However, the move was opposed by the Fretilin party, and when it came to a vote in the NC in late March 2001 it was defeated, with five votes in favour, seven against, and eight abstentions.[104] Some members of the NC questioned the necessity of the consultative commissions and suggested that the move to introduce them might have been a political manoeuvre, with some Fretilin members accusing Xanana Gusmão of political manipulation. The next day, Xanana Gusmão resigned as President of the NC in opposition to the decision and the accusations, and UNTAET also expressed its disappointment with the result.[105]

Rather than accept the decision, however, UNTAET immediately initiated moves to ensure that some consultation mechanisms were put in place. The day after the NGO proposal had been rejected in the NC, UNTAET addressed the Transitional Cabinet and gained its approval for the establishment of a set of district consultative commissions.[106] On 31 March, UNTAET issued a Directive, a lower level piece of legislation than a Regulation, establishing thirteen Constitutional Commissions for the 'purpose of soliciting the views of the people of East Timor on the future Constitution of an independent and democratic East Timor'. Each of the thirteen Commissions was to operate in one of East Timor's thirteen districts for a three-and-a-half month period, and organize a series of public hearings to canvas local public opinion on the constitution.[107]

As with the discussions over Regulation 2001/2, UNTAET thus highlighted its willingness to override decisions of the NC, and introduce measures it deemed necessary despite the lack of majority support in East Timor's interim legislative body. Although the proposed regulation setting up the consultative

[103] East Timor National NGO Forum, Letter to UN Security Council, 17 March 2001, document with author.

[104] See UN Newswire, 'E Timor votes against consultative process leading to constitution', 27 March 2001.

[105] 'Xanana Resigns As National Council President', *Suara Timor Lorosae*, 30 March 2001, available at www.etan.org/et2001a/march/25-31/30etnews.htm, accessed on 24 September 2006.

[106] UNTAET Daily Briefing, 'Timorese Cabinet Considers Consultation On Constitution', 28 March 2001.

[107] UNTAET Directive No. 2001/3, 'On the Establishment Of Constitutional Commissions For East Timor', 31 March 2001, document with author.

mechanisms was defeated in the NC, UNTAET acted as if such a regulation did exist, and enacted secondary legislation to put in place. This move, introducing a Directive without a corresponding Regulation already having been approved, was not standard legal practice in UNTAET,[108] and represented another symbol of the limitations that UNTAET placed on the genuine authority of the interim domestic institutions it had established in East Timor.

3.4.3.2. *Drafting the constitution*

Yet as soon as the CA was sworn in on 15 September 2001, and initiated its ninety-day period for drafting the constitution, it was clear that the efforts of UNTAET to ensure local consultation would not have a significant bearing on the political process. Unlike political developments prior to the first elections in East Timor, where UNTAET had taken the lead in guiding the transition, or had at least worked in partnership with the Timorese, when the time came for the elected CA to draft the constitution, the political process that ensued was almost entirely domestically led. UNTAET was reluctant to impinge on the work of the elected Assembly, and with Fretilin having fifty-five of the eighty-eight seats, it soon became clear that the party was going to be the lead political agent in the drafting process. Having previously opposed the introduction of the constitutional consultations, Fretilin quickly made it clear that the findings from the commissions would not play a significant role in the drafting process, which it dominated throughout.

In order to structure the drafting process, the CA established four thematic committees to deal with separate constitutional issues,[109] along with a Systematization and Harmonization Commission to coordinate the workings of the committees and finalize their reports into a single draft constitution. Given its majority, Fretilin was able to choose the chairs of each of the committees and was thus able to oversee the introduction of the draft constitution and its passage through the committee stage.[110] Although five separate draft constitutions were presented to the Assembly by five different parties, Fretilin's position ensured that debate was soon centred on its own document.[111] Debates in the committees were largely concerned with this pre-existing draft, and very few amendments were made at this stage. By the end of

---

[108] See Morrow and White, 'The United Nations in Transitional East Timor: International Standards and the Reality of Governance'.

[109] The four committees were 'Economic, Social and Financial Organization', 'Fundamental Principles, Control of Constitutionality and Amendment of the Constitution', 'Rights, Duties and Liberties/Defence and National Security' and 'Organization of the State and Political Power'.

[110] Author interview with former senior UNTAET official.

[111] See Baltazar, 'An Overview Of The Constitution Drafting Process In East Timor'.

November, the draft was passed from the committees to the CA for discussion,[112] with all parties given roughly equal time to discuss the document.[113]

However, when it came to voting for particular provisions, it was clear that Fretilin was in the dominant position. Fretilin members tended to vote along strict party lines, and as voting was carried out by an open show of hands rather than a secret ballot, many Fretilin members often waited to see how the party leadership was voting before raising their own hands to vote the same way. Alterations to the constitution that were not proposed by the Fretilin leadership were systematically defeated, and many of the smaller parties consequently felt excluded from the process, and viewed the constitution as a 'Fretilin document'.[114]

In something of a snub, both to UNTAET and the wider public, the report of the Constitutional Commissions was also not referred to directly in the Assembly debates. Many Assembly members argued that the consultation process had been UN-dominated, and that as elected representatives they were the best arbiters of public opinion.[115] Throughout this time, UNTAET itself also acted largely as an observer rather than participant to the process. It had monitors present during the drafting stage, and made experts available to Assembly, but beyond that was not involved in the detail of the decision-making that was taking place. UNTAET never intervened to criticize particular provisions that were being proposed in the drafting stage, or to suggest specific provisions of its own.[116]

Ultimately, therefore, the process of constitutional design was not only domestically driven, but also largely Fretilin-driven. Consequently, the content of the final document also largely reflected Fretilin priorities. During the transition period, pre-existing tensions that existed between the Fretilin leadership and Xanana Gusmão worsened, and as it was clear to many that Gusmão was the most likely candidate to be East Timor's first president, Fretilin's draft purposely sought to create a system of government that favoured parliamentary rather than presidential power. Although they recommended a mixed system, the powers granted to the presidency by Fretilin were weak, and largely of a symbolic nature. The president was given the power to be commander of the defence forces, to request the Supreme Court to assess the constitutionality of rules, and to submit issues of 'national importance' to

[112] UNTAET Daily Briefing, 'Assembly Committee Completes Draft Constitution', 27 November 2001.
[113] The Carter Center, 'The East Timor Political and Election Observation Project: Final Project Report', April 2004, available at http://www.cartercenter.org/countries/east_timor.html
[114] Ibid.
[115] Nancy M. Lutz, 'Constitutionalism As Public Culture In East Timor', paper presented at the Law and Society Association meetings, Pittsburgh, 7 June 2003.
[116] Author interview with former senior UNTAET official.

a referendum.[117] Yet while the president could also veto a legislative statute, that veto could be overturned after ninety days by an absolute majority of the parliament, thus giving the parliament the firm balance of power in terms of legislative affairs.[118]

Although the CA was scheduled to finish the process in mid-December 2001, it was not until 5 February 2002 that it voted in favour of the 168-article draft that was finalized by the Systematization and Harmonization Committee.[119] Yet in a final twist to the process, Xanana Gusmão and Bishop Carlos Belo complained at the nature of the drafting procedures and argued that the Assembly should take longer to consult the population to a greater extent than it planned, and use the month of March to hold public hearings.[120] In response to the criticism, the Assembly did agree to a one-week consultation period, in which all members of the Assembly would divide into thirteen cross-party groups and travel to the districts to explain the content of the constitution and collect feedback.[121] Once the district level consultations were complete, district reports were synthesized by the Systematization and Harmonization Commission and delivered as a single report to the CA. The report contained recommendations for forty-five amendments to the draft constitution, only twenty-one of which were considered by the plenary, and only four of which were accepted. Reflecting the earlier tendency of the CA to proceed without incorporating provisions suggested by the public, none of the four amendments was based on suggestions made by individual East Timorese citizens during consultations.[122] As before, UNTAET remained on the sidelines of the process.

The constitution was finally approved in the CA on 22 March 2002, with a vote of seventy-two in favour to fifteen against, with one absent. The votes against the constitution largely came from the Social Democratic Party of East Timor (PSD) and the Assembly's second largest party, the Democratic Party (PD). These parties, both of which had been founded during the transition period, opposed the final draft largely on the grounds that Fretilin had been too dominant in the drafting process and that the Assembly had taken insufficient account of the views of the public as expressed in the various

---

[117] See *Constitution of Democratic Republic of East Timor*, Title II, Section 85.

[118] Ibid, Title II, Section 88.

[119] Jill Jolliffe, 'East Timor approves draft constitution' *Sydney Morning Herald*, 11 February 2002.

[120] UNTAET Daily Briefing, 'Gusmão, Bishop Belo Call For More Constitutional Debate', 20 February 2002.

[121] UNTAET Daily Briefing, 'Assembly Delays Passage Of Constitution Until 16 March', 12 February 2002.

[122] Baltazar, 'An Overview Of The Constitution Drafting Process In East Timor'.

constitutional hearings that had taken place.[123] Many felt the CA had not involved the public sufficiently in the drafting of the constitution, and small political parties in particular objected to the lack of genuine consultation.[124]

The constitution-drafting process was thus another example of the complex interaction between the international presence in East Timor and the domestic political forces. Once elections had taken place in East Timor, and an elected Assembly had taken office, the power dynamics between UNTAET and the local political institutions changed considerably. Unlike the Balkan cases to be discussed below, where fractious domestic balances of power led to sustained intervention by international administrations in constitutional affairs, in East Timor the pro-democratic outlook of the vast majority of political actors meant that UNTAET did not feel the need to impose itself in the post-election period. Rather than continue the high levels of involvement in institutional design that it had maintained during earlier stages of the transition, after the CA was in place, UNTAET took a significant step back, and allowed the final stage of East Timor's regime-building process to be domestically determined. During this period, East Timor's transition thus resembled more closely a conventional case of regime change, where the balance of power of primary relevance was that at the domestic level, where Fretilin clearly dominated, and not between international and domestic actors. With UNTAET on the sidelines, Timor's transition was finalized according to Fretilin's priorities, and it was Fretilin's position of power vis-à-vis other domestic parties in the new Assembly that was the most salient factor in accounting for East Timor's final, parliamentary-style constitution.

3.5. ELECTORAL ARENA

UNTAET's most significant involvement in the electoral arena was through its role in the design of the electoral system, and as this was discussed in Section 3.4 above, it will not be explored further here. This section instead touches more briefly on some of the other ways in which international administrations can affect electoral politics as outlined in Chapter 2, and explores in particular UNTAET involvement in determining both sequencing and timing of elections in East Timor.

---

[123] Carter Center, 'Final Project Report'.
[124] Randall Garrison, 'The Role of Constitution-Building Processes in Democratization: Case Study East Timor', International Institute for Democracy and Electoral Assistance, 2005, available at http://www.idea.int/conflict/cbp/, accessed on 24 September 2006.

3.5.1. Sequencing of elections

One of the first debates to emerge in East Timor in the early stage of the administration related to the sequencing of elections, and particularly whether it would be appropriate to have local elections throughout East Timor shortly after the 1999 referendum. In a comprehensive study of East Timor in 1999, known as the Joint Assessment Mission, the World Bank proposed incorporating local communities in East Timor into the decision-making process about the distribution of international funding.[125] The Bank proposed a Community Empowerment and Local Governance Project (CEP), whereby elections would be held at the village and sub-district levels across East Timor, and local elected officials would be able to determine how grants would be spent according to local needs. Yet UNTAET was opposed to the programme, and resisted any efforts to have elections at the local level. Officials in UNTAET argued, among other things, that the local elections would confuse the Timorese with national elections, and that the legal framework did not exist for such local elections. Although UNTAET finally agreed to the project, it sought to modify the plans so that the references to elections would be removed and replaced with mention only of 'democratic selections'.[126] UNTAET was also reluctant to organize its own UN-run local elections, as its structure favoured centralized governance and it also viewed the costs of organizing local elections as prohibitively expensive.[127]

Although some village-level elections were finally held for the CEP, these councils only had limited authority to carry out development activities, and no real political power was devolved by UNTAET.[128] As a result, UNTAET's position has been criticized by some for marginalizing sectors of East Timorese society from political decision-making, and contributing to wider Timorese dissatisfaction with UNTAET in the early stages of the administration period.[129] Yet it is also the case that this decision over the sequencing of elections did not have the same kind of political implications for political stability that it was perceived to have in the Balkan cases. The decision in East Timor was not driven largely by considerations relating to the

---

[125] The World Bank, *Joint Assessment Mission to East Timor – Governance Background Paper* (Washington: World Bank, 1999).

[126] See Jarat Chopra, 'Building State-Failure in East Timor', *Development and Change,* Vol. 33, No. 5, 2002, pp. 979–1000; and UNTAET Regulation 2000/13, 'On the Establishment of Village and Sub-District Development Councils for the Disbursement of Funds for Development Activities', 10 March 2000.

[127] Interview with former UNTAET senior official.

[128] See Tanja Hohe, 'Local Governance after Conflict: The Community Empowerment Project in East Timor', unpublished paper, 2004.

[129] See Chopra, 'The UN's Kingdom of East Timor'.

country's political status, and fears that local elections might lead to separatist dynamics. In East Timor, those who opposed the independence of the country were no longer significant political players and had largely left the territory. Instead, UNTAET was motivated for more practical reasons, such as a desire to avoid the expense of organizing UN-run local elections, and also a reluctance to devolve authority from its centralized mission at such an early stage of the transition period. While its decision to eschew local elections was thus not without political implications, UNTAET's position did not have the same kind of political implications in East Timor as similar choices by international administrations have had, and can have, in other post-conflict contexts.

3.5.2. Timing of elections

Not only was UNTAET reluctant to consider local elections in the early stages of the transition period, but the SRSG was also reluctant to allow any kind of electoral competition that would lead to political debates over important constitutional issues. While UNTAET was concentrating on dealing with the humanitarian consequences of the post-referendum violence, Sergio Vieira de Mello argued in early 2000 that it was 'too early to politicise the environment' and distract East Timorese attention away from urgent humanitarian concerns.[130]

As the transition period developed, however, the political calendar became more advanced, and elections were scheduled for August 2001. As discussed above in Section 3.4.2, the timing became controversial in some quarters, with some parties and elements of civil society arguing for a delay before elections should be held. Civil society organizations sought a longer period of transition and development before turning over power to an elected government, and the Catholic Church also questioned the capacity of the East Timorese population to understand what they would be voting for. The CPD-RDTL party even raised the spectre of election-related violence if elections were held too early.[131] Yet UNTAET and the CNRT were in consensus that elections should be held in 2001, with Xanana Gusmão stating to the UN Security Council in May 2001 the importance of elections for East Timor's journey to independence.[132] The SRSG was also of the view that it would have been extremely difficult to have continued with appointed bodies for much longer

---

[130] Briefing by Sergio Vieira de Mello to UN Security Council, SC/6799, 3 February 2000.

[131] CPD-RDTL testimony to National Council hearings, January 2001, with author.

[132] See address of Xanana Gusmão to the UN Security Council, UN Press Release SC/7061, 18 May 2001.

and that due to Timorese desire for democratic self-government, postponing the elections beyond August 2001 would not have been tenable.[133]

While some sectors of Timorese civil and political society wanted further time before national elections would be held, domestic pressure from Timor's larger political parties, and UNTAET's own desire not to prolong the period of administration, thus meant elections would not be postponed beyond 2001. As with the sequencing issue, however, the timing of elections was not as crucial an issue as it had been in the Balkans given the relative lack of political polarization and the fact that there were no parties who stood to take advantage of the election timing to capitalize on positions of power they had obtained through violent means, as was so clearly the case in Bosnia. With the withdrawal of the Indonesian forces, the root cause of the previous conflict was almost entirely removed, and the principal political forces competing for power were overwhelmingly committed to the same political goal, an independent and democratic East Timor. In large part due to these reasons, when the elections were ultimately held in 2001, the political environment was an extremely peaceful one, and the elections were carried out without any significant incidences of violence.[134]

Overall, the UN mission played an important role in the electoral arena in East Timor, and only began to reduce this role in the final stages of the transition period. UNTAET was a key player in the design of East Timor's new electoral system, where it negotiated with local Timorese political actors to introduce a form of proportional representation that it favoured. UNTAET was also in a position to determine the sequencing and timing of elections in East Timor, and made early decisions that would ensure that national elections would be held before significant district-level local elections, and that multiparty electoral politics would be postponed beyond the early stages of the post-referendum period. As with many other aspects of the transition in East Timor, however, early unilateral action gave way to a more consensual, negotiated approach, and East Timorese parties were increasingly incorporated into the political process. In particular, the rules for the presidential elections were developed by the CA in the process of drafting the constitution, where a run-off ballot system was chosen. The final electoral act of the transition period, therefore, was the presidential vote of April 2002, which saw Xanana Gusmão run against a single competitor, Xavier do Amaral, formerly a leading member of Fretilin. Gusmão won the election with an overwhelming majority of 83 per cent of ballots cast, and took office immediately

---

[133] Speech by Sergio Vieira de Mello, Ministry of Education, Dili, 28 August 2001.
[134] See Carter Center, 'Final Project Report'.

once East Timorese independence was finally achieved, and UNTAET finally dissolved, on 20 May 2002.

3.6. CONCLUSION

By May 2002, fundamental change had clearly taken place in the East Timorese political context. Not only was the key issue of East Timor's status resolved, and independence finally guaranteed and recognized internationally, but a nascent democratic political regime had been put in place. While East Timor had previously existed largely without political institutions of its own, by 2002 it had an elected Assembly, an elected President, and a new permanent constitution that set out a range of democratic institutions.

As can be seen from the account above, this process of political change was not a purely domestically driven affair, and was heavily influenced by the presence of the UN administration in East Timor. International actors played a central role during much of the transition, and oversaw the direction and pace of much of the political development. Yet despite the extensive executive and legislative authority available to UNTAET throughout the period of administration, the UN did not dominate the process throughout, and sought instead to engage with local actors and allow for local as well as international input into the political transition.

At early stages of the transition, UNTAET did lead the way in the political sphere, and assumed the full executive authority granted to it in Resolution 1272, designing interim institutions with limited authority and spearheading both policy development and implementation. However, over time, and due to both domestic Timorese pressure and the pro-democratic nature of East Timor's political landscape, the UN mission began to devolve authority, and share real power with the Timorese political elite. From mid-2000, East Timor's transition became a joint-run affair, with critical elements of East Timor's new political regime emerging from processes of negotiation, compromise, and co-authorship. UNTAET did hold some fixed political priorities and positions, and on certain occasions was willing to push for its preferred outcomes, such as gender quotas and constitutional consultations, even when they were opposed by the NC. Yet the SRSG never officially struck down a NC measure, nor did it impose key elements of the new regime in the face of domestic opposition.

Once the country's first elected government came to power in late 2001, UNTAET stepped back even further in the political sphere, and left the

remaining element of the political calendar, the drafting of the new constitu-
tion, to be an almost entirely Timorese-run process. As a result, East Timor's
mode of transition was primarily one of consensus and negotiation, and can
be seen largely as a joint pact between international and domestic actors to
introduce a democratic regime. In the final stages of UNTAET's presence,
Timor's transition ultimately came close to a more conventional setting for
regime change, as domestic forces contested with each other over the consti-
tution largely without interference from international actors, and it was the
political priorities of the largest domestic party that were advanced, rather
than those of the international authorities.

By 2002, East Timor had thus seemed to have achieved a successful
transition, with considerable international involvement but also without
excessive international dominance during the transition period. The theoret-
ical framework employed here suggests that such modes of transition, where
international and domestic actors work together to introduce a new demo-
cratic regime without the need for international imposition, provide a fa-
vourable basis for the long-term consolidation of a stable democracy, as
domestic elites are likely to continue to support the achievements initially
made in the context of international administration. Yet the theoretical
framework also highlighted some of the more structural challenges that the
consolidation of democratic regimes can face, even if domestic elites are
predominantly pro-democratic. These challenges, especially limitations in
state capacity or state cohesion, can be especially acute in the contexts
where international administrations are established, as these extensive inter-
national missions are only likely to be mandated in territories where such
problems are already in existence to a considerable degree before international
intervention takes place. East Timor faced a range of such difficulties, and in
the years since 2002 the record of consolidation in East Timor has thus been
somewhat mixed.

Compared with the Balkan cases to be addressed below, East Timor's state
cohesion problems have been limited, and there are no significant parties that
question the boundaries of the political community or the borders of the
country. Yet political divisions have not been absent either, and the legacies of
the Indonesian occupation have led to political rivalries that run deep in East
Timor. Although the domestic political leadership was often united during
the transition, and worked together and with the UNTAET mission, tensions
between the leadership of the Fretilin party and Xanana Gusmão that date
back to the 1980s developed further, and became solidified in the political
system, with Fretilin dominating the CA and government, and Gusmão
holding the presidency and often providing vocal support to the opposition
parties. As a result, there were significant tensions at times between these two

power bases in the post-independence period, and while Gusmão had limited constitutional powers as President he regularly used the informal authority that came with the post to criticize the government.[135]

While these divisions in themselves did not challenge the democratic order, more significant challenges emerged in relation to state capacity, particularly within the security branches of the police and military. In the years after 2002, East Timor experienced a number of intermittent riots and demonstrations that challenged public order but that the security services struggled to address swiftly and competently. The fragility of East Timor's state structures, however, was most clearly revealed in the first half of 2006, when a rebellion in the armed forces developed into a generalized breakdown of law and order and near collapse of state authority. In February 2006, nearly 600 soldiers from the national defence force, the Falintil-Forças de Defesa de Timor Leste (F-FDTL), deserted their posts in protest at perceived discrimination in the army against soldiers from the western part of the East Timor. When the protesters refused to return to their barracks, they were dismissed by Fretilin Prime Minister Alkatiri, leaving several hundred armed ex-soldiers outside the state structures.

Increasing protests by the dismissed soldiers culminated in outbreaks of violence in April and May that led to several deaths and widespread civilian displacement.[136] As the protesters called for Alkatiri to resign, he in turn claimed that an attempted coup was underway. Law and order was further undermined when police structures disintegrated, and members of the police forces began to join the rebel soldiers and the police and army clashed, with several unarmed police members being killed by the F-FDTL on 25 May. By this time, President Gusmão and Foreign Minister José Ramos-Horta had invited foreign governments to send troops to East Timor in order to restore security, and troops began to arrive in late May as part of a new Australian- and New Zealand-led International Stabilization Force.[137]

The crisis was also marked by severe tensions within government, especially between the Prime Minister and the President, and on 30 May Gusmão declared a state of emergency for thirty days, assuming authority over the security forces.[138] When Gusmão called on the Prime Minister to resign in late June, Alkatiri initially resisted, but ultimately stepped down on 26 June. After further political wrangling between the President and the Fretilin leadership, a new government, led by non-Fretilin member Ramos-Horta, was sworn in

[135] See Shoesmith, 'Timor-Leste: Divided Leadership in a Semi-Presidential System'.

[136] 'Quiet returns to East Timor's capital after deadly riots by ex-soldiers', *Associated Press*, 29 April 2006.

[137] For details on the ISF, see: http://www.defence.gov.au/opastute/default.htm

[138] 'Gusmão takes over security in East Timor', *The Age*, 30 May 2006.

during mid-July.[139] The UN also acted in response to the crisis, and created a new operation for Timor, the United Nations Integrated Mission in Timor-Leste (UNMIT). UNMIT was mandated to promote national reconciliation, help with elections scheduled for 2007, and in particular, to support public security in Timor through the provision of a UN police force and other security sector support.[140]

These combined developments brought an end to the widespread disorder, but the protestors remained a significant problem, with a band of armed rebels under the command of former army major Alfredo Reinado representing a continuing threat from the hills. Reinado was arrested in July 2006 but escaped in August and evaded capture throughout 2007. Despite relative stability during 2007, including new parliamentary and presidential elections in which Ramos-Horta assumed the presidency and Gusmão became Prime Minister, in early 2008 East Timor was rocked again by political violence. On 11 February, President Ramos-Horta narrowly survived an assassination attempt when a band of rebels, led by Reinado, attacked him at his home. Ramos-Horta was seriously injured, Reinado himself was shot dead, while at a separate location in Dili Prime Minister Gusmão was also fired upon, but escaped injury.[141] The episode led to a prolonged state of emergency in East Timor, as Ramos-Horta was treated at a hospital in Australia and Fernando de Araújo, the President of Parliament, became acting President. Ramos-Horta's condition improved over time, however, and he returned to Timor in April 2008, resuming his role as President and ending the national state of emergency. The return to political normality was further entrenched when the key remaining rebels that had been involved in the February attack surrendered themselves directly to Ramos-Horta, thus bringing to an end the army rebellion that began in 2006.[142]

The events in 2006 and early 2008 thus clearly raise serious questions about the stability and capacity of state structures in East Timor. In some ways, these problems can be traced to the United Nations' earlier involvement, and particularly UNTAET's role in overseeing security in the new state. One of the most fundamental problems that led to the initial divisions with the armed forces, and between the army and the police, stemmed from the recruitment policies that were developed while UNTAET was still present in

---

[139] For further discussions the 2006 events, see the papers presented at the 'Beyond the Crisis in Timor-Leste' conference, Australian National University, 9 June 2006, available at http://devnet.anu.edu.au/Timor-Leste_Beyond%20the%20Crisis_Seminar_Home.php, accessed on 24 September 2006. For a UN view, see United Nations, 'Report of the Secretary-General on Timor-Leste pursuant to Security Council Resolution 1690 (2006)', S/2006/628, 8 August 2006.

[140] UN Security Council Resolution 1704, S/RES/1704, 25 August 2006.

[141] Donald Greenlees, 'East Timor, Shaken by Attack on Leaders, Weighs Causes', *New York Times*, 14 February 2008.

[142] 'Timor rebel leader, followers surrender', *Sydney Morning Herald*, 29 April 2008.

East Timor. UNTAET allowed commanders from East Timor's occupation-era armed resistance movement, Falantil, to select the first battalion of the defence forces in 2001, and they selected recruits loyal to Gusmão largely from the eastern districts of the county, which had been the centre of the armed guerrilla resistance during the occupation. The police on the other hand, as well as later army recruits, were taken more from the western districts of East Timor, and the police force in particular is dominated by commanders loyal to Fretilin rather than Gusmão.[143]

For some critics, the United Nations also acted carelessly regarding East Timor's internal security by withdrawing its peacekeeping support too early.[144] When UNTAET departed, it was followed by a successor mission, the United Nations Mission in Support of East Timor (UNMISET), which was mandated to provide support for the new state, particularly in the security sector. In 2005, this in turn was replaced with a new mission, the United Nations Office in East Timor (UNOTIL), a smaller political capacity-building mission with a limited international security presence. Neither mission had a major peacekeeping component, and after the crisis of 2006, the UN Secretary General, Kofi Annan, acknowledged the United Nations' own role in the problem with an implicit criticism of the Security Council, which had previously blocked his requests for more sustained security provisions in the UN's post-independence presence in East Timor:

The sad events of recent weeks reflect shortcomings not only on the part of the Timorese leadership but also on the part of the international community in inadequately sustaining Timor-Leste's nation-building process.[145]

The nature of international administration itself can thus in some ways be seen to have left troubling legacies for the long-term stability of East Timor's political system and state structures. Yet while it is certainly the case that critical elements of the problems that sparked and sustained the crisis have their roots in events that took place under UNTAET's administration between 1999 and 2002, the events of 2006 and 2008 have multiple causes, many of which are linked to pre-1999 and post-2002 events and policies. Aside from questionable policies of the Alkatiri government in relation to the dismissal of the protesting soldiers, the weaknesses of the security institutions reflect

[143] See Shoesmith, 'Timor-Leste: Divided Leadership in a Semi-Presidential System'.
[144] See in particular Ludovic Hood, 'Security Sector Reform in East Timor, 1999–2004', *International Peacekeeping*, Vol. 13, No. 1, March 2006, pp. 60–77.
[145] *The Associated Press*, 'U.N. Prepares to Start a New Peacekeeping Mission in East Timor', June 14, 2006. On divisions between the Secretary General and Security Council of the United Nations, see Paulo Gorjao, 'UNMISET's hastily [sic] replacement by UNOTIL in East Timor', May 2005, available at http://www.etan.org/et2005/may/08/00unmiset.htm, accessed 24 September 2006.

wider problems of state capacity within East Timor, and highlight the scale of the task that is involved in international state-building operations. While the democratic regime-building elements of UNTAET operations in East Timor led to the successful establishment of a democratic regime, the wider issues of state weakness highlight the extent to which the long-term consolidation of democratic regimes established under international auspices are dependent on a broader range of domestic structural factors. As José Ramos-Horta observed in his prime ministerial inaugural speech, East Timor only inherited 'a sketch of a state' from UNTAET in May 2002, not least due to the lack of autonomous state institutions within East Timor during Portuguese colonization and Indonesian occupation.[146]

Ultimately, the 2006 crisis in East Timor was resolved according to the democratic constitution that was adopted in 2002, and a peaceful transfer of power was achieved at the highest levels of government. Similarly, the government response to the 2008 assassination attempt was within constitutional parameters, and in some ways the crisis led to an improvement in East Timor's security outlook. With the death of Alfredo Reinado, and the surrender of his successor rebel leader, the security threat dating from 2006 reduced considerably.

The most significant sign that East Timor's political regime has withstood its challenges well, however, is the success of the two sets of elections held in 2007. In the presidential elections, Prime Minister Ramos-Horta challenged the official Fretilin candidate, Francisco Guterres, and after coming second to Guterres in the first round, Ramos-Horta defeated him heavily in the second round with nearly 70 per cent of the vote. The parliamentary elections held in June 2007 were most notable for the performance of a new political party, the CNRT, headed by outgoing President Xanana Gusmão.[147] The CNRT polled 23 per cent of the vote, and the results suggested that the party gained most of its support at the expense of Fretilin, whose support levels fell from 57 per cent in 2001 to 29 per cent in 2007. In the wake of the elections, and despite loud complaints from Fretilin, a coalition of parties led by the CNRT formed a coalition government and Gusmão became Prime Minister, with Fretilin relegated to the opposition benches. Although the development was swiftly followed by violent unrest by Fretilin supporters, Fretilin ultimately accepted its new role in opposition, the unrest died down, and the new coalition subsequently consolidated its place in government.[148]

---

[146] Address by José Ramos-Horta at his swearing in ceremony as Prime Minister, 10 July 2006, available at http://www.etan.org/et2006/july/15/10address.htm, accessed 24 September 2006.

[147] This CNRT political party is a distinct entity from the umbrella organization of the same name that existed in the late 1990s and early 2000s.

[148] For more on the elections and their aftermath, see Andrew McWilliam, 'Performing Politics: The 2007 Parliamentary Elections in Timor Leste', *The Asia Pacific Journal of Anthropology*, Vol. 9, Issue 1, March 2008, pp. 66–82.

In terms of the democratic regime at least, recent events thus suggest that it can withstand significant challenges, and is dominated by those who would rather protect democracy than undermine it. Yet if democracy is to become truly consolidated within East Timor, the wider state apparatus will need to be strengthened considerably, a task which may once again entail considerable international involvement in East Timorese political affairs. The political transition that took place between 1999 and 2002, in which UNTAET was so heavily involved, resulted in the establishment of a nascent democratic regime through the joint efforts of domestic and international elites. That experience highlights the particular role that international administrators can play in the domestic process of regime change and in contributing to the establishment of the architecture of democratic governance. Events since 2002, however, highlight the extent to which such international democratic regime-building efforts are inherently limited, and conditional not only on the performance of international administrations themselves, but more importantly on the nature of domestic elites and state structures.

This page intentionally left blank

4

UNMIK in Kosovo

Political development in Kosovo in recent years has raised many of the key issues of interest in this study. In 1999, Kosovo came under international administration by a UN civilian mission, the United Nations Interim Administration Mission in Kosovo (UNMIK). The mission was established after a sustained conflict in the region between the Serbian state and Kosovo's Albanian resistance movement, and was mandated to oversee political and economic reconstruction in the territory. Since its establishment, UNMIK has played a central role in Kosovo's ongoing political transition, and has used the full range of mechanisms available to it in order to influence the direction and nature of democratic development. Along with wider state-building efforts to build local political capacity and develop a market economy, the international administration has also sought to shape the direction of democratic political development. Yet while the domestic political elite in Kosovo has been largely supportive of democracy in rhetorical terms, significant divisions among Kosovo's Albanian and Serb communities have led to a polarized political landscape, and the presence in some sectors of a certain ambiguity towards democratic norms and practices, especially regarding minority rights protection. The international authorities also long sought to avoid prejudging the sensitive issue of Kosovo's political status, especially before 2005, and were thus consistently reluctant to allow full devolution of authority to local institutions. As a result, the mode of transition in Kosovo, which at the time of writing remains ongoing, had entailed a combination of a joint international and domestic pact on the democratic project, with elements of international imposition where UNMIK has deemed it necessary. UNMIK has worked closely with local actors on the political transition, but has also regularly felt the need to rely both on the use of conditionality and, at times, the imposition of political decisions against the wishes of domestic actors.

This prolonged and, at times, imposed nature of Kosovo's mode of transition highlights the influential role that international administrations can play in democratic regime change, as well as the mediating role of the domestic political context. The following sections outline the domestic and international conditions that have contributed to this particular process of democratic change, and

explore the ways in which the UNMIK mission has played a critical role in promoting and shaping democratization in Kosovo.

4.1. KOSOVO'S DOMESTIC CONTEXT

Kosovo's recent political history revolves around one issue more than any other: political status.[1] As a former province within Serbia with a majority ethnic Albanian population, Kosovo's place within the Balkans has been a consistent source of tension in the region, and the entity has been, and remains, subject to conflicting narratives concerning both its history and future. Although Kosovo declared independence in February 2008, its sovereign statehood has not been universally recognized and its relationship with Serbia thus remains legally and politically ambiguous. Under Tito's Yugoslavia, the territory's status was progressively enhanced, and Kosovo ultimately became an autonomous province under the 1974 Yugoslav constitution, bringing it a level of autonomy close to that enjoyed by the six republics of the Yugoslav state.[2] After Tito's death, however, the tension that existed over Kosovo worsened, and the new Slobodan Milošević regime in Belgrade sought to reassert Serb authority in the entity and began to use the Kosovo issue to stir up domestic nationalist support. In 1989, in order to strengthen his hand both within Serbia and in the Yugoslavia state as a whole, Milošević stripped Kosovo of its autonomy.[3] The response in Kosovo was one of renewed Albanian political activism, and firm political resistance to Serbia emerged with the establishment of the Democratic League of Kosovo (LDK) led by Ibrahim Rugova, which spearheaded a non-violent independence movement and quickly gained widespread popular support within Kosovo. As well as providing an organized front for Kosovar opposition to Serbian rule, the LDK also initiated moves to develop local and democratic self-rule outside of the Yugoslav legal framework. In 1991, it organized a referendum on independence, which was overwhelmingly approved, and the following year it staged unofficial Kosovo-wide presidential and parliamentary elections. Rugova was elected president, and the LDK won the vast majority of seats, forming a government in exile based in Bonn.[4] A system of local taxation was introduced,

---

[1] For some of the implications of Kosovo's ambiguous political status for democratization, see Oisín Tansey, 'Democratization Without a State: Democratic Regime-building in Kosovo', *Democratization*, Vol. 14, No. 1, 2007, pp. 129–150.

[2] These republics were Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia.

[3] See Laura Silber and Allan Little *The Death of Yugoslavia* (Penguin Books, 1997), chapter 2.

[4] Tim Judah, *Kosovo: War and Revenge* (Yale University Press, 2000), pp. 68, 146.

and the proceeds were used to fund parallel structures of governance that were established throughout Kosovo, particularly local health and education systems that provided for the Albanian-speaking population.[5]

Yet by the end of the decade, with little progress made in achieving full independence and with increasing harassment of the Albanian population by Serb troops within the province, frustration about the status issue led to a schism in Kosovo politics that was to have long-term implications. In 1996, a new paramilitary group, the Kosovo Liberation Army (KLA), announced itself with a series of attacks on Serb forces within Kosovo, and it soon began to rival the LDK as the primary Kosovar resistance movement. In 1998, the Serb authorities sought to crack down on KLA activity and a full-scale conflict broke out, leading to more than a year of sustained fighting between the Serbian troops and the KLA. The violence involved considerable civilian casualties in Albanian areas as well as large-scale civilian displacement, and Serbia's actions quickly became the focus of widespread international condemnation along with international efforts to broker a ceasefire.[6]

Yet due to Serbian resistance to a ceasefire deal that would have involved NATO troops in Kosovo, the ceasefire talks failed,[7] and on 24 March, NATO initiated a military air campaign to force a Serbian withdrawal. The bombing lasted for 78 days, and it was not until June 1999 that Belgrade agreed to the terms that would lead to the end of the NATO campaign. Serbia ultimately accepted what were known as the G8 principles, which called for an end to the repression and violence in Kosovo; the withdrawal of all Serb forces; the establishment of both international civil and security presences; and the return of all refugees.[8]

Once the ceasefire was in place, attention turned again to the issue of Kosovo's status under the new political conditions. Despite the demands of the Kosovar Albanian majority for independence for the former Yugoslav province, international opposition to a redrawing of the boundaries within the Balkans meant that independence was essentially vetoed as an option by the international community. The international community was particularly concerned with the implications that an independent Kosovo could have for the region, especially with an Albanian minority in neighbouring Macedonia that might wish to follow the Kosovo lead.[9] Rather, by the time Serbia agreed

---

[5] See Noel Malcolm, *Kosovo: A Short History* (Macmillan, 1998).

[6] For an account of the conflict, see Judah, *Kosovo: War and Revenge*.

[7] For an account of the talks, see Marc Weller, 'The Rambouillet Conference On Kosovo' *International Affairs*, Vol. 75, Issue 2, 1999, pp. 211–251.

[8] Independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford University Press, 2000).

[9] For an analysis of the international dimensions to the conflict, see Richard Caplan 'International Diplomacy and the Crisis in Kosovo' in *International Affairs* Vol. 74, No. 4, 1998, pp. 745–761.

to the international conditions in June 1999, it had been decided that the UN should be involved in a transitional role before Kosovo's final status would be determined. Consequently, on 10 June the UN Security Council passed Resolution 1244, which established the United Nations Interim Administration Mission in Kosovo (UNMIK) that would 'provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo'.[10] This presence was also to be complemented by a NATO force known as KFOR that had a mandate to oversee the withdrawal of Serb troops and provide a secure environment for the population and the international presence.[11]

Yet the context within which these missions were to be deployed was not a favourable one. By this stage, the region had been subject to over two months of intense bombing, and Kosovo was experiencing a refugee crisis of immense proportions. A wide range of political, economic and security challenges faced the international powers, including a collapsed economy, the urgent need for refugee repatriation and a militarized political environment. There was also a prevailing environment of civilian insecurity and a lack of basic public services. In particular, one of the major problems in the early UNMIK period was revenge violence against Serbs, which was widespread and led to an exodus of an estimated 150,000 Serbs from Kosovo and the segregation of many who remained to protected enclaves.[12] Aside from the major military and humanitarian tasks facing the international authorities, the principal tasks facing the UN and NATO in the first post-intervention months also included key political issues, including the need to bring Kosovo's principal factions together and re-establish conventional politics after the militarized context of the recent conflict. The following sections examine these political challenges, and assess the relative balance of international and domestic actors in guiding the development of Kosovo's nascent political regime.

---

[10] UN Security Council Resolution 1244, S/RES/1244, 10 June 1999.

[11] Military-Technical Agreement between the International Security Force (KFOR) and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia, 9 June 1999, available at http://www.nato.int/kosovo/docu/a990609a.htm, accessed on 20 November 2006.

[12] ICG, 'Starting from Scratch in Kosovo', ICG Balkans Report No. 83, 10 December 1999, p. 2.

4.2. UNMIK AND DEMOCRATIC REGIME-BUILDING IN KOSOVO

The United Nations Interim Administration Mission in Kosovo (UNMIK) was established under UN Resolution 1244, which provided for a complex structure consisting of a range of international bodies. Given the challenges that existed in Kosovo's post-conflict environment, the mandate for the mission was extensive. The Resolution highlighted a broad range of objectives, including some core post-conflict aims, such as troop withdrawal, demilitarization and the establishment of a secure environment, as well as a number of explicitly political responsibilities for UNMIK. These were wide-ranging and ambitious, and included:

– promoting the establishment of substantial autonomy and self-government
– performing basic civilian administrative functions
– organizing and overseeing the development of provisional institutions for democratic and autonomous self-government
– holding elections
– facilitating a political process designed to determine Kosovo's future status
– overseeing the transfer of authority.[13]

These tasks, however, were all to be carried out taking into account 'the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia', leading to a certain ambiguity concerning the extent of 'autonomous self-government' that could be developed. While UNMIK was provided with expansive powers within Kosovo, and mandated to promote the development of local self-government, it also had to exist in a legal framework where Kosovo was still seen as part of the Federal Republic of Yugoslavia.[14] Nonetheless, it is clear that one of the central objectives of UNMIK's mission was to oversee a period of democratic political development in Kosovo, and provide for the creation of democratic institutions and the holding of democratic elections.

UNMIK was also made up of a number of international organizations, but with an integrated structure and unified chain of command headed by a Special Representative of the UN Secretary General (SRSG). The mission was separated into four pillars, each led by a separate international agency. The United Nation High Commission for Refugees (UNHCR) was in charge of

---

[13] UN Security Council Resolution 1244, S/RES/1244, 10 June 1999.
[14] See Alexandros Yannis, 'The UN as Government in Kosovo', *Global Governance*, Vol. 10, No. 1, 2004, pp. 67–81.

humanitarian issues, in particular the process of refugee return, and the European Union (EU) was given the role of leading the economic reconstruction effort. The UN itself took the lead on civil administration, focusing on the three areas of policing, public administration and the judiciary, and the Organization for Security and Cooperation in Europe (OSCE) was given the role of coordinating the institution-building pillar.[15] The SRSG was to hold overall authority to manage the mission and coordinate the different international agencies involved.

The SRSG was given particularly strong powers, providing the holder with full legislative and executive authority within Kosovo.[16] As the highest civilian official within the UNMIK structure, the SRSG enjoyed full civilian executive authority, with the ability to interpret the extent of his/her powers as set down in Resolution 1244. The SRSG was given the power to 'change, repeal or suspend existing laws', and provided with the 'authority to appoint any person to perform functions in the interim civil administration in Kosovo, including the judiciary, and to remove such persons if their service is found to be incompatible with the mandate and the purposes of the interim civil administration'.[17]

UNMIK was thus clearly provided with both the mandate and the authority to play a central role in developing the key elements of a democratic regime in Kosovo. Indeed, developments after 1999, particularly in the arena of electoral politics and institution building, reveal significant progress in the creation of a political regime for democratic self-government, with much of it due to decisions taken by the international mission. In many ways, the story of the ongoing transition in Kosovo is the story of a process of lengthy, and often fraught, interaction between UNMIK and domestic actors.

On the international side, UNMIK has been active in many aspects of Kosovo's political life, wielding influence to set the pace and sequence of political development, shaping institutional design and brokering government formation negotiations. As in international administrations more generally, in Kosovo international actors have been able to become key negotiators, proposing, advocating and at times, imposing key solutions to the political challenges faced during the transition period. Some of this involvement has been in the form of advice and persuasion, and there have been efforts to introduce and promote international norms of democratic

[15] See United Nations, 'Report of the Secretary General Pursuant to Paragraph 10 of Security Council Resolution 1244' (1999), S/1999/672, 12 June 1999. The UNHCR Humanitarian Pillar was closed down in June 2000, and a new Pillar 1 (Police and Justice) was established in May 2001.

[16] UNMIK Regulation 1999/1, 'On the Authority of the Interim Administration in Kosovo', 25 July 1999.

[17] United Nations, 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo', S/1999/779, 12 July 1999.

governance.[18] On other occasions, however, it has also entailed more powerful dynamics, as the international administration has introduced conditionality to achieve certain outcomes and has, at times, found it necessary to impose desired solutions in the face of domestic opposition.

Political development in Kosovo, however, has not been purely driven by the international community, and is also a function of the domestic context within Kosovo. In particular, Kosovo's domestic politics is marked by three cleavages that are associated primarily with the entity's history of political conflict with Serbia, and that have contributed to the form of both Kosovo's domestic politics and UNMIK's priorities and actions in the entity.

The first cleavage exists between the Serb and Albanian populations and parties in Kosovo, and has led to a largely segregated political and social system in the territory. There is little integration between Serb and Albanian communities throughout Kosovo, and as well as limited inter-community trust.[19] This divide is reflected at the political level, where there remains an absence of multi-ethnic political parties, and where distrust and antagonism continue to exist between Kosovo Serb and Albanian parties. Kosovo Serb political participation in the structures of self-governance developed in the UNMIK era has been limited, with regular boycotts of both elections and central institutions. The division is further marked by the situation in the northern city of Mitrovica, where much of the Kosovo Serb population is located, and where Belgrade-supported parallel institutions have been established to provide services for the Serb community. These structures exist outside the central Kosovo institutions and have further hampered efforts to bridge the divide between the two communities.

As well as this cross-community divide, there are divisions within each community. The second cleavage is that which exists within the Kosovo Serb community, where political forces have been fragmented over the issue of cooperation with UNMIK and participation in Kosovo institutions, as well as the wisdom of following the political line from Belgrade. Some factions of the Serb population have tended towards moderation and participation, while others have eschewed cooperation with UNMIK or dealings with the Kosovo Albanian parties.

Finally, the Kosovo Albanian political landscape is itself also marked by significant political divisions that have their roots in the conflict with Serbia. As discussed above, the Democratic League of Kosovo (LDK) was the main

[18] See Alexandra Gheciu, 'International Norms, Power and the Politics of International Administration: The Kosovo Case', *Geopolitics*, Vol. 10, No. 1, 2005, pp. 121–146.

[19] For detailed assessments of inter-ethnic relations in Kosovo over time, see the UNDP 'Early Warning Report: Kosovo' series, available at www.kosovo.undp.org/publications/publications.asp

party of the 1990s, when it galvanized Kosovo opposition to Serb rule with a strategy of non-violent resistance. Yet in the run up to and during the conflict with Serbia, the KLA rapidly gained widespread support with its aggressive opposition to Serb rule and hardline stance on independence, and immediately made a political impact in the wake of the Serb withdrawal. In the post-conflict period, the military movement ultimately gave way to two significant successor parties. The first and largest is the Democratic Party of Kosovo (PDK), which the KLA leader Hashim Thaçi formed in the immediate aftermath of the conflict and used to establish a strong network of authority at the local level in Kosovo before UNMIK could fully deploy throughout the territory. For some time it appeared that the PDK would be the primary successor party to the KLA, but in May 2000 a second significant party was created when a former KLA commander, Ramush Haradinaj, established the Alliance for the Future of Kosovo (AAK). While these parties have had reasons to cooperate on many issues during the period of international administration, the relationship between them has at times been fraught, and the LDK and PDK in particular experienced phases of intense rivalry.

The implications of these divisions within Kosovo's political society have been significant for the nature of the international intervention and the mode of transition that Kosovo has experienced. With a deeply polarized political landscape in a post-conflict environment, some of the norms and practices of democracy have been eschewed in favour of ethnic-based and exclusionary politics. While none of the parties in Kosovo have been explicitly opposed to democratic development, or have actively and openly sought to undermine the democratic institutions that have been established over time, there have nonetheless been concerns about democratic commitment. The lack of freedom of movement for minority Serb communities has been a constant problem in Kosovo, and political violence has been common both between and at times within the communities.[20] Furthermore, commitment among Kosovo Albanian leaders to a genuinely inclusive political and social system in Kosovo has been limited, with political leaders often doing little to try to stem violence against Serb communities or encourage Serb political participation.[21]

As a result, international and domestic actors have often pursued competing objectives, and the resulting interactions have sometimes been fraught. On one hand, there has been international and domestic cooperation on many of the key political issues that have been dealt with during the transition phase, and thus much of Kosovo's transition politics can be seen in terms of a

[20] See UNDP, 'Early Warning Report: Kosovo', May–August, 2002.
[21] ICG, 'Kosovo's Ethnic Dilemma: The Need For A Civic Contract', Report No. 143, 28 May 2003.

'joint pact' between international and domestic actors. However, international administrators have often felt the need to intervene heavily, and at times take action in the face of domestic opposition from at least some significant section of the entity's political society. On some of the most significant issues, local and international interests and objectives have diverged rather than converged, and thus the joint pact has, on occasion, been punctuated with significant international imposition.

The following sections highlight how the international administration has intervened in Kosovo domestic affairs to shape the development of its nascent political regime, and how international and domestic forces have interacted to produce this complex mode of transition. I explore these developments in three arena of democratization, those of elite access to authority, institution building and electoral politics. In each arena, I outline which points of interaction between international and domestic actors were the most relevant for democratic development, and highlight the particular mechanisms of international influence that operated at each stage.

4.3. ELITE ACCESS TO POWER

As with East Timor, one of the ways in which the international administrators in Kosovo have affected the political transition process is through the mediation of elite access to power. In both the pre- and post-election periods in UNMIK's tenure, international authorities have intervened in the competition between local political elites and parties, and sought to shape political outcomes, with an explicit aim of minimizing the prospects of political dominance by any one political party or community, and promoting inclusive and moderate politics in Kosovo. Comparatively speaking, the Kosovo experience does not highlight the use of all the mechanisms of influence that international authorities have available to them in the context of international administration (the Bosnian case study below highlights a greater level of international intervention in this arena), but UNIMIK has shaped Kosovar politics through both the international selection of interim interlocutors, and international involvement in post-election coalition formation.

4.3.1. Selection of local interlocutors

In relation to the first issue, UNMIK involved itself heavily in attempting to bring together the separate wings of Kosovar political society in the months

after the administration was established, and in many ways continued inter-national practices that had been ongoing before the NATO conflict. As the conflict between Serb and Kosovo Albanian forces escalated during 1998, and the KLA's role in Kosovo increased, the international community faced a dilemma. On one hand, it sought to bring an end to the conflict by involving only the moderate faction of Albanian resistance, namely the LDK, in nego-tiations with Belgrade. Robin Cook, Britain's Foreign Secretary at the time, outlined this approach in March 1998: 'What we are calling for is a political solution that enables the moderate, peaceful, non-terrorist leadership of the Kosovars the opportunity to explore their legitimate political objectives'.[22] Yet the reality on the ground highlighted the fact that the KLA was becoming a major force in Albanian politics, and as Serb aggression increased, so too did the role and authority of the KLA. The LDK's position was also undermined when its leader Ibrahim Rugova met with Milošević in May of 1998, and by the time of the Rambouillet conference in early 1999, the international community had to accept the KLA was a major player at the table.

Similar dynamics operated after UNMIK was established. The administra-tion arrived to find the KLA's recently declared Provisional Government, led by self-proclaimed 'Prime Minister' Hashim Thaçi, in a strong position throughout the province, especially at the local level. The UN favoured dealing with the LDK and Rugova, however, and initiated efforts to persuade Rugova to return from his exile in Rome in order to avoid dominance by the KLA successor parties in Kosovo's politics.[23] The UN's interim Special Rep-resentative, Sergio Vieira de Mello, also expressed doubts about the KLA's legitimacy as representatives of the Kosovar population. According to Vieira de Mello, 'In less than a year, the KLA has been transformed in the eyes of the West from terrorists to blue-eyed boys, real blue-eyed boys...In the KLA's eyes, they have proved their legitimacy as an active armed force on the same side as NATO. But that the KLA is a political force with a real constituency is not yet proven.'[24]

Rugova was ultimately persuaded to return to Kosovo and join the new interim Kosovo Transitional Council (KTC) alongside Thaçi, thus ensuring that the interim institutions would not be dominated by figures from the KLA. Yet concerns about the KLA-successor parties persisted within elements of the international administration, and subsequently had implications for the timing of the first democratic elections in Kosovo (see below).

---

[22] Quoted in Timothy W. Crawford, 'Pivotal Deterrence and the Kosovo War: Why the Holbrooke Agreement Failed', *Political Science Quarterly*, Vol. 116, No. 4, 2001–2, pp. 506/7.

[23] See Caplan, *International Governance of War-Torn Territories*, p. 247.

[24] Quoted in Laura Rozen, 'The Struggle for Legitimacy', *Salon Magazine*, 24 June 1999, available at http://www.salon.com/news/feature/1999/06/24/kosovo, accessed on 9 June 2005.

Similar issues of interlocutor selection arose in relation to Kosovo's minority communities, particularly the Serb minority. UNMIK wished to incorporate Serb representatives into the interim consultative institutions that had been established in order to make them inclusive. However, after some initial participation in the KTC in 1999, the Serbs had withdrawn due to opposition to the creation of the Kosovo Protection Corps, Kosovo's new civil emergency service which was to be made up of former KLA members. In the face of the Serb boycott, UNMIK was forced to 'invent interlocutors'[25] on the Serb side by seeking out those who were willing to deal with the administration, engaging with them over a period of time and advocating their participation in the institutions. UNMIK was ultimately successful in its efforts of persuasion, and moderate Serbs based in the Gracanica enclave in central Kosovo became the principal points of contact, and finally agreed in April 2000 to participate in the interim institutions.[26]

Further moves were also made after the 2000 municipal elections, which were boycotted by the Serb parties, when UNMIK attempted to ensure that all minorities had some representation at the local level. In this instance, the SRSG appointed non-Serb minorities to some elected assemblies in areas with a minority presence, and took greater action in areas with a majority Serb population. In three cases in particular, the administration appointed entire assemblies where the Serb boycott had left a power vacuum, drawing members from a range of political parties associated with opposition to the Milošević regime in Serbia.[27] These practices continued in Kosovo under UNMIK's tenure, and the SRSG was still appointing municipalities in the wake of the 2007 elections in Kosovo.[28] The international administration thus not only sought to persuade minorities to participate in the new Kosovar institutions, but also facilitated this by installing certain groups into positions of local authority where those groups had been unwilling to engage in electoral politics.

In each of these cases, UNMIK's aims were to ensure that Kosovo's domestic political landscape included moderate and multi-ethnic elements, and the administration was willing not only to persuade and encourage participation, but also to install certain candidates if the existing institutions did not produce the desired outcomes. The strategy highlights not only UNMIK's particular aims in promoting a multi-ethnic and cooperation-based model of

---

[25] Phrase used by former UNMIK official in author interview, March 2005.

[26] UNMIK Press Briefing, 5 April 2000.

[27] United Nations, 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo', S/2000/1196, 15 December 2000, p. 2.

[28] ICG, 'Kosovo Countdown: A Blueprint for Transition', Europe Report N°188, 6 December 2007, p. 8, fn. 54.

domestic politics in Kosovo, but the ability of international administrations more generally to intervene in the dynamics of domestic political competition and encourage or ensure particular political outcomes.

4.3.2. UNMIK and post-election government formation

The second principal mechanism by which the international administration influenced elite politics at the domestic level was through post-election coalition brokering. After the first Kosovo-wide elections in 2001, which were to enable elected representatives to establish new political institutions that would replace the interim structures (these institutions will be discussed further below), domestic efforts at forming a coalition floundered due to inter-party disputes. In particular, a disagreement between LDK and the PDK on appointments to the two key positions of the government – the President of Kosovo and the prime minister – led to a prolonged period of stalemate. Repeated votes on electing the president had failed when Rugova received insufficient support within the new Assembly on three separate occasions, the last of which required only a simple majority vote rather than the two-thirds requirement of the first two.[29] The LDK was also involved with a standoff over the prime minister post, which the PDK felt it deserved on the basis that its electoral support (27% to the LDK's 58%) warranted the prime minister position. The PDK also had a long-running association with the position of prime minister, as the Rambouillet agreement of early 1999 had included provisions for an interim government in which the PDK leader Thaçi would hold this post, with Rugova as President. Indeed, when UNMIK had first arrived in Kosovo, Thaçi claimed for some time that he was Kosovo's Prime Minister and head of its Provisional Government.

   International mediation became a major part of the efforts to form a government, both contributing to the delay and ultimately holding the key to its resolution. The international community was strongly in favour of a broad-based coalition, and pushed hard to ensure that the parties would agree to create a cross-party government and resolve the deadlock. Yet it also played a role in the standoff, as international efforts to favour the moderate politicians included an effective veto on Hashim Thaçi becoming the prime minister due to his perceived hardline stance.[30] The resolution of the issue was also not helped by the resignation of the then SRSG Hans Haekkerup at

---

[29] See *East European Constitutional Review*, 'Constitution Watch: Yugoslavia', Vol. 11, Nos. 1/2, Winter/Spring 2002, p. 57.

[30] Author interview with former UNMIK official, February 2005.

the end of December 2001, in part due to a lack of confidence in him among the Kosovar Albanian politicians whom he was seeking to bring together.

Haekkerup was ultimately replaced as SRSG in January 2002 by the German diplomat Michael Steiner, who took a more direct and active role in trying to broker a solution to the political stalemate. After a period of intense negotiations with political leaders, he proposed a compromise candidate for the prime minister position, PDK politician Bajram Rexhepi, and sealed agreement on the new government, with Rugova as President, after a lengthy negotiation session at his private residence that ended in the early hours of 28 February 2002.[31]

Nearly three years into the international administration of Kosovo, therefore, the international community was still deeply involved in determining which local elites would gain access to power, and was prepared to use a combination of vetoes and persuasion to influence the trajectory of processes conventionally determined by domestic actors alone. UNMIK was never quite as intrusive in subsequent rounds of government formation in Kosovo, but international efforts were also made after both the 2004 and 2007 elections to promote broad-based governing coalitions (although unsuccessfully in both cases). The examples above illustrate how international administrations, more so than any other form of international involvement in local-level politics, can affect the inter-elite dynamics that are critical to transition politics, and thus shape the broader mode of transition. When international administrators select certain interlocutors to deal with through interim institutions, and not others, and when they appoint certain elites to positions of power through means outside the existing institutional framework, they affect the processes of democratic regime change in ways simply not available to outside actors in other contexts.

4.4. INSTITUTIONAL DESIGN

As discussed in Chapter 2, institutional design is often viewed as a process determined by domestic actors and their interaction. In the case of Kosovo, however, this aspect of democratic transition saw as much international as domestic input, and the international administration played a major role in initiating and overseeing the development of Kosovo's institutions of self-government. In the early years of UNMIK's administration in particular, as

---

[31] Ibid.; Michael Steiner Press Conference, 28 February 2002, available at http://www.unmikonline.org/press/2002/trans/tr280202.htm; and UNMIK Local Media Monitoring, 28 February 2002.

the domestic parties sought to maximize the competencies of Kosovo's new political system, the international mission steadily and effectively sought to limit the scope of authority at the domestic level, and enforced its own design decisions on key issues that have faced domestic opposition. This section examines two separate stages of institutional design in Kosovo, the first involving the interim consultative institutions established by UNMIK in the early stages of the administration period, and the second focusing on the design of Kosovo's Constitutional Framework in 2001, which created a new set of more powerful local political institutions and paved the way for a significant transfer of authority to a new directly elected government and legislative assembly.

4.4.1. Interim institutions

Much of the early focus of UNMIK related to the humanitarian crisis that existed in 1999, as well as the immediate security-related goals of disarming the KLA and demilitarizing the local context. Yet the mission also had political goals during this stage, and one of the earliest challenges facing the international administration was to dismantle the parallel structures that existed in Kosovo, including both the Serb-sponsored institutions in the north of the territory and the unofficial Albanian structures established by Rugova in the 1990s and by Thaçi immediately after the end of conflict in 1999. UNMIK hoped to remove these structures and bring all the political players together in new political institutions under the remit of the international administration. At the early stage, this process developed slowly, as the UNMIK mission initially set up a consultative forum, the Kosovo Transitional Council (KTC), to bring all the local players around one table. The KTC consisted of thirty-five members selected both from the main political parties and from other segments of Kosovo's political and civil society. The functions of the body as proposed by UNMIK were to 'provide a mechanism for enhancing cooperation between UNMIK and the people of Kosovo, restore confidence between the communities and identify candidates for interim administration structures at all levels'. With its aim of ensuring the participation of all Kosovar people in the workings of UNMIK, the administration felt it would thus also play a role in promoting democratization and institution-building.[32]

The powers of the KTC were drawn up entirely by UNMIK itself, however, and the body was provided with a very limited role. It was essentially advisory in nature, and had no role in executive or legislative decision-making independent

---

[32] United Nations, 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo', S/1999/779, 12 July 1999.

of the SRSG, who chaired the KTC and was not obliged to carry out its recommendations. This state of affairs soon became a point of contention, and dissatisfaction increasingly emerged about the limited powers enjoyed by the local politicians.[33]

As a result, more significant institutional development took place at the end of 1999, when the Joint Interim Administrative Structure was established, which was to bring about Kosovo institutions that more resembled those of a self-governing entity, including twenty departments and a new executive body, the Interim Administrative Council. The KTC was to be retained, although in an enlarged format to 'better reflect the pluralistic composition of Kosovo'. One of the most important elements of the new structures was an agreement that the unofficial structures of government that had previously been established by the Kosovo Albanians would be integrated with the new JIAS. These primarily included Rugova's Government of the Republic of Kosovo, dating from the elections held in 1992 and 1998, and Thaçi's Provisional Government that was established in 1999. The latter, in particular, had developed a strong presence at the local level, often to the exclusion of the LDK.

The new eight-member IAC was to have a more concrete role than the KTC, with official powers to make recommendations on existing laws or new regulations, and the ability to propose policy guidelines regarding applicable law. The Council was divided between four Kosovar members and four from UNMIK, and any recommendations it made by consensus were to be implemented unless the SRSG offered a differing opinion in writing within seven days. Such law, in turn, was to be implemented by the new Administrative Departments, each to be led by Kosovar and UNMIK co-heads with expertise in the department's remit.[34]

Yet although these efforts led to a greater level of involvement of local actors in the process of Kosovo's governance and brought Kosovo closer to a conventional model of self-rule with the IAC as a quasi-government in charge of a range of departments, in reality the balance of authority still lay clearly with the international authorities. International rather than domestic actors had designed the interim institutions, and those institutions thus reflected international rather than domestic priorities. Ultimate authority in all areas still lay unequivocally with the SRSG, and there was no area of Kosovar political life where domestic authorities had a final say. While the KTC and the IAC could make recommendations and suggest a policy, there was no obligation for their recommendations to be accepted, and in practice much of the initiative still rested with

---

[33] ICG, 'Kosovo Report Card', Report No. 100, 28 August 2000.
[34] UNMIK Regulation 2000/1, 'On The Kosovo Joint Interim Administrative Structure', 14 January 2000.

UNMIK officials. Similarly, the departments were led by two co-heads, one Kosovar and one international, yet their effectiveness was undermined by a lack of resources and a perception among domestic co-heads that their role was inferior to their international counterparts.[35]

During 1999 and 2000, therefore, there was limited genuine self-government in Kosovo, and the institutions put in place were established according to international rather than domestic priorities. To a large extent, these interim bodies served the purpose of providing legitimacy for UNMIK in its initial stages, rather than paving the way for democratic politics at the local level. It was never a UNMIK policy at this stage to devolve significant levels of authority, not least due to the fact that the very reason UNMIK had been established was the lack of local capacity to deal with the range of social, economic and political challenges facing Kosovo. UNMIK had a clear mandate to address these challenges, and considered it essential to retain the executive and legislative authority necessary to deal with them. The joint structures thus enabled the international administration to provide local elites with a political role, and encourage cooperation between them, but firmly in the context of an institutional framework that limited the potential for local challenges to UNMIK's mandate and authority.

4.4.2. The Constitutional Framework and Provisional Institutions of Self-Government

The most significant stage of institutional design in Kosovo took place in early 2001, when UNMIK initiated a process by which both international officials and Kosovar representatives worked together in an effort to develop a more comprehensive set of institutions of self-government. While in 2000 the then SRSG Bernard Kouchner had suggested a 'pact' between the Kosovar Albanians and the UN in which UNMIK would introduce domestic self-governance institutions on a phased basis,[36] it was with the arrival of Hans Haekkerup as SRSG in January of 2001, that plans for the introduction of a single legal framework took shape. The UN was under increasing local pressure to hold Kosovo-wide elections, and there was a sense of growing dissatisfaction among local actors, unhappy with the lack of clarity on the issue of final status and a lack of delegation of authority from UNMIK. Haekkerup felt that if these elections were to take place, it was necessary to have a framework that outlined clearly what the elections would be for.[37]

---

[35] ICG, 'Kosovo Report Card'.   [36] Ibid.
[37] Author interview with former Haekkerup adviser, April 2005.

When he arrived, of the four priorities he outlined for his tenure, establishing a legal framework for Kosovo was one, with the other three being engagement with Belgrade, the development of an effective law enforcement and judicial system, and economic reconstruction.[38]

The result was the establishment of a Joint Working Group on the Legal Framework (JWG) on 6 March 2001. The JWG was made up of fourteen members, seven from the international side and seven Kosovo members, and chaired by Johan Van Lamoen, a UN legal expert who was brought to Kosovo from a post in East Timor specifically for the task. Apart from the chair, the international members included one representative from each of Pillars II, III and IV, the UN's head of legal affairs, a representative from UNMIK's Office of Political Affairs, and two rotating members of the Council of Europe's body of legal experts, the Venice Commission. The Kosovar members included one representative from each of the three main Kosovo Albanian parties, representatives of both the Serb and non-Serb communities, a civil society representative and an independent.[39]

The operations of this group highlighted in stark detail the nature of political interaction between international and domestic politicians and officials in the context of UNMIK's governance. Throughout the drafting process, the workings of the JWG were based largely on an international/domestic divide. On the international side, UNMIK officials felt they had a blueprint of what the end document would look like, and sought to reach that goal by controlling the agenda and introducing separate measures on an incremental basis, believing that by obtaining agreement on small sections at a time, they could manage the process and reach their desired destination on a step-by-step basis.[40] According to UNMIK's official statements, it had two key priorities with regard to the Constitutional Framework: the first to ensure the protection of the rights of all communities in Kosovo, and the second to respect the sovereignty and territorial integrity of the Former Yugoslav Republic and avoid prejudging a final settlement for Kosovo.[41]

On the domestic side, and in contrast to the conventional experience of constitutional negotiations, the disparate parties largely worked together and sought to present a united front.[42] Local members frequently met together away from the working group, and different members were allocated responsibility

---

[38] See 'Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo', S/2001/218, 13 March 2001; and UNMIK Press Briefing, 14 February 2001.

[39] UNMIK Press Release, 'Kosovo Group to begin work on Legal Framework', 6 March 2001.

[40] Author interview with former Haekkerup adviser, April 2005.

[41] UNMIK, 'UNMIK at Two: Turning Point for Self-Governance', available at http://www.unmikonline.org/2ndyear/unmikat2p3.htm.

[42] The exception to this was the non-participation of the Serb member, who initially left the JWG and was replaced only at the final stages.

for drafting initial texts to be discussed in the main group. The representatives from the political parties sought to coordinate their approaches, and any party divisions that emerged were put aside in an effort to have a coordinated presence in the JWG and gain as many concessions from UNMIK as possible.[43]

During the drafting process, the extent of UNMIK's influence on the process soon became clear. Not only was the administration directly involved in drafting the document itself, it was in a position in which it could set the agenda for the negotiations, and could manage the process by which the JWG dealt with the separate issues contained within the legal framework. Similarly, UNMIK was also able to establish clear lines across which it was not willing to let the process pass, issues that concerned the core international interests in Kosovo, namely the authority of UNMIK during the transition phase, minority rights protection, and the international determination not to prejudge the status issue. The international members of the group consistently reiterated that there were redline issues that UNMIK would not be willing to see included in the document, and in this manner was able to veto measures that were regularly and repeatedly raised by the domestic members.

However, the process also highlighted the strong influence of the domestic actors, and their ability to take the process in directions that were originally unanticipated by UNMIK. While the international members of the JWG were able to influence the nature of the document and ultimately resist the pressure from the Kosovar members on a number of key demands, the local members were able to extract a number of significant concessions and insert into the document important provisions that UNMIK had initially excluded.

Agreement was reached between the international and domestic members on a wide range of issues, and during the process of the negotiations, the document came to closely resemble a conventional constitution, with a preamble and a number of chapters that the international administration had initially not envisaged. The most notable was the provision for a President of Kosovo, which was resisted by some in the international community, and represented a significant gain for the local members of the working group. This, however, also represented one of the few issues where divisions existed between the local Albanian parties. It was widely anticipated that LDK's leader Rugova would become the first President of Kosovo, if such a position were created, and the LDK representative on the JWG, Fatmir Sejdiu, therefore tried to push for a directly elected president with significant powers. He was opposed, however, not only by the international members but also by the other Kosovar Albanian representatives, all of whom favoured an indirectly elected president with largely symbolic competencies. After a period of disagreement, the LDK representative

---

[43] Author interviews with Kosovar JWG members, April 2005.

relented, and it was agreed that the president would be elected by parliament and would have limited independent authority.[44]

The other principal political institutions agreed upon were a 120-member directly elected assembly, with a seven-member Presidency,[45] and a government to be headed by a prime minister. The institutional arrangements also contained provisions that reflected the divided nature of the society, with guaranteed minority representation in the Assembly (ten seats each for the Serbs and 'other communities') and mandatory power sharing in the Assembly Presidency and the government, both of which had clearly specified requirements to include members of Serb and other communities.[46]

However, there were also disagreements, many of which centred on the more politically important elements of the document. The most critical points of dispute that emerged related to the name of the document itself, the place of a referendum on Kosovo's independence, a time limit for the international administration, a Constitutional Court and the extent of responsibilities that would be granted to the new self-governance institutions.[47]

On the issue of the name of the document, the local members and political parties sought that it be called a constitution, and not a legal framework, citing the fact that under Yugoslavia's 1974 constitution Kosovo had a constitution of its own. UNMIK however was opposed to this move on the grounds that Kosovo was not a state, and that having a constitution would prejudge the process of determining the final status issue as outlined in UN Resolution 1244. Similar arguments were applied to the issue of a referendum, which was the most important issue of dispute on the Albanian side of the negotiations. Local members repeatedly argued for the inclusion of a provision on a referendum for independence, citing in particular the precedent of the constitution for Kosovo that had been drafted in the (subsequently discarded) Rambouillet agreement in early 1999. That article had provided for a referendum on independence within three years, but UNMIK resisted calls either for a referendum

[44] Author interview with Fatmir Sejdiu, Pristina, April 2005.

[45] The Presidency was later increased to eight members when the results of the 2001 elections gave the Serbs a larger presence in the Assembly than expected. The strength of the support for the Serb coalition meant the AAK were pushed into fourth place and lost out on automatic representation in the Assembly Presidency. The Constitutional Framework was amended to enable the AAK leader Ramush Haradinaj to join the Presidency. See UNMIK Regulation 2002/9, 'On an Amendment to the Constitutional Framework for Provisional Self-Government', 3 May 2002.

[46] The 'other communities' in Kosovo as outlined in the Constitutional Framework include the Roma, Ashkali and Egyptian (RAE) communities, the Bosniac community, the Turkish community and the Gorani community.

[47] Blerim Reka, *UNMIK as an International Governance with Post-War Kosova; Nato's Intervention; UN Administration And Kosovar Aspirations* (Shkup, Prishtinë, Tiranë: Logosa, 2003), p. 244.

provision or for any time limit on Kosovo's period of international administration. Similarly, UNMIK felt that including a Constitutional Court would compromise the position of UNMIK as the highest authority within Kosovo, and argued that the highest court could only be the Supreme Court.[48]

Another contentious issue was the treatment of minorities, and the minority protection provisions in the document. As part of the negotiations, UNMIK favoured a degree of minority protection that would guarantee the Serb and other minority representation in the new Assembly. While there was an agreement from the local members that this would be acceptable, there was a disagreement about the extent of the minority protection. In particular, there was opposition to UNMIK plans that would reserve twenty seats in parliament, ten each for Serb and non-Serb minorities, which would be guaranteed to minority parties *in addition* to any seats they might win through the open election. A firm line of argument from the Kosovo Albanian representatives was that the ten reserved seats should be a guarantee of minimum representation that would only come into play if the minority parties won less than ten seats in the open elections – so, for example, if Serb parties won seven seats, they would gain an extra three to bring them to the minimum level, rather than gaining the full ten reserved seats to bring their total to seventeen.

Finally, there were consistent divisions between the local and international group members on the relative competencies of Kosovo's new governmental institutions, the Provisional Institutions of Self-Government (PISG), and UNMIK itself. From the beginning, UNMIK had organized negotiations on these issues by creating three separate categories into which individual competencies could be classified: a black list, which would contain competencies strictly under UNMIK's remit; a white list, which would list the competencies of the PISG; and a grey list, which would include responsibilities that would be shared by both UNMIK and the PISG. Over time, the negotiations on these issues proved contentious, and an agreement was not forthcoming on the 'grey list' area, leading the final document to have only two separate chapters outlining the relative competencies: Chapter 5 contained the responsibilities of the domestic institutions, while Chapter 8 contained those to come solely under the remit of UNMIK. Throughout the negotiations disagreement remained on the separation between these Chapter 5 and Chapter 8 powers, and the issue was one of the outstanding points of contention between the two sides by the end of the negotiation process. Examples of areas UNMIK sought to retain in Chapter 8 included, among others, the ability of the SRSG to dismiss the Assembly, control over the budget, the authority to appoint and remove judges and prosecutors, and control of law enforcement institutions, the police force and international relations.

[48] Author interview with UNMIK official, April 2005.

By the end of the negotiations many of these issues remained unresolved, with no consensus among the international and domestic members as to how to proceed. Neither side was willing to compromise and give in to the other's arguments, and the JWG itself was unable to arrive at an agreement over the final document. As a result, two of the JWG's non-party local members, Blerim Shala and Blerim Reka, resigned at this time, disillusioned with the final document and UNMIK's lack of compromise.[49]

With no further prospect for consensus and agreement, the issue was ultimately finalized by the SRSG, who took the document to New York for approval, and resolved the outstanding issues according to UNMIK's priorities. A compromise was found on the issue of the name, and it was termed a 'constitutional framework' as opposed to a legal framework or a constitution. Yet on many of the other issues compromise was not an option, and decisions went against the local Albanian wishes: the document contained no reference to a referendum, or a time limit for the UN administration. Minorities were given twenty set-aside seats, additional to any they might win at the polls, and the Chapter 8 powers reserved for the SRSG were extensive, including the most significant competencies that UNMIK had sought. The final document also contained a short chapter entitled 'Authority of the SRSG', which stated that the SRSG's authority to ensure full implementation of Resolution 1244 was unaffected by the introduction of the PISG, thus maintaining UNMIK's full executive and legislative authority despite the establishment of the new institutions. There was also no provision for a Constitutional Court.

On 15 May 2001, in the face of disagreement from both within the JWG and from political party leaders, Haekkerup essentially imposed the final document when he signed it into a law as a UNMIK regulation. Neither the members of the JWG nor the leaders of the Kosovar political parties were asked to sign the document, and their declarations at the time suggested that many, particularly from the PDK, would not have.[50]

Ultimately, therefore, the SRSG took a measure to complete the process that arguably represents one of the strongest tools that international administrations hold over domestic actors, the imposition of key elements of the new regime. While the process of design had entailed a significant degree of local consultation and domestic input, the most significant provisions of the final outcome were heavily guided, if not drafted outright, by UNMIK itself, and reflected international rather than domestic priorities. With UNMIK intent on abiding by Resolution 1244 and avoiding any prejudging of the

---

[49] Author interviews with Blerim Shala and Blerim Reka, April 2005.

[50] UNMIK Local Media Monitoring, 'Haekkerup Signs Constitutional Framework', 16 May 2001.

status issue, and with domestic actors unwilling to compromise on their essential goals regarding Kosovo's right to self-governance and swift progress towards independence, it became inevitable that the impasse would be resolved through the use of international powers. The new PISG thus came into force in May 2001, and ultimately lasted until June 2008, when the Kosovo Assembly adopted a new constitution, with no executive role for UNMIK, four months after it declared independence.[51] The experience in 2001 highlighted UNMIK's capacity for influence on domestic political affairs, and also the mechanisms open to it. When negotiation and compromise were insufficient for outcomes to meet international aims, rather than make further concessions to domestic actors, imposition and veto powers were introduced to ensure international priorities prevailed.

4.5. ELECTORAL ARENA

The extent of the international presence and authority in Kosovo also enabled UNMIK to influence the electoral arena in a number of important ways. In particular, the OSCE, as head of UNMIK's Pillar III, was heavily involved in electoral issues in Kosovo and played a key role in guiding the development of Kosovo's electoral political development. Issues that had to be determined by the OSCE included whether the first elections would be local or Kosovo-wide, the timing of elections and the electoral system itself.

In relation to the issue of electoral sequencing, the OSCE decided to proceed with municipality-level elections first, on the premise that it would build up democracy from the local level. As discussed above in Chapter 2, some scholars suggest that national elections should precede local-level elections to place an emphasis on 'all-union parties and an all-union agenda'.[52] Yet for the OSCE, part of the motivation for prioritizing local elections was a fear that Kosovo-wide elections would be too controversial given the ambiguous status of the entity, and that placing early emphasis on elections to entity-level institutions might promote increased demands for statehood and possibly lead to an Albanian declaration of independence.[53] The logic of sequencing in Kosovo was therefore premised on a desire to reduce the focus on the nature of the entity itself as opposed to encouraging everyone, including minorities, to buy into it. As it happened, the initial local elections were nonetheless divisive, and

---

[51] See Constitution of the Republic of Kosovo, available at: www.kosovoconstitution.info
[52] Juan J. Linz and Alfred Stepan, 'Political Identities and Electoral Sequences: Spain, the Soviet Union and Yugoslavia', *Daedalus*, 121, Spring 1992, pp. 123–139.
[53] ICG, 'Elections in Kosovo: Moving Toward Democracy', Report No. 97, 7 July 2000.

did not succeed in deflecting attention from questions concerning Kosovo's status. The Serb minority boycotted the elections, starkly highlighting the divisions within the entity, and it was not until the Kosovo-wide elections in 2001 that the Serbs participated at the polls (although they later boycotted subsequent Kosovo-wide elections).

The timing of elections in Kosovo was also determined by the international administration, and followed a strategy that was based in part on negative experiences from Bosnia. In that case, the international community had a built-in timetable for elections arising out of the Dayton Agreement that required the first elections to the held within nine months. While the plan was initially developed to facilitate a one-year limit that was at the time envisaged for international involvement in Bosnia, it ultimately had the effect of facilitating the election of hardline nationalists, who benefited from the inability of moderate forces to develop a support base in the immediate post-conflict period. In Kosovo, elections were not held until the autumn of 2000, well over a year after the end of the conflict and the arrival of UNMIK. This was in part due to a wish to minimize the success of the KLA-based political forces, who had established a strong presence in the immediate post-war period. The OSCE was particularly keen on prolonging the pre-election period, and went against the wishes of the then SRSG Kouchner in waiting so long before they were held.[54]

In relation to both of these issues, the timing and sequencing of the elections, the international administration was thus in a position to wield decision-making authority in isolation from the pressure of domestic actors, and thus shape the pace and dynamics of key elements of the transition. Possibly the most important international involvement in this area, however, related to the design of the electoral system itself. Once again, as was the case with the Constitutional Framework, the process of decision-making on this subject was marked by a considerable degree of local consultation in combination with a strong international influence on the final outcome. To start the process of deciding on election matters, in early 2000 UNMIK established a Central Election Commission (CEC) which was largely made up of local representatives, but chaired by the head of the OSCE. The commission was to decide on a wide range of electoral issues, including the electoral system and others such as the registration process and the ballot design.

After nearly two months of discussions, the CEC recommended that Kosovo adopt a proportional representation system, which was also supported by the OSCE. Two reasons in particular were advanced for this recommendation. First, the CEC and OSCE were of the view that a proportional representation

---

[54] See Caplan, *International Governance of War-Torn Territories*, p. 123.

system would enable representation of small parties in the municipal assemblies and would thus protect minorities within Kosovo. Second, it was argued strongly by the OSCE that a PR system was the only technically feasible option given the time and resource constraints.[55] This is because a majoritarian system would have required the division of Kosovo into constituencies, which without census information regarding Kosovo's population distribution would have been both difficult and time consuming.[56] The OSCE's position also reflected a wider international preference for party-list proportional representation system for post-conflict societies, and their promotion has become something of a norm in international electoral assistance circles.[57]

Yet once the recommendations were made by the committee, no consensus on the issue was forthcoming from the political parties. As the OSCE pointed out at the time, the majority of parties backed the CEC's recommendations and favoured a proportional system. But the two largest parties, the LDK and the PDK, both had alternative stances. The LDK favoured a mixed electoral system, with both majoritarian and proportional aspects. The PDK on the other hand, favoured a purely majoritarian system, arguing that a proportional system was unjust and undemocratic, and would create a situation where nothing could be decided and where those who win elections would have limited influence.[58] It is likely that the PDK favoured a first-past-the-post system on the basis of assumptions about its own popularity. As outlined above, during the 1990s the LDK was the main party of Kosovo and had extensive support. But with the conflict of 1998–9, the KLA became the more important political movement, and the combination of the KLA's military and political successes and Rugova's perceived failures led to a significant shift in support away from the previously dominant party. It is probable that the PDK felt that as the KLA's main successor party it would translate the support of the military movement into political support at the polls, and would thus gain more political influence in a majoritarian system. As it happened, in the 2000 elections the LDK surprised many, not least the PDK, by polling 58 per cent compared to the PDK's 27 per cent.

Ultimately, however, the final decision on the electoral system, as with the Constitutional Framework a year later, was made by the SRSG. After a round of consultation with the interim consultative institutions, and with no consensus

[55] UNMIK Press Release, 'Interim Administrative Council Discusses Electoral System Proposals', 13 June 2000.

[56] UNMIK Press Briefing, 10 July 2000.

[57] Benjamin Reilly, 'Post-Conflict Elections: Constraints and Dangers', *International Peace-keeping*, Vol. 9, No. 2, 2002, pp. 118–139.

[58] UNMIK Local Media Monitoring Report, 'PDK Favors A Majority System And Not A Proportional One', 20 June 2000.

among local parties on which system to select, the SRSG ultimately made the final decision and passed a regulation on the municipal elections that included provisions outlining a proportional electoral system with open lists.[59]

The electoral debate did not end in 2001, however, and it was to re-emerge on the political stage in 2004, when plans were being put in place for the second set of Kosovo-wide elections. At this stage the CEC was re-established, and once again there were divisions between the main political parties and advice from the OSCE to maintain the closed list proportional representation system. Yet in the intervening years, the political landscape had changed somewhat in Kosovo and civil society was playing a larger role on the political stage. A new movement emerged, called Reform 2004, that advocated the introduction of a new electoral system, and that lobbied the international administration extensively to introduce open rather than closed lists. Two arguments in particular were used to support the call for a change in the system, namely that the existing system led to a lack of direct responsibility of elected representatives and also a lack of regional representation.[60] As well as this Kosovo group, electoral reform was also supported by the US office in Kosovo, with USAID in particular arguing for the introduction of open lists to limit the control of the party leaders over the membership of the Assembly.[61] Yet despite the advocacy on the part of civil society and elements of the international community, as well continued divisions among the domestic political parties, the SRSG once again made the final decision and opted to retain the existing system.[62]

Both episodes again highlight the key mechanisms available to external actors in contexts of international administration; even if negotiation and consultation are pursued, international administrators are in a position to draft their own measures and, when domestic agreement is not forthcoming, to impose the solutions that best suit their preferences. In Kosovo, UNMIK's actions in this arena reflected its extensive authority at the domestic level, and its willingness to intervene in local affairs and direct Kosovo's process of regime development. Its actions, often taken in the face of local resistance, have ensured that Kosovo's mode of transition has not been purely domestically determined, but rather heavily influenced by the presence of international administrators and their interaction with local actors.

[59] UNMIK Regulation No. 2000/39, 'On The Municipal Elections In Kosovo', 8 July 2000.
[60] Author interview with leading Reform 2004 member, April 2005.
[61] Author interview with USAID official, April 2005.
[62] UNMIK Press Briefing, 'Joint Press Conference of UN Under Secretary-General for Peacekeeping Operations Jean-Marie Guéhenno and SRSG Harri Holkeri,' 14 March 2004. See also Andrew Taylor, 'Electoral systems and the promotion of 'consociationalism' in a multi-ethnic society: The Kosovo Assembly elections of November 2001', *Electoral Studies*, Vol. 24, No. 3, 2005, pp. 435–463.

4.6. THE SECOND STAGE OF TRANSITION: KOSOVO UNDER THE PISG

Once the Provisional Institutions of Self-Government were established and the coalition government was finally formed in early 2002, Kosovo had achieved what might be described as a qualified political transition, and in many ways the resulting political system resembled that of a modern democracy. There was president, a directly elected government and an elected parliamentary chamber which housed a relatively stable party political system. In more conventional cases, the political change that took place in early 2002 could be identified as the cut-off point between the period of democratic transition and consolidation, as the new rules of the political regime are established and a new government comes to power through free and fair elections. In some cases of international administration, most notably East Timor, this stage of political development marked the end of international executive authority and the introduction of genuine self-government. In Kosovo, however, while new rules and a new government were introduced, the role of the international community was only reduced rather than removed, and UNMIK remained in largely the same format. The Constitutional Framework in this sense provided for only qualified self-government, as it stipulated significant limitations in the authority of the PISG, and provided for an elected government that could wield only limited executive and legislative authority.

As a result, Kosovo had clearly not yet completed a process of democratic transition and still lacked fundamental elements of democratic self-rule. Primary among the features that qualified democratic governance in Kosovo through this post-election period was the location of authority with the international presence and the role that UNMIK played in directing Kosovar political life. As one of the core features of democracy is the ability of the elected government to wield sufficient authority to make policy, UNMIK's continued executive role precluded the possibility of direct democratic accountability between the Kosovar electorate and the elected government. Under the Constitutional Framework, UNMIK's reserved powers provided the international administration with legislative authority in a range of critical policy areas, including monetary policy, security policy and external relations. It also enabled the SRSG to dissolve the Assembly under conditions where the PISG acted in a manner that violated the provisions of Resolution 1244, and ultimately left final executive authority in the hands of UNMIK. Self-government existed in Kosovo, but not to the extent that it could be described as democratic.

In many ways, the complex institutional arrangements that have existed in Kosovo after 2002 contributed to a blurring of the distinction between democratic transition and consolidation. While institutions of self-government were established and were based upon free and fair elections, continued divisions within Kosovo and limited progress on the protection of minority rights ensured that high levels of international authority were maintained on the grounds that full self-government could only come about once further progress was made. As will be discussed below, this progress was measured according to a wide array of international standards and UNMIK thus made a full transition to democracy in Kosovo, conditional on significant progress in the achievement of goals that are usually associated with democratic consolidation. It also played an active role in guiding the progress towards those goals, both in setting the content of the benchmarks that had to be met and using positive and negative incentives to affect the pace and direction of progress being made.

The following section highlights the nature of political development in the period after the PISG were established and the first Kosovo government assumed power. As in the initial UNMIK period, the international mission continued to use a range of mechanisms to influence domestic politics, and had a considerable influence on political processes in the new institutional setting. Kosovo's transition continued to be a prolonged one, marked not only by elements of agreement and cooperation between domestic and international forces, but also by disagreement and, at times, unilateral international action in the face of domestic opposition. Two political dynamics in particular marked the nature of Kosovo's political development after early 2002. The first was an ongoing battle for competencies between members of the PISG and UNMIK, and the second was the use of extensive conditionality by UNMIK under the policy of 'Standards before Status'.

4.6.1. PISG and UNMIK: The battle over competencies

The establishment of the PISG and the election of a government of Kosovo brought about a new period of cohabitation between domestic and international actors in Kosovo, as UNMIK now shared power with an assembly, a government and a president. While the new institutions of self-government struggled to overcome some inherent weakness, including limited resources, expertise and experience, they were by no means inactive. From the early days of the new government and assembly mandate, Kosovo's newly elected officials struggled to keep within the tight limits set by the Constitutional Framework, and as a result relations with UNMIK were, at times, politically

fraught. During the mandate of the first Kosovo government, relations be-
tween the PISG and UNMIK were often marked by an atmosphere of tension,
and the Kosovo Assembly in particular developed a difficult relationship with
the office of the SRSG.

   In the first term of the Assembly, significant tensions existed between the
two camps, which at times gave way to open confrontation. The Assembly's
choice of legislation in particular raised problems for UNMIK, which was
rigorous in its efforts to implement the terms of the Constitutional Frame-
work and prevent the provisional institutions from over-stepping their allo-
cated competencies. Some of the legislative initiatives in the Assembly were
particularly controversial, and led the SRSG to nullify the measures taken in
the chamber. In an early show of defiance, the Assembly debated a resolution
on the territorial integrity of Kosovo, which touched on the sensitive issue of
Kosovo's borders with Macedonia and was viewed as potentially destabilizing
by the international community. The resolution sought to challenge an
agreement of the previous year between the Federal Republic of Yugoslavia
and the former Yugoslav Republic of Macedonia, which the Assembly alleged
threatened the territorial integrity of Kosovo. The Assembly was warned
repeatedly by the SRSG that the resolution was beyond its competencies, as
it related to the reserved UNMIK area of external relations, and both the
European Union and the United Nations Security Council sent the Assembly
letters warning against approval of the resolution. Despite this international
pressure, however, the Assembly passed the resolution on 23 May 2002,
sending a clear signal that it had limited respect for both the Constitutional
Framework and the opinions of the UN and EU. UNMIK responded swiftly
and comprehensively, as the then SRSG Michael Steiner declared the reso-
lution 'null and void', and accused the Assembly of antagonizing the inter-
national community.[63] In so doing, UNMIK also sought to send a clear signal
that it would not tolerate actions carried out by the PISG that were not
provided for in the provisions of the Constitutional Framework.

   A similar response was given to other resolutions that UNMIK viewed to be
beyond the competencies of the Assembly, including a resolution that sought
to recognize the war values of the KLA. This prompted a Serb walkout from
the Assembly, and a declaration from the SRSG denouncing the resolution
and announcing that the PISG would be sanctioned by the exclusion of its
representatives from three significant international meetings scheduled for
that month.[64] A resolution passed in December 2003 that sought to nullify all

---

[63] Michael Steiner press conference, 23 May 2002, available at http://www.unmikonline.org/
press/2002/trans/pc230502.htm
[64] UNMIK Press Release, 'SRSG Issues Declaration on Kosovo Assembly Resolution on War
Values', 15 May 2003.

laws passed by Serb authorities during the 1990s was also described by UNMIK as 'without validity and effect'.[65]

A further indicator of this tension and struggle over division of competencies between the PISG and UNMIK was an attempt by the Assembly to amend the provisions of the Constitutional Framework, and reduce the number of powers that were reserved for the SRSG. Towards the end of 2003, the Kosovo Assembly began a process to draft and propose a set of amendments to the Constitutional Framework with three professed aims:

– to create a legal basis for the transfer of the SRSG's competencies
– to give domestic institutions the necessary tools to fulfil international standards
– to accelerate the resolution of Kosovo's final status.[66]

The committee that drafted the amendments was chaired by one of the local members of the original JWG, and the issues that emerged were very similar to those that were debated in March and April 2001. Ultimately, forty-two amendments were proposed to the Constitutional Framework, some of them minor technical changes, and other more significant proposals that would lead to fundamental shifts in the nature of Kosovo's constitutional foundations.

The title of the document was to be changed to the 'Provisional Constitution of Kosovo', the Provisional Institutions of Self-government were to be renamed the 'Democratic Institutions of Kosovo', and the judiciary was to be expanded to include a Constitutional Court. Chapter 5 powers were extended to include greater fiscal and budgetary authority, and a greater role in international relations and public security. Chapter 8 powers were left largely intact, although the important provision that the SRSG would have authority to appoint judges and prosecutors was to be removed. Most importantly, changes were suggested for both minority representation in the Assembly, and the ability of domestic institutions to bring about a referendum. On the latter issue, the Assembly and the government were given authority to call a referendum on any issue, and 50,000 members of the public could also bring one about. One of the amendments explicitly stated that a referendum on Kosovo's final status would be held 'after a transitory period under UN administration', although no timetable or deadline was given. Regarding minority representation, the amendments stipulated that

[65] UNMIK Press Release, 'UNMIK Considers the decision of the Assembly as invalid', 11 December 2003.

[66] OSCE, 'Report on the Monitoring of the Assembly of Kosovo', 7 July 2004, document with author.

the twenty reserve seats would only come into effect if minority parties were unable to win that number of seats through elections. Thus, while the reserved seats remained guaranteed, they would not be *additional* to any seats won through the election, as is the case in the Constitutional Framework.[67]

From the beginning of the process, however, UNMIK made clear that it considered such moves outside the competencies of the Assembly and premature for Kosovo. UNMIK told the Assembly that the Constitutional Framework was not subject to review, and it refused to engage in negotiations over the document. When the Assembly's amendments were finally sent to UNMIK, they were rejected, and no changes were ultimately made to the Constitutional Framework. In the words of one senior UNMIK official, 'we resisted and resisted and it went away'.[68]

In each of these cases, the international administration used its authority either to veto the measures the Assembly had taken, or to sanction the Assembly for acting outside its competencies. As in the first stage of transition, when the PISG were being developed, UNMIK did not shy away from frustrating the desires of the local elites and imposing its will when it came to key political issues. When the PISG acted in a manner that UNMIK viewed to be beyond the competencies set out for them in the Constitutional Framework, and damaging to the international goals of reconciliation, human rights protection and the development of a multi-ethnic society within Kosovo, the administration used its powers to override domestic actors. The mode of transition thus continued to entail significant elements of impasse and imposition after the election of Kosovo's first government, with extensive international involvement in domestic political development.

4.6.2. Progress through conditionality: 'Standards Before Status'

As well as these moves to nullify or sanction PISG actions that it disapproved of, UNMIK also sought to use positive incentives to encourage actions that it viewed as beneficial. A second significant hallmark of this period in terms of political development was thus an UNMIK strategy to ensure domestic progress on key political priorities through a particular form of conditionality, one that linked the resolution of the status issue with progress on a series of specified benchmarks. This initiative was first introduced under the SRSG Michael Steiner in April 2002, when he announced eight separate benchmarks to be satisfied by the PISG. These included functioning democratic institutions;

---

[67] OSCE, 'Report on the Monitoring of the Assembly of Kosovo', 7 July 2004, document with author, Annex 1.

[68] Author interview with senior UNMIK official, April 2005.

the rule of law; freedom of movement; returns and reintegration; the economy; property rights; dialogue with Belgrade; and guaranteeing the civilian mandate of the Kosovo Protection Corps.[69] These benchmarks became the centre of a process called 'Standards before Status', which made the initiation of talks on Kosovo's future status conditional on progress on the benchmarks. In January 2003, the benchmarks were developed to include thirty-two sub-goals, which elaborated on the broad requirements and specified narrower goals to be achieved. Further developments were made in December 2003 when these sub-goals were themselves operationalized, so that each specific goal had clearly outlined indicators that needed to be met,[70] and a Standards Implementation Plan was released in March 2004 that set out the specific actions and policies that needed to be taken. The Standards Implementation Plan talked of achieving 'a truly multi-ethnic, stable and democratic Kosovo which is approaching European standards', and stated that progress against the target of the standards 'will be the basis for any review in mid-2005 to begin consideration of Kosovo's final status.'[71]

This last comment refers to a significant diplomatic intervention made in November 2003 when Mark Grossman, the then US Under-Secretary of State, announced on behalf of the international Contact Group that has played a role in coordinating international policy on Kosovo,[72] that if sufficient progress on the standards was achieved there would be a review in mid-2005 that might lead to the opening of status negotiations.[73] For the first time, there was a specific date for discussions on the final status, and the conditionality of the standards was now clearly linked to a specific 'reward'. This announcement immediately led to a shift in behaviour among the local Kosovo Albanian parties, as they began to take the standards more seriously and develop a greater interest in attaining them.[74] The standards progess also clearly had an effect on the work of at least some of the provisional institutions. In terms of legislation alone, the Kosovo Assembly dramatically increased its output during the term of its first mandate, a shift that is explicable in large part due to the pressures to legislate associated with the standards process. In its first year, the

[69] See UNMIK Press Release, 'Address to the Security Council by Michael Steiner, Special Representative of the Secretary-General', UNMIK/PR719, 24 April 2002.

[70] UNMIK, 'Standards for Kosovo', 10 December 2003, available at http://www.unmikonline.org/press/2003/pressr/pr1078.pdf

[71] UNMIK, 'Kosovo Standards Implementation Plan', 31 March 2004, available at www.unmikonline.org/pub/misc/ksip_eng.pdf

[72] The Contact Group is an informal group of states that was formed in the early 1990s to address conflict in the Balkans, and is composed of the United States, Russia, the United Kingdom, France, Germany and Italy.

[73] UNMIK Press Briefing, 'Joint Press Conference of SRSG Harri Holkeri and US Under Secretary of State for Political Affairs Marc Grossman', 5 November 2003.

[74] Author interview with senior OSCE official, April 2005.

Assembly approved nine separate laws, a figure that rose to twenty-six laws in 2003, and during 2004, in the final nine months of its mandate before the elections of October 2004, it approved fifty pieces of legislation.[75]

Yet the increase in the rate of productivity was not universally viewed as a positive development, and concerns were raised that the Assembly risked becoming little more than a rubber stamp, passing bills without sufficient examination and without any prioritization among different pieces of legis-lation.[76] Questions were also raised over the underlying commitment to the principles and goals that were emphasized in the standards documents. Such fears were given further fuel in March 2004, when reports that Serbs were responsible for the drowning of three Kosovar Albanian children led to large-scale riots throughout Kosovo. Although lasting only a short period of time, the riots raised serious questions about the commitment of the Kosovo Albanian population and leadership to the goals of a democratic and multi-ethnic Kosovo, combining as they did widespread violence against Serbs, disregard for UNMIK and KFOR, and a lack of moderating leadership from Kosovo's elected officials and media. Nineteen people were killed, nearly a thousand injured, and over four thousand displaced. Despite immediate condemnation on the part of the international presence within Kosovo and from governments abroad, there was limited effort from Kosovar's elected leaders to calm the situation, especially at the local level, and limited willing-ness in its aftermath to accept the severity of the problem.[77]

Furthermore, the events highlighted not only key failings in the international security institutions, which held primary control over security affairs, but also revealed problems with the domestic security structures, and the political culture that existed within them. While the domestic police force, the Kosovo Protection Corps (KPC), performed well in many areas, there were reports that many of its members stood by rather than prevent rioting by fellow Kosovo Albanians, and that some members may even have joined in the riots.[78] Simi-larly, after the rioting, members of the KPC were also reported to have been reluctant to cooperate with judicial efforts to prosecute alleged rioters. Many were said to have refused to give testimony, or gave testimony to the effect that they witnessed no untoward incidents whereas others, including international security officers, stated that crimes were openly committed.[79]

After March 2004, the UN prioritized the standards process to focus on those measures that would further develop the multi-ethnic dimensions of Kosovo's

---

[75] Assembly of Kosovo, 'Evidence of the Processed and Adopted Laws', available at http://www.assembly-kosova.org/common/docs/ligjet/matrix_en.pdf
[76] Author interview with NDI official, Pristina, April 2005.
[77] ICG, 'Collapse in Kosovo', ICG Europe Report No. 155, 22 April 2004.
[78] Ibid.
[79] OSCE, 'The Response of the Justice System to the March 2004 Riots', December 2005.

political and social life, particularly freedom of movement and the right to return,[80] and re-doubled its efforts to ensure progress by linking status talks to tangible improvements on the ground. In the words of the SRSG:

'We have now turned the crisis of March into an opportunity to move towards the resolution of the Kosovo issue. And we have done it without rewarding violence. We now have a clear agreement with the Contact Group on a way ahead that will take us into a process leading to talks on the status. Progress will depend on implementation of those priorities among the Standards that are linked to a multi-ethnic Kosovo. In other words, only by showing progress in the areas where Kosovo failed last March, positive review of Standard implementation can be made, possibly next summer. And only in case of a positive assessment will there be a chance of moving forward in the process leading to status discussions'.[81]

In the year following the March violence, the UN reported a steady improvement in the progress on standards, especially in the wake of the election of a new government after the 2004 elections. The election resulted in the LDK and AAK parties forming a coalition (without international mediation as in 2001/2) and the election of AAK leader Ramush Haradinaj as Prime Minister. Haradinaj immediately made the standards a priority and gained support from the UN, which praised the 'growing political maturity' in Kosovo and the 'central importance' of Haradinaj's approach to the acceleration of standards implementation.[82] Further signs of a shift in approach were visible when Haradinaj was himself indicted by the International Criminal Tribunal for the Former Yugoslavia (ICTY) in March 2005, and promptly resigned and surrendered himself to the Tribunal. The lack of violence in a symbolic month one year after the violence of March 2004, and the smooth transition of power to the new Prime Minister Bajram Kosumi were seen by the international community as further signs of positive political development in the entity.

As a result of these developments, the review of standards implementation was carried out as scheduled during the summer of 2005, and highlighted both achievements made since 1999 and numerous remaining challenges. The review cited 'dynamic development' in Kosovo that it explicitly associated with the standards implementation process, and while it acknowledged that progress had been uneven, it concluded that the time had come for the status negotiations to commence.[83]

[80] UNMIK Press Release, 'SRSG's Remarks at the Launch of Kosovo Standards Implementation Plan', 31 March 2004.

[81] Speech by Søren Jessen-Petersen to the Royal Institute of International Affairs, Wednesday, 8 December 2004, available at www.unmikonline.org/press/2004/pressr/pr1280.pdf.

[82] United Nations, 'Report of the Secretary General on the United Nations Interim Administration in Kosovo', 14 February 2005.

[83] United Nations, 'A Comprehensive Review of the Situation in Kosovo', S/2005/635, 7 October 2005.

It also at times starkly highlighted the strategies of the international authorities in Kosovo, and illustrated some of the dynamics of the relationship between international and domestic forces during Kosovo's political transition. The report repeatedly referred to the 'leverage' enjoyed by international powers, including both the UN and EU, suggesting that such leverage had been, and would continue to be, an essential part of promoting progress within Kosovo. According to the report, 'During the future status process, the international community will have a stronger leverage to move standards implementation forward. That leverage must be fully exploited'. Yet the report also acknowledged that the use of such international mechanisms can lead to a mode of transition that is not always welcomed by domestic actors, citing a tendency among Kosovo Albanians 'to see standards implementation as an exercise imposed from outside'. These elements of international conditionality and imposition on one hand, and domestic resistance and discontent on the other, have been a key part of the narrative of Kosovo's mode of transition to date.

4.7. THE ENDGAME: TOWARDS INDEPENDENCE

Following the release of the standards review in October 2005, the UN Secretary-General announced the start of official negotiations on Kosovo's future status. The move was prompted in large part by the recommendations of Kai Eide, the UN envoy charged with undertaking the comprehensive review of progress in the territory in the summer of 2005. While Eide highlighted a number of serious problems, especially in relation to the rule of law and the lack of foundations for a multi-ethnic society, he concluded that status talks should begin on the grounds that with Kosovo having 'moved from stagnation to expectation, stagnation cannot again be allowed to take hold'.[84]

Consequently, status talks began in early 2006, under the auspices of a newly appointed UN Special Envoy, Martti Ahtisaari, the former Finnish president. Ahtisaari oversaw several months of shuttle diplomacy between Pristina and Belgrade as well as face-to-face negotiations between Kosovo Albanian and Serb officials.[85] While some consensus was reached on minor technical details, the mutually incompatible goals of the two sides concerning Kosovo's final status ensured that deadlock was the only result. By the end of

---

[84] United Nations, 'A Comprehensive Review of the Situation in Kosovo', S/2005/635, 7 October 2005.

[85] UNOSEK, 'The Status Process', March 2007, available at www.unosek.org

2006 it was clear that the positions of the two sides were fixed, and that there would be no negotiated settlement on Kosovo's status. Consequently, Ahtisaari brought negotiations to an end in late 2006, and in early 2007 he produced a report that recommended the UN proceed with resolving the status issue unilaterally, and in particular that Kosovo should gain 'independence, supervised by the international community'.[86] The plan proposed that Kosovo would become a multi-ethnic democracy, within its current borders. To take into account the position of the Serb minority, decentralization and redistricting would be introduced to ensure that the majority of Serbs live in majority-Serb municipalities. Furthermore, there would be a particular emphasis on minority rights, the protection of religious and cultural heritage and the right of refugees to return—all significant Serb concerns. Crucially, the plan also proposed the dissolution of UNMIK and its replacement with two new EU-led international missions, including an International Civilian Representative (ICR) to oversee implementation of the plan, and an EU rule of law mission to deal with the police and courts. The ICR was to have 'strong corrective powers' similar to those of the High Representative in Bosnia, namely 'the ability to annul decisions or laws adopted by Kosovo authorities, and sanction and remove public officials whose actions he/she determines to be inconsistent with the Settlement'.[87]

The plan, however, was vehemently opposed by Serbia, which along with Russia succeeded in blocking its complete implementation. In July 2007, a proposed resolution for establishing the new EU-led mission was withdrawn from the UN Security Council due to Russian opposition and a veto threat.[88] In August, a new round of internationally mediated talks commenced with a UN-set deadline of 10 December 2007, but again they failed to lead to any agreement between the sides.[89]

This politically sensitive period also included the third Kosovo-wide elections, and the results reflected significant developments in the political landscape. The LDK's long-time leader and sitting President Ibrahim Rugova died in early 2006, and the party entered the election campaign not only contending with the absence of its longstanding figurehead, but also dealing with an internal party split following the contest for his replacement as party leader. As a result, the LDK suffered its first defeat at the polls and was relegated to the position of Kosovo's second largest party. From its high point of receiving just under 400,000 votes in the elections of 2000, the LDK's popular vote dropped to just

[86] United Nations, 'Report of the Special Envoy of the Secretary-General on Kosovo's future status', S/2007/168, 26 March 2007.

[87] Ibid., para 11.

[88] Warren Hoge, 'Kosovo Independence Measure Withdrawn From U.N. Council', *New York Times*, 21 July 2008.

[89] See 'Report of the EU/U.S./Russia Troika on Kosovo', 4 December 2007.

under 130,000, and its share of the vote dropped from 45.4 per cent in 2004 to 22.6 per cent in 2007.[90] In contrast, the PDK increased its vote from 28.8 per cent to 34.3 per cent over the same period, and became the largest party in Kosovo in the process.[91] In the wake of the elections, the PDK led the way for coalition talks, and despite their former rivalry, agreed a deal with the LDK to form a new government with the PDK's Hashim Thaçi as Prime Minister. The new leader of the LDK, Fatmir Sejdiu, had succeeded Rugova to the Presidency in 2006 and was re-elected to the post by the Assembly.

In the wake of the unsuccessful efforts to arrive at a negotiated solution to the status question in 2007, Kosovo's new coalition pursued a more unilateral approach and took the status question into its own hands shortly after coming to power. On 17 February 2008, with the tacit support of the US and several of its European donors, Kosovo's Assembly adopted a declaration of independence that affirmed Kosovo to be 'a democratic, secular and multiethnic republic'.[92] The declaration also pledged to implement the Ahtisaari Plan, and in a corresponding and well choreographed development, two new international missions were authorized by the EU the following day: the joint International Civilian Representative and EU Special Representative (ICR/EUSR) that will oversee implementation of the Ahtisaari Plan, and the European Union Rule of Law Mission in Kosovo (EULEX), which will focus on the judiciary, police and customs. Both international missions retain the capacity to use executive authority without local support, although their authority within Kosovo is significantly less than that enjoyed by UNMIK at the height of its power.[93]

These developments, however, were met with extensive opposition from both Belgrade and Moscow, and the EU's plans to deploy its mission throughout Kosovo have been significantly frustrated. Russia has heavily lobbied the UN not to allow the EU to take over, with considerable success, while Belgrade and the Kosovo Serb community have further entrenched the divide between the two communities within Kosovo—the Serb boycott of Kosovo's institutions was extended, and a month after the declaration of independence Kosovo the Serbs occupied the regional court building in northern Mitrovica in protest.[94] At the time of writing, the division of labour between UNMIK, which remains in place, and the new EU presence remains unclear. Tensions

[90] The Kosovar Institute for Policy Research and Development (KIPRED), 'Analysis of Elections: Trends and Lessons Learned', Paper No. 8, February 2008.

[91] Kosovo Central Election Commission, Official Results, www.cec-ko.org/en

[92] Assembly of Kosovo, 'Kosovo Declaration of Independence', Pristina, 17 Feb. 2008. Available at http://www.assembly-kosova.org/?lang = en

[93] European Council, Council Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, 4 February 2008; and Council Joint Action appointing a European Union Special Representative in Kosovo, 2008/123/CFSP, 4 February 2008.

[94] BBC News, 'Kosovo Serbs seize UN courthouse', 14 March 2008, at news.bbc.com.

have emerged between the EU and UN over the issue, and the EU's missions have not been able to deploy throughout the territory as planned.[95] The smooth transition from UNMIK to the new missions that was envisaged in the Ahtisaari Plan never materialized, and in June 2008 the UN Secretary-General announced a 'reconfiguration' of its presence that would include a reduced role for UNMIK and a greater role for the EU, although under a continuing 'UN umbrella'.[96] Nonetheless, it is clear international authorities will continue to have an influence on domestic politics in Kosovo, with the EU playing a more important role. This coincides with the EU's efforts to bring Kosovo into its wider policy towards the Western Balkans, known as the Stabilization and Association Process, which have also entailed the establishment of a Stabilization and Association Process Tracking Mechanism designed to monitor and guide Kosovo's progress on EU related issues.[97] According to the EU, 'the common objective of the EU and Kosovo is to ensure that Kosovo becomes a reliable partner, progressing towards integration with the EU together with the rest of the region'.[98]

As previous research has shown, the EU has had an important and generally positive impact on democratization in Europe, and especially the former communist countries of Central and Eastern Europe. Through explicit democracy promotion and democratic conditionality policies, as well as through its embodiment of liberal democratic norms, the EU has provided 'moral, economic and political support' for new democracies in Europe, and been a consistent actor in the democratization experiences of Europe's post-communist countries.[99] Such EU involvement has also been shown to be particularly influential during the latter stages of democratization, especially in relation to democratic consolidation, as EU actions and policies towards aspiring member states encourage 'democratisation through convergence'.[100] The

---

[95] See Tim Judah, 'Ban's Kosovo Conjuring Trick', 16 June 2008, balkaninsight.com

[96] United Nations, 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo', S/1999/458, 15 July 2008.

[97] EU and UNMIK, 'Ninth Meeting of the Stabilization and Association Process Tracking Mechanism', Pristina/Brussels, 29 March 2006. Available at: www.euinkosovo.org/upload/9th%20STM%20meeting.pdf, accessed on 4 November 2006.

[98] EU, 'Summary note on the joint report by Javier Solana, EU High Representative for the CFSP, and Olli Rehn, EU Commissioner for Enlargement, on the future EU Role and Contribution in Kosovo', July 2006. Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata /EN/reports/90537.pdf, accessed on 4 November 2006.

[99] Geoffrey Pridham, 'The International Dimension of Democratization: Theory, practice and inter-regional comparisons' in Geoffrey Pridham, Eric Herring and George Sanford (eds), *Building Democracy: The International Dimension of Democratization in Eastern Europe* (Leicester University Press, 1997), p. 21.

[100] Laurence Whitehead, *The International Dimensions of Democratization* (Oxford University Press, 2001). See also Geoffrey Pridham 'European Union Accession Dynamics and Democratization in Central and Eastern Europe: Past and Future Perspectives', *Government and Opposition*, Vol. 41, No. 3, 2006, 373–400.

extent to which it can wield such influence in Kosovo, however, remains to be seen in full, especially as Kosovo's disputed status makes full EU membership such a distant goal.

4.8. CONCLUSION

Developments in 2008 suggest that Kosovo's long-term democratic political development could be facilitated by a new form of international involvement, with two new EU-led missions acting in uneasy concert with a much reduced UNMIK. At the time of writing however, it is too early to speculate with certainty about the future influence of the new international authorities, or about the full implications of Kosovo's mode of transition to date. As suggested by the theoretical framework outlined in Chapter 2, at a very minimum, the presence of UNMIK since 1999 in Kosovo has reduced uncertainty during the transition phase by removing some of the potential non-democratic options from the table, and has ensured that the mode of transition has favoured democratic development rather than authoritarian retrenchment. Yet the process of political development in Kosovo has not been smooth, and the mode of transition since 1999 has been one marked by significant instances of international imposition as well as international and domestic cooperation. UNMIK used conditionality extensively during the period of administration, consistently making both its own withdrawal and talks on Kosovo's status contingent on political development and greater local commitment to democratic norms and practices, especially in the area of minority rights. Similarly, in developing the existing political institutions in Kosovo, UNMIK frequently resorted to use of its more extensive powers, and on occasion vetoed the wishes of domestic parties and imposed its own solutions to key political choices.

The nature of this mode of transition thus raises some questions concerning Kosovo's prospects for democratic stability and consolidation once the international authorities fully withdraw, even accounting for likely continued international involvement through EU relations. Much of the progress in Kosovo has been achieved under international auspices, and through international conditionality and imposition, and questions thus remain concerning the underlying commitment and capacity that exists within Kosovo independent of international oversight. Minority rights issues continue to be a concern, and the newly declared state faces significant structural challenges that also preclude any easy institutionalization of an inclusive democratic political regime.

For example, Kosovo faces challenges in terms of domestic capacity, and the new domestic political institutions that have been created since 1999 suffer from a range of weaknesses that raise significant questions over their ability to implement policy and enforce rights throughout the territory. In many areas, the institutional structures of government and administration remain unable, and at times unwilling, to extend authority throughout the territory and ensure that all members of the political community are treated equally and have equal access to the legal and political system. Under-staffed and under-resourced governmental ministries face challenges in implementing basic laws throughout the territory,[101] and the bureaucratic administration has yet to overcome problems related to the politicization of the civil service.[102] The presence of a series of parallel political structures in the predominantly Serb-populated areas of Kosovo, most of which are controlled and funded by the Serbian government, also limits the ability of Kosovo's central institutions to enforce political order evenly throughout the territory.[103]

Aside from issues of institutional capacity, Kosovo's democratization process will also have to overcome significant obstacles that exist with regard to state cohesion. In social terms, in Kosovo the two communities largely live separately from one another and there is very little cross-community integration. As mentioned, low-level violence against Serbs is common, and the perception of insecurity within Serb communities is higher, with negative consequences for freedom of movement for much of the Serb population.[104] Restrictions on such freedom have significant implications for the extent to which the Serb population can access political and social services within Kosovo, and also hamper efforts to promote the return of members of the Serb population, many of whom were displaced by revenge violence in the wake of the Serbian troop withdrawal in 1999.[105] In political terms, this divide is seen clearly in the consistent political confrontation between Kosovo Serb and Albanian parties, as well as the frequent reluctance of Kosovo Serbs to participate in Kosovo's political institutions. Several Serb parties refused to run in the 2007 elections, and the Serb boycott of Kosovo institutions was expanded further after the 2008 declaration of independence, as

---

[101] United Nations Development Programme, 'Assessment of Administrative Capacity in Kosovo', April 2005. Available at http://www.kosovo.undp.org/Projects/KCAP/KCAP_report_final_20050525_english.pdf, accessed on 19 October 2006.

[102] See OSCE, 'Independent Agencies and Institutions in Kosovo Democracy', December 2007.

[103] OSCE, 'Parallel Structures in Kosovo', 2006–2007.

[104] UNDP, 'Early Warning Report: Kosovo', Report No. 20/21, January–June 2008.

[105] See OSCE, 'Eight years after: Minority returns and housing and property restitution in Kosovo', June 2007.

inter-community relations deteriorated further.[106] The party system in Kosovo also continues to reflect the ethnic divisions of the entity very clearly, as each community is represented by separate, mono-ethnic parties and there are no multi-ethnic political parties that cross the community divide. Overall therefore, social segregation (both voluntary and involuntary), parallel structures, political boycotts and a mono-ethnic political party system all illustrate that serious problems of cohesion exist within Kosovo.

Developments in the months after the declaration of independence include both promising and troubling signs. Kosovo's government has taken a moderate stance on community relations, and has urged cohesion and peaceful coexistence.[107] But the Kosovo Serb reaction to the declaration, including protests and expanded boycotts, has precluded any prospects of smooth community relations in a newly independent Kosovo. Unless such problems are overcome, inclusive democratic government in Kosovo will be difficult, if not impossible, to achieve.

Aside from these political challenges, Kosovo continues to function under the oversight of external powers, which further restricts the democratic quality of domestic institutions. The move to independence, and the adoption of a new constitution in June 2008, have significantly reduced UNMIK's powers in Kosovo, and have correspondingly strengthened the role of the domestic institutions and government.[108] Similarly, the new EU missions are substantially narrower in scope than UNMIK and enjoy a comparatively smaller range of political competencies. Nonetheless, international authorities continue to hold legal executive authority in Kosovo, and have the right to dismiss public officials and overrule domestic legislation. UNMIK also continues to report on progress on the key international standards, and in 2006 the UN standards were folded into a European Union Partnership Action Plan for Kosovo that set out a series of reform targets and entails annual EU compliance reports.[109] The period of international administration and oversight in Kosovo has yet to come to an end, and the channels of accountability and representation between Kosovo's government and citizenry consequently remain incomplete.

---

[106] ICG, 'Kosovo's First Month', Europe Briefing No. 47, 18 March 2008.

[107] See Assembly of Kosovo, 'Kosovo Declaration of Independence', and ICG, 'Kosovo's First Month'.

[108] See United Nations, 'Report of the Secretary General on the United Nations Interim Administration in Kosovo', 12 June 2008. The UN Secretary-General announced a 'reconfiguration' of UNMIK that would take into account the presence of the new EU missions and the greater authority of the domestic institutions.

[109] European Union, 'Kosovo Action Plan For The Implementation Of European Partnership 2006', August 2006.

In a fully independent Kosovo, with the institutions of a democratic political regime in place, the potential for genuinely democratic self-rule will be considerable. However, domestic institutions and domestic actors will have to overcome the current challenges, and international authorities will have to devolve their executive authority, if Kosovo is to develop a stable democratic political system in the post-administration period.

This page intentionally left blank

·················

5

·················

Democratic Regime-Building in Bosnia

The exercise of international administration in Bosnia and Herzegovina dates from 1995,[1] when the international community finally achieved a settlement for the conflict that had plagued the region for more than three years. The war in Bosnia included three armed sides, and two significant neighbouring sponsors that had strategic interests in the outcome, and as a result the end of the fighting was only achieved with a complex peace agreement that granted each side some, but not all, of its aims. The Dayton Peace Agreement that brought peace to Bosnia entailed a comprehensive package of military, political and economic goals, as well as a large-scale international presence to ensure local compliance. An international civilian mission was established to oversee the implementation of the non-military aspects of the agreement, and since 1995 Bosnia, although an independent state under international law, has been subject to a prolonged, and ongoing, period of international administration.

The domestic context in Bosnia has been a particularly unfavourable one for stable democratic development. As has been widely discussed, the post-communist context found in the region has provided greater challenges for democratization than many other contexts, with political transition coupled with the need for economic transformation and issues related to the presence of minority communities.[2] Furthermore, the Yugoslav war of 1992–5 presented further obstacles, as once the war was over the fault lines of the violent conflict became the fault lines of political conflict in the post-war period. Bosnia's three communities – Serb, Croat and Bosniac[3] – have repeatedly

---

[1] The official name of the state is Bosnia and Herzegovina but following the prevailing convention, I will primarily refer to the country as Bosnia. The abbreviation 'BiH' is also sometimes used.

[2] The literature on the post-communist context and democratization is broad. See, for example, Nancy Bermeo (ed.), *Liberalization and Democratization: Change in the Soviet Union and Eastern Europe* (Johns Hopkins University Press, 1992); and Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (The Johns Hopkins University Press, 1996). On the Balkans in particular, see Geoffrey Pridham and Tom Gallagher (eds), *Experimenting with Democracy: Regime Change in the Balkans* (Routledge, 2000); and Ivan Krastev, 'The Balkans: Democracy Without Choices', *Journal of Democracy*, Vol. 13, No. 3, July 2002, pp. 39–53.

[3] The term 'Bosniac' refers to the Bosnian Muslim community.

struggled against each other, and often against the international authorities, in the ensuing years in ways that have precluded any easy political transition to democracy. In the early post-Dayton period, Bosnian political elites showed limited respect for democratic norms and practices, and at times actively sought to undermine the democratic institutions that were being established. While there has been considerable improvement in this respect over the subsequent years, the international authorities have nonetheless deemed it necessary to maintain their extensive presence in Bosnia, including executive and legislative authority, for over a decade.

The nature of the international presence in Bosnia has shifted over the years, and both its structure and the authority have changed over time. However, the extensive international administration has had a constant influence on political development in Bosnia, and has interacted with domestic politicians in the central arena of regime transition. International administrators have involved themselves heavily in Bosnia's democratic development, not only in overseeing the implementation of the political aspects of the Dayton Agreement, but also in re-shaping and re-directing the political agenda that was originally envisaged in the document. In their efforts to promote moderate and democratic politics in Bosnia, the international authorities have used the full range of mechanisms available to them to shape the political transition, relying extensively on conditionality and regularly displaying a willingness to resort to direct measures such as vetoes and imposition.

As a result of these international and domestic dynamics, Bosnia's political transition since 1995 has been both prolonged and complex. The domestic balance of power that has existed in Bosnia has at times been dominated by non-democratic actors, and has always included significant elements that are at the very least ambivalent about democratic development. This has been combined with an authoritative international administration mission that has not held back from intervening in domestic politics, and overruling and marginalizing the domestic actors it has viewed as obstructionist. The consequence has been a mode of transition that has at times entailed international and domestic cooperation and consensus, but that has also frequently been marked by international imposition in the face of domestic opposition. Democratic regime-building in Bosnia has been a contested process, and international and domestic tensions remain even thirteen years after the Dayton Agreement was first signed.

The following sections explore further this international and domestic dynamic in Bosnia, and highlight in detail how the international presence has combined with local forces to shape the country's political transition. The first section provides an overview of the Dayton Agreement itself, and outlines the structure of the international mission in Bosnia. Subsequent sections

examine international involvement in the three key arenas of political transition, and explore the ways in which international authorities in Bosnia have shaped democratic development and contributed heavily to the development and evolution of Bosnia's complex political regime.

5.1. THE DAYTON PEACE AGREEMENT AND DEMOCRATIC REGIME-BUILDING IN BOSNIA

The Dayton Agreement, officially known as the General Framework Agreement for Peace in Bosnia and Herzegovina, consists of a brief agreement outlining the intention of each party to commit to peace and eleven much lengthier annexes that contain the details of the settlement.[4] Each of the annexes contributes in some way to the triple transition that Dayton aimed to achieve for Bosnia: the transitions from war to peace, from communist command economy to liberal market economy, and from single party rule to pluralist democracy. And each of these three goals in turn is dependent on the central premise of the Agreement – the idea that Bosnia would remain a single, sovereign state.

This issue of statehood was at the heart of the conflict in Bosnia, especially the question of whether Bosnia would become an independent state in the wake of the dissolution of Yugoslavia, or whether the territory, which had been one of Yugoslavia's six republics, would be divided between the more powerful republics of Croatia and Serbia.[5] Bosnia's population was divided among Serb, Croat and Muslim communities, and although these groups had co-existed without problems for much of the post-World War II period, intercommunity relations broke down in the early 1990s. Once the dissolution of Yugoslavia began, the ambitions of Croatia and Serbia, along with the mobilization of nationalist sentiment by leaders within Bosnia, led to the emergence of tensions between these groups in Bosnia and the development of a 'security dilemma' as each side sought to avoid becoming a minority in a state dominated by the others.[6] Elections in 1990 led to the emergence of three main nationalist parties, each representing one of the communities in Bosnia. The Muslims were represented largely by the Party of Democratic Action

---

[4] General Framework Agreement for Peace in Bosnia and Herzegovina, reprinted in OHR, *Bosnia and Herzegovina: Essential Texts,* fourth edition (OHR, 2004).

[5] For a broad account of the conflict surrounding the collapse of the Yugoslav state, see Laura Silber and Allan Little, *The Death of Yugoslavia* (Penguin Books, 1997).

[6] Susan L. Woodward, 'Bosnia and Herzegovina: How Not to End a Civil War', in Barbara Walter and Jack Snyder *Civil Wars, Insecurity, and Intervention* (Columbia University Press, 1999).

(SDA) under Alija Izetbegović, which had a firm pro-independence stance and sought to resist any moves that would allow Bosnia to be carved up between Croatia and Serbia. The Serb community in Bosnia, based largely in the north and east of the territory, was led by the hardline and particularly militant Serbian Democratic Party (SDS) under the leadership of Radovan Karadžić. Similarly, the Croat community had its own hardline and militant party, the Croatian Democratic Union (HDZ), that sought to ensure integration of the largely Croat southern and western areas of Bosnia with the Croatian state. While the 1990 elections had elected representatives from each of the three main parties to a rotating seven-member Presidency, the institutions of the state quickly broke down over disagreements about Bosnian independence, and the Serb and Croat political forces established separate parallel political regimes in their own territories within Bosnia. When the international community recognized Bosnian statehood in early 1992, conflict quickly broke out as Serb forces sought to use force, including ethnic cleansing, to gain control of as much territory within Bosnia as possible. The subsequent three-sided conflict in Bosnia was prolonged and brutal, and it is estimated that up to 100,000 civilians lost their lives, and over half the population was displaced.[7]

International attempts at intervention during the conflict largely failed, with UN Protection Forces, UNPROFOR, limited in their mandate to protect aid supplies and act only in self-defence. Divisions within the international community also facilitated the escalation of the conflict, and it was only in 1995 that international mediation between the warring parties led to the end of the conflict and the Dayton Peace Agreement.[8]

The agreement that was brokered in 1995 in Dayton, Ohio, sought to end the conflict through a combination of measures that would maintain the integrity of the Bosnian state while ensuring each community could have an interest in remaining within it. On the military side, the settlement included provisions for a ceasefire, the separation of troops behind a 'zone of separation', and cantonment and demobilization of armed forces. Politically, the settlement sought to ensure the viability of a multinational Bosnian state through a complex constitutional arrangement that included territorial division, political autonomy at the local level, power-sharing at the state level and a major international presence to guarantee implementation and compliance.[9] In order to

---

[7] See Steven Burg and Paul Shoup, *The War in Bosnia-Herzegovina: Ethnic Conflict and International Intervention* (ME Sharpe, 1999).

[8] On the mixed record of international intervention during the conflict, see Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution After the Cold War* (Brookings Institution, 1995).

[9] For accounts of the Dayton negotiations, see Carl Bildt, *Peace Journey: The Struggle for Peace in Bosnia* (Weidenfeld and Nicolson, 1998) and Richard Holbrooke, *To End a War* (The Modern Library, 1998).

accommodate the objectives of each of the parties at the negotiations, and to reassure them that they would not be powerless minorities in Bosnia, the state was divided into two political entities, the Serb-dominated Republika Srpska (RS), and the Croat and Bosniac Federation of Bosnia and Herzegovina. Each entity was to enjoy considerable autonomy, while the state-level institutions, which included a bicameral parliament, a Council of Ministers and a tripartite Presidency, were given relatively weak powers. The Dayton Agreement itself included a constitution for Bosnia in Annex 4, which outlined in full the structure of the political system that had been agreed among the parties.

Compliance with and implementation of the agreement was to be overseen by a broad international presence, including a wide range of international organizations. The military elements of the settlement entailed the introduction of a large multinational NATO-led implementation force, IFOR (later SFOR), which was initially 60,000 troops strong. On the civilian side, a myriad of international bodies were involved in some form or another in the role of implementing core elements of the agreement, with the EU, the UN, UNHCR, the OSCE and a number of international financial institutions each playing significant roles. Unlike the structure that would be adopted in East Timor and Kosovo, however, the UN was not the lead agency in Bosnia, and international political authority in the country was concentrated in the Office of the High Representative (OHR), which was created in Annex 10 of the Dayton Agreement for the purposes of playing a coordination role regarding all civilian matters. The OHR itself, while required to report to the UN on a regular basis, derives its authority from the Peace Implementation Council (PIC), a multilateral body of fifty-five governments and international organizations established in 1995 to oversee civilian implementation in Bosnia. The full PIC itself, however, has only met a small number of times, and in practice the PIC Steering Board has had a more hands-on role and it consists of ambassadors from the G8 states, the European Commission, the EU Presidency and the Organization of Islamic Countries, as represented by Turkey.[10]

In terms of democratic regime-building activities in Bosnia, the two most important international institutions have been those of the OHR and the OSCE. In the Dayton Agreement, the OHR was tasked with facilitating and monitoring the implementation of the agreement by the local parties, and was mandated to 'mobilize and, as appropriate, coordinate the activities of the organizations and agencies involved in the civilian aspects of the peace settlement'.[11] While it was initially given a weak enforcement mandate, the lack of progress within Bosnia

---

[10] See David Chandler, 'From Dayton to Europe', *International Peacekeeping*, Vol. 12, No. 3, 2005, fn. 9.

[11] General Framework Agreement, Annex 10.

by 1997 prompted the PIC to reinforce the powers of the High Representative, giving the holder greater authority to take action in cases of violation of the agreement, or of resistance to the international agenda. At the December 1997 meeting of the PIC in Bonn, the High Representative was given substantial new powers – first, the authority to make binding decisions and impose legislation on issues where there was a lack of local consensus, and second, the power to dismiss local officials who were obstructing the implementation of the Dayton Agreement.[12] The result was a dramatic increase in authority of and intervention by the High Representative, who regularly began to impose legislation and remove officials, elected and otherwise, from office.

Aside from statements that much of this intervention was to ensure the implementation of the peace agreement, the OHR made it explicit that it was also seeking to promote democracy. With the arrival of the second High Representative, Carlos Westendorp, in 1997, the OHR placed democratization as one of its three strategic objectives along with 'security and stability' and 'economic and social reconstruction'. Highlighting the obstacles to democracy created by the continuing role of war criminals in Bosnian politics, as well as the politicization of the armed forces, Westendorp suggested that until democratization had truly taken root, Bosnia required the guarantee of 'an international umbrella of security and stability'.[13] Consequently, the OHR has consistently played a central role in much of Bosnia's democratization process.

The second critical international body to exercise authority in the area of democratic regime-building has been the OSCE. The elections Annex in the Dayton Agreement entailed obligations and roles for both local parties and the international community in the electoral arena, and called for the parties to the agreement to ensure that conditions existed for the organization of free and fair elections in a politically neutral environment. Correspondingly, it called on the OSCE to 'supervise . . . the preparation and conduct' of the elections that would be required in the post-agreement period, at the state, entity and local levels. For this relatively new international organization, the mission in Bosnia represented a major operation that went beyond anything it had been involved in previously and posed 'the greatest challenge ever confronted' by the organization.[14] The OSCE had limited involvement in electoral assistance before 1995, and was now mandated not only to supervise the elections in Bosnia, but also to develop the electoral framework upon which they would take place.

In order to explore the democratic regime-building activities of these international authorities in Bosnia, the following sections examine the three

[12] PIC, 'Bonn Peace Implementation Conference 1997 – Bosnia and Herzegovina 1998: Self-sustaining Structures', 10 December 1997.
[13] See speech by Carlos Westendorp to the North Atlantic Council, 8 October 1997.
[14] OSCE, 'Annual Report 1996 on OSCE Activities', DOC.SEC/3/96/Corr., 15 January 1997.

central arenas of political transition and explore the international and do-
mestic interactions within each. Although the comprehensive nature of the
Dayton Agreement, especially its written constitution, suggested that there
would be relatively limited scope for international influence on the trajectory
of democratization in Bosnia, the post-Dayton period has nonetheless
entailed an extensive role for international authorities that has gone far
beyond simple oversight of implementation. From the very early days of the
international presence in Bosnia, international authorities have played a
crucial role in mediating between different local elites, shaping and re-shaping
the institutional development of Bosnia's nascent political regime, and over-
seeing and often manipulating the emergence of democratic electoral politics.

5.2. ELITE ACCESS TO POWER

Once the Dayton Agreement had been signed and the international military and
civilian missions deployed, the greatest challenge facing the international mis-
sion was that of implementation. Yet, the context that faced the international
officials was characterized by the absence of political will on behalf of many of
the local actors, and at times the explicit resistance of those actors to the
measures that had been agreed in November 1995. The very nature of the
peace process and the Dayton Agreement meant that those in charge of imple-
menting the agreement at the local level were those who had fought during the
war and still maintained largely mutually exclusive goals. For the Bosniacs,
Dayton provided them with the independent state that they had sought, but
they resented the devolution of power to the entity levels and resisted carrying
out the power-sharing obligations entailed in the agreement. The Serbs were
resistant to the Dayton Agreement from the start, and sought to frustrate efforts
to develop the central institutions of the state or the imposition of state power in
Republika Srpska. The Croatian parties also resisted elements of the agreement,
and like the Serbs in Republika Srpska maintained parallel institutions that
ensured local control over Croat territories outside the framework created by the
agreement. The parties also showed limited commitment to the norms and
practices of democracy, and in the initial post-Dayton years problems such as
electoral fraud, resistance to refugee returns, media manipulation and political
intimidation were widespread.[15]

[15] See for example ICG, 'Elections in Bosnia & Herzegovina', Bosnia Report No. 16, 22
September 1996.

In order to overcome these obstacles to both peace-building and democracy, the international community sought to side-step some of these local actors and encourage the development of a new generation of Bosnian leaders. To do so, it pursued five separate policies that were aimed at reducing the influence of the nationalist wartime leaders, and at improving the political positions of moderate parties and politicians. Using the extensive authority they enjoyed at the local level, especially after the Bonn Powers were achieved in 1997, the international administrators mediated the access of Bosnian elites to positions of power through use of five key mechanisms – the selective selection of interlocutors, political appointments, dismissals, ministerial vetting, and government coalition brokering.

5.2.1. Selection of interlocutors

The first policy involved efforts to reduce or promote the profile of certain politicians through selective selection of political interlocutors, primarily in the initial brief nine-month period while international authorities were liaising with local actors prior to Bosnia's first democratic elections. In this context, before the electoral realities had established themselves, the High Representative sought to engage with those he considered moderate rather than hardline politicians. This entailed providing attention and support to those figures who were seen to be pro-Dayton, using incentives to induce cooperation from those the international community felt might be willing to move to more moderate positions, and using international pressure and sanctions to shun or undermine those figures who were viewed as obstacles to democratic progress. One of the clearest and earliest examples of this approach can be seen in the 'Banja Luka Strategy' of the first High Representative, Carl Bildt, in which Bildt sought to marginalize the hardline elements of the Serb SDS party, led by Radovan Karadžić and based in the Republika Srpska town of Pale, and move the centre of Republika Srpska politics to Banja Luka, which through the war had been host to a more moderate sector of Bosnian Serb opinion.

Bildt felt that Karadžić, who was President of Republika Srpska, was forcing the entity into isolation through his obstruction of state-level integration and his authoritarian style of governance. Karadžić had been blocking Republika Srpska's cooperation with the international community in the early post-Dayton period, and was also seeking to limit the cooperation of other politicians in Republika Srpska who were more willing to work with the High Representative. In early 1996 he essentially ruled out Republika Srpska's attendance at the first international Donor's Conference for Bosnia, by setting

down several conditions on attendance that he knew would not be met, and he later sacked the Banja Luka-based Republika Srpska Prime Minister Rajko Kasagić for his dealings with Bildt. In response, the High Representative sought 'to turn the Kasagić crisis into a Karadžić crisis', and ensure the marginalization of the SDS leader from Bosnian political society.[16] Bildt let it be known that international assistance was available to local actors in Republika Srpska if they cooperated, thus encouraging opposition to Pale from within Republika Srpska itself, while at the same time demanding that Karadžić leave public life and relinquish his political authority.

As well as OHR involvement, the OSCE also threatened to remove approval for SDS participation in the elections scheduled for September 1996 unless Karadžić was removed from public life – his role as chairman of the SDS party was sufficient to enable the OSCE to introduce such conditionality. The final outcome of the crisis, after intervention by US diplomat Richard Holbrooke and negotiations with Slobodan Milošević, was that Karadžić resigned from all public functions, agreed not to appear in public, and was replaced as President of Republika Srpska by the then Vice-President, Biljana Plavšić, who was favoured by the international authorities.

Nonetheless, the SDS was victorious in the 1996 elections, and problems remained with obstructionism from within Republika Srpska. By the end of 1996 the High Representative had essentially halted communications with those in Pale, and 'concentrated all energies on facilitating political change in Republika Srpska through encouragement of Banja Luka'.[17] In a report to the United Nations Security Council, in early 1997 he advocated that the international community restrict contacts with those assisting Karadžić, which was in large part a reference to Momcilo Krajišnik, by now the Serb member of the state-level Bosnian Presidency and a loyal associate of Karadžić.[18] In a particularly revealing statement in his autobiography, Bildt also highlighted his line of thinking in relation to the Banja Luka strategy. After writing a letter to Plavšić threatening adverse consequences if Karadžić did not remain out of politics as agreed, according to Bildt, Krajišnik regards this 'as yet another sign that I was interfering in their political life and manoeuvring to change the entire political orientation of the Republika Srpska. There was nothing wrong with his analysis'.[19]

International administrators were thus intent on using their authority to shape domestic politics in Bosnia in significant ways, and mediate the access

---

[16] Bildt, *Peace Journey*, chapter 12.
[17] Bildt, *Peace Journey*, chapter 19.
[18] OHR, '5th Report by the High Representative for Implementation of the Peace Agreement to The Secretary-General of the United Nations', 16 April 1997.
[19] Bildt, *Peace Journey*, p. 352.

of local elites to positions of political power. Yet the experience also high-lighted the limits of such international efforts, and the potential for backlash that comes with such international interventions. Ultimately, the inter-national strategy in RS was successful to the extent that a serious split emerged within the Bosnian Serb political elite, with Plavšić dissolving the Republika Srpska assembly in 1997 with OHR approval, and subsequent elections paving the way for a non-SDS coalition government that did establish itself in Banja Luka. However, the SDS remained a potent political force in RS politics, and many of the politicians who were initially supported by the OHR later became tainted by the association – in September 1998 elections for the Presidency of RS, over-obvious international support for Plavšić was cited by many as a key reason for her defeat by the hardline nationalist Nikola Poplašen.[20] In a development that highlighted the problems with the inter-national authorities' division of local politicians into 'hardliners' and 'mod-erates', Plavšić herself was later indicted for war crimes by the International Criminal Tribunal for the former Yugoslavia (ICTY), and after surrendering to the court, was sentenced to eleven years in prison.

5.2.2. Appointments, vetting and dismissals

As well as efforts to promote or marginalize certain political actors through the selective selection of interlocutors, the international authorities in Bosnia also employed strategies that involved taking more direct action to influence the composition of the elite landscape. While efforts such as the Banja Luka strategy sought to affect this landscape by pressurizing certain actors to leave politics, or by providing moral and financial support for perceived moderates, the Office of the High Representative also developed formal rules and procedures that enabled more direct international intervention in this arena. In particular, the OHR developed mechanisms that enabled it to act unilaterally to appoint political officials to positions of authority, to dismiss officials from positions they already held, and to vet potential office holders before they were allowed to either run for office or take office.

5.2.2.1. Appointments

One of the hallmarks of post-Dayton politics in Bosnia has been regular international involvement in directly appointing officials to a number of

---

[20] See ICG, 'Republika Srpska: Poplasen, Brcko and Kosovo: Three Crises and Out?', Balkans Report No. 62, 6 April 1999, p. 2.

key political institutions. Some of this activity is derived from the Dayton Agreement itself, which entailed certain provisions for international actors to appoint officials, both domestic and international, to positions of authority in Bosnia. International actors such as the IMF, OSCE, Council of Europe, UNESCO and the European Bank for Reconstruction and Development each have some role in appointing technical officials to government bodies in Bosnia under provisions set out in Dayton.[21]

The most extensive involvement in this area, however, comes from the role of the OHR, which has certain responsibilities derived from the Dayton Agreement but which has more usually acted in an ad hoc fashion regarding political appointments. One of the principal areas of OHR involvement in terms of appointments has been with regard to the establishment of joint international and domestic commissions, with the High Representative often appointing some, if not all, of the members. Such commissions have played a key role in Bosnian politics, as they were often established to explore reform possibilities in sensitive issues or oversee important political practices. For example, the Election Law passed in August 2001 required the creation of a seven-member Election Commission, with four local and three international members, to oversee and regulate electoral matters in Bosnia.[22] By November 2001 the High Representative had appointed all seven members due to delays in local efforts to appoint the domestic members.[23]

While in many cases these appointments were relatively uncontroversial, in other instances the OHR sought to intervene and make appointments with the express purpose of marginalizing, or often replacing, officials or elected politicians deemed unacceptable by the international administrators. In the media field, for example, the OHR pursued an explicit policy of 'editorial intervention' and regularly sought to promote neutrality and impartiality in Bosnian broadcasting by appointing international advisers and supervisors to oversee television output in both the Federation and in Republika Srpska.[24]

In the political arena, the OHR, on occasion, found it necessary and justifiable to make appointments to positions usually filled through open elections. In particular, the High Representative has followed the dismissal of elected officials at the local level with the unilateral appointment of replacements without holding fresh elections. In October 2000, the High Representative replaced the entire municipal assembly in Zepce, including mayor

[21] General Framework Agreement for Peace, especially Annexes 4, 6, 7, 8 and 9.

[22] Election Law of Bosnia and Herzegovina, Article 2.9.

[23] OHR Press Release, 'High Representative Appoints National Members of the BiH Election Commission', 16 November 2001.

[24] See OHR, '9th Report of the High Representative for Implementation of the Bosnian Peace Agreement to the Secretary-General of the United Nations', 9 April 1998.

and deputy mayor, with a unilaterally appointed 'Interim Board'.[25] In the Federation municipality of Drvar, for example, the High Representative, in conjunction with the head of the OSCE, removed the local mayor, Mile Marceta, and replaced him with Momcilo Bajić.[26] In September 2001, the OHR made further appointments of municipal councillors in the Gornji Vakuf-Uskoplje municipality.[27] While some of these appointment powers have been used in relation to technical, non-political positions that do not have a great deal of significance for the nature of politics in Bosnia, many of these measures have been taken in highly political arenas, where the ability to appoint officials or politicians provides international authorities with a considerable degree of influence over political developments at the local level.

5.2.2.2. Vetting

Another area that has involved international involvement in shaping the elite landscape is that of international vetting of ministerial candidates. Vetting procedures have been used extensively in Bosnia by international authorities, in a range of settings. In the security sector, police officers have been extensively vetted by the international civilian police force in Bosnia, the International Police Task Force (IPTF), as well as by the UN Mission in Bosnia and Herzegovina (UNMIBH).[28] Judges and prosecutors in Bosnia have also been extensively vetted, and during an 'extraordinary period of review'[29] in 2000/1, all judges and prosecutors were required to reapply for their positions and were extensively vetted in the application process. Over 1,700 applications were made and reviewed, and over 900 candidates were interviewed.[30]

The most important element of the vetting procedures, however, has been the vetting of candidates for executive office. In the early post-Dayton years, the vetting procedure was introduced and was applied at the ministerial level in a limited number of departments at both the entity and cantonal levels. In October 2002, however, the procedure was expanded to include ministers for the Treasury and departments of Foreign Trade and Economic Relations at the state level, finance ministers at the entity level, education ministers at the cantonal and

[25] OHR Press Release, 'High Representative Appoints Zepce Interim Board', 13 October 2000.

[26] OHR Press Release, 'Drvar Arbitration Award', 16 September 1999.

[27] OHR Decision, 'Decision providing the Agreement on Gornji Vakuf-Uskoplje from 2 August 2001, which unites Gornji Vakuf and Uskoplje into one municipality, with a legal base', 15 September 2001.

[28] OHR, 'Human Rights Priorities for 2001: Human Rights Steering Board Recommendations to the Human Rights Task Force', 5 February 2001.

[29] OHR, Human Rights Coordination Centre, 'Human Rights Quarterly Report', 15 May–31 August 2000, 31 August 2000.

[30] OHR, '26th Report by the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations', 18 November 2004.

entity levels and refugee ministers at the entity and state levels. Justified on the grounds of raising public standards for Bosnia, the vetting procedure included a set of criteria that prospective ministers would be assessed on, with ministerial appointment likely to be blocked in the event of an indictment by the International Criminal Tribunal for the former Yugoslavia (ICTY), a criminal record, a record of obstructing implementation of the Dayton Agreement or a track record of serious incompetence or mismanagement.[31] The OHR has also stated that 'in the interest of transparency and good governance', it always vets the successors of dismissed officials before they are officially appointed.[32]

According to the fourth High Representative in Bosnia, Paddy Ashdown, the vetting process has contributed to an improvement in the quality of governance in Bosnia, and shortly before he left Bosnia, Ashdown presented vetting as a way to ensure democratic standards in government:

Too often, political parties look on high-level posts as a reward for party loyalty and an opportunity to give jobs to their friends. Too often, they view these positions as a function of control or an opportunity to steal the people's money, rather than as a chance to advance the interests of the country and of its citizens. We have to protect the citizens of any democracy from the consequences of bad government and corrupt practices.[33]

However, the vetting procedure itself is largely carried out in private and does not involve public hearings or deliberations. OHR officials combine their own knowledge of the candidates with information collected from other institutions, especially ICTY itself but also SFOR, the OSCE, and OHR's field officers within Bosnia. The collated information then provides a general picture of the candidate for evaluating the suitability for executive office, which can potentially lead to a veto of ministerial appointments at the entity and state levels.[34] As a result of the lack of transparency entailed in the process, it has been repeatedly criticized by the local parties and after early 2006 the OHR began to respond to the criticism and shift these vetting procedures from the international authorities to the national parliament.[35]

5.2.2.3. Dismissals

In many ways the vetting procedure is a way of pre-empting the need for the OHR to take even more direct action against Bosnia's political elites, and use

---

[31] OHR Press Release, 'High Representative to Vet New Ministers', 21 October 2002.
[32] OHR, '18th Report by the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations' 12 March 2001.
[33] Paddy Ashdown Press Conference on Vetting, 12 December 2005.
[34] Author interview with senior OHR official, Sarajevo, April 2005.
[35] Paddy Ashdown Press Conference on Vetting, 12 December 2005.

the Bonn Powers in order to remove officials from office for their actions (or inactions). When the Bonn Powers were granted in 1997, they provided the High Representative with the authority to take 'actions against persons holding public office' if they were obstructing Dayton implementation. In the subsequent years, the High Representative has used these new powers on a regular basis, often making significant decisions and removing or censuring senior elected politicians. Early decisions in 1998 involved removing four officials, suspending one for a period of time (until the individual was fully dismissed in 1999), and preventing another from holding any public office. More significant removals were made in 1999, especially when the hardline nationalist president of Republika Srpska, Nikola Poplašen, was removed from office after blocking the formation of a government in the RS National Assembly and moving to dismiss the sitting, and more moderate, caretaker prime minister.[36]

Along with Poplašen, the High Representative dismissed twenty-five other officials in 1999, including twenty-two in a single day from a range of positions throughout Bosnia for 'pursuing anti-Dayton, anti-peace, anti-reconciliation and extra-legal agendas'.[37] Twenty-six people were removed from office in 2000, many from local housing offices due to obstruction of refugee returns. While the number of removals dropped to nine in 2001, the figure included the removal in March 2001 of one of Bosnia's senior elected politicians, the Croatian member of the BiH Presidency and President of the HDZ party, Ante Jelavić. Jelavić had antagonized the OHR by holding an unofficial referendum on the rights of Croats on the same day as the 2000 general elections, largely in protest at electoral reforms introduced by the OSCE (see Section 5.4 below). After refusing to implement the results of the November elections for a number of months, on 3 March 2001 Jelavić and the HDZ went further and organized a meeting of the unofficial 'Croat National Assembly', which voted for 'Croat self-rule' and expressed its intention to establish separate legislative, executive and judicial bodies of government.[38] Four days later, the High Representative dismissed Jelavić for violating the constitutional order, 'displaying a pattern of behaviour that seeks to cripple the institutions set up under the General Framework Agreement for Peace' and 'sowing hate and fear' in his speeches.[39]

[36] OHR, 'Decision removing Mr. Nikola Poplasen from the Office of President of Republika Srpska', March 5, 1999. See also ICG, 'Republika Srpska: Poplasen, Brcko and Kosovo: Three Crises and Out?', Balkans Report No. 62, 6 April 1999.

[37] OHR Press Release, 'High Representative and the OSCE Head of Mission announce the removal from office of various public officials', 29 November 1999.

[38] ICG, 'Turning Strife to Advantage: A Blueprint to Integrate the Croats in Bosnia and Herzegovina', ICG Balkans Report No. 106, 15 March 2001.

[39] OHR, 'Decision removing Ante Jelavic from his position as the Croat member of the BiH Presidency', 7 March 2001.

The most extensive use of dismissal authority by a High Representative, however, came in the summer of 2004 when in one day Paddy Ashdown dismissed fifty-nine officials from office in Republika Srpska, most of them members of SDS.[40] This action was taken in response to the lack of progress in Republika Srpska in relation to the extradition of indicted criminals to the Hague, especially Radovan Karadžić. Twelve of the dismissed individuals were removed indefinitely, including Dragan Kalinić, president of the SDS and chairman of the National Assembly of Republika Srpska. The remaining forty-seven were removed on a conditional basis, meaning they could 'return to public life once Radovan Karadžić is in The Hague and BiH and its entity the Republika Srpska is in compliance with its international obligations towards the ICTY'.[41]

In March 2005, another major decision was made in this area with the dismissal of Dragan Čović, the Croat member of the state-level three-member Presidency. The action was a response to the indictment of Čović for abuse of his office by the Bosnian Prosecutor's Office, and came after Čović had defied international pressure to resign. Noting the 'fragile' state of Bosnia's democracy, the OHR removed him on the grounds that his continued presence in the Presidency would lead to Bosnia's international isolation, political paralysis and a loss of confidence in its democratic institutions.[42] Although the rate of OHR dismissals dropped significantly after this point, and the OHR began to lift its earlier bans on political participation against those it had previously dismissed, the international authorities retained the power and continued to use it on occasion. As late as May 2008, the High Representative dismissed a member of the state's Intelligence and Security Agency, Predrag Čeranić, for his role in 'shielding war crimes indictees from justice and preventing the efforts of those who have tried to do so'.[43]

These actions thus include some of the most intrusive and forceful interventions by the international administration in Bosnia, as the Office of the High Representative used the exceptional powers available to it to remove domestic elected officials from office. Coupled with appointments and dismissals, successive High Representatives have used the dismissal authority of the Bonn Powers to act as self-appointed gate-keepers of the political regime in Bosnia, mediating the channels of access to political positions of authority in the domestic institutions. The OHR has thus played a fundamental role in

---

[40] OHR, 'List Of Removed And Conditionally Removed Officials By The High Representative', 30 June 2004.

[41] Paddy Ashdown Press Conference, 30 June 2004.

[42] OHR, 'Decision removing Dragan Covic from his position as a Member of the Presidency of BiH', 29 March 2005.

[43] OHR, 'Decision To remove Mr. Predrag Čeranić from his current position in the Intelligence and Security Agency of Bosnia and Herzegovina', 30 May 2008.

shaping the nature of political development during Bosnia's transition, and in contributing to a contested mode of transition entailing significant elements of unilateral international action.

5.2.3. Coalition formation

Finally, the OHR has also played a role in post-election coalition formation, and has frequently sought to intervene in post-election scenarios in Bosnia to ensure that nationalists are marginalized and that moderates gain executive office at their expense. In the Republika Srpska elections of 1997, for example, the OHR sought to ensure that the two most popular Serb nationalist parties, the SDS and SRS, would not be able to form a government. Both parties together fell just short of an overall majority, and the High Representative sought to bring the opposition parties together in a coalition that would keep the SDS and SRS from power. With help from mediation by the then High Representative Westendorp, a new coalition was successfully formed, named SLOGA (Unity), and Milorad Dodik of the Party of Independent Social Democrats (SNSD) was elected Republika Srpska prime minister. International authorities also worked hard during SLOGA's time in office to ensure the coalition stayed together and maintained its government in RS.[44]

Similar efforts took place on a bigger scale at the national level after the 2000 general elections, when the international community played a role in assembling the so-called Alliance for Change coalition. The previous BiH government had been dominated by the main nationalist parties, and the international authorities were eager that such a nationalist dominated government would not come to power again. Excluding the nationalists from government, however, required a broad-based coalition of a large number of diverse parties, as while the non-nationalist representation in the legislature after the 2000 elections held a majority of seats, it was highly fragmented and dispersed among many parties. The result was a series of sustained international negotiations between the non-nationalist parties that sought to bridge their differences and find a common platform on which they would unite.[45] The key non-nationalist parties that the international authorities looked to were the multi-ethnic Social Democratic Party (SDP), led by Zlatko Lagumdžija and the largely Bosniac Party for BiH (SBiH), led by Haris Silajdžić. The negotiations were difficult, however, as each party sought to

---

[44] ICG, 'The Wages of Sin: Confronting Bosnia's Republika Srpska', Balkans Report No. 118, 8 October 2001.

[45] Author interview with senior international official involved in the negotiations.

have its own interests represented in the final coalition platform. Ultimately, the Alliance for Change coalition was brokered primarily by the UK and US ambassadors to Bosnia, Graham Hand and Thomas Miller, respectively. The final negotiations took place over a fifteen-hour session in the UK ambassadorial residence, with continual brokering and mediation by the two ambassadors until each party had agreed to join the coalition. The international ambassadors mediated the discussions and provided promises of sustained international support if the parties agreed to come together in government.[46] Ultimately, the combination of international pressure and inducements succeeded, and the Alliance for Change coalition was formed on 13 January 2001.

The extent of international intervention in such a fundamental area of democratic politics as government formation was criticized in some sectors, however, and prompted a certain backlash against the intrusive international measures. In February 2001 the Serb member of the BiH Presidency, Živko Radišić, threatened to revoke the credentials of ambassadors to BiH who interfered with Bosnian politics.[47] The High Representative at the time replied to defend the right of ambassadors of the PIC Steering Board states to involve themselves in Bosnian affairs. Drawing a distinction between the ordinary 'Diplomatic Corps' of foreign ambassadors, and the 'International Community' of the High Representative, SFOR, and the ambassadors of the PIC Steering Board states that were present in Bosnia for the purposes of peace implementation, the High Representative argued 'it is simply beside the point to apply the traditional concept of non-interference in internal affairs to the present situation in BiH'.[48]

The High Representative thus starkly highlighted the separate role of international administrators in domestic politics compared with other more conventional international actors. Using its extensive authority at the domestic level, the OHR has acted as a gate-keeper to the nascent democratic regime in Bosnia and has sought to guide its development in very direct and at times intrusive ways.

Yet while these actions reveal the potential for international influence on transition politics in these contexts, the policies have often been unpopular, provoking a backlash at times against both the international authorities and the local parties and actors who have gone out of their way for support. Some political candidates have been tainted by the association, and the Alliance for Change coalition was ultimately short lived – its two-year term of office was marked by constant internal divisions, and in the 2002 elections its support

---

[46] Ibid.

[47] OHR Chronology/Monthly Tracker, entry for 6 February 2001; and IWPR, 'Cowboy Toughs it Out in Bosnia', 16 February 2001.

[48] OHR Press Release, 'The Role of Peace Implementation Council Steering Board Ambassadors in BiH', 7 February 2001.

collapsed, facilitating the return to state-level government of the three nationalist parties that the international authorities had previously sought to marginalize.[49]

Reflecting the mixed record of international success in this arena, the OHR began to shift its policies of intervention in Bosnia's elite landscape. Under the tenure of Paddy Ashdown, the OHR sought to reduce its power in some of the areas discussed above, reversing some of its previous decisions and devolving authority to local authorities on issues such as ministerial vetting. In March 2005, the OHR began to review the history of OHR removals, and initiate procedures to lift bans on political officials in circumstances where such sanction no longer seemed appropriate.[50] In December 2005, Ashdown made a further move that he presented as part of 'BiH's development towards full sovereign statehood', and proposed amendments to state legislation that would devolve authority over the vetting procedure to the BiH House of Representatives after the 2006 elections and establish a 'public and transparent process of parliamentary scrutiny for key executive appointments'.[51] The new process would include a test of eligibility for prospective ministers, as well as an open parliamentary confirmation process and further assessment in a new all-party Parliamentary Committee on Confirmation to assess suitability. Information about ministerial candidates, including their personal history, qualifications, activities during the war and financial affairs would be collected and made public. Further, in January 2006 Ashdown passed a decision to amend the Election Law to ease the restrictions on electoral participation for previously removed individuals. For those individuals removed by the Provisional Election Commission, the ban on standing for election or holding elected office was lifted completely, affecting in the region of 160 people, and all other bans on electoral participation were given time limits with an expiry date of 31 December 2007.[52]

The nature of international intervention thus underwent a state of change, with a more hands-off approach developing within the OHR on certain issues. Nonetheless, the political experience since the Dayton Agreement was signed clearly shows the multiple ways in which international administrators have been able to involve themselves in Bosnia's process of regime transition and development, particularly in relation to the access of local political elites to positions of power in the newly created Bosnian institutions.

[49] See Bernd Burwitz, 'The elections in Bosnia–Herzegovina, October 2002', *Electoral Studies*, Vol. 23, No. 2, 2002.

[50] Paddy Ashdown press conference, 4 March 2005.

[51] Paddy Ashdown press conference, 12 December 2005.

[52] Paddy Ashdown press conference, 27 January 2006; and OHR, 'Decision Enacting the Law on Changes and Amendments to the Election Law of Bosnia and Herzegovina', 27 January 2006.

While the international actions have not always achieved their desired effects, they have nonetheless contributed to Bosnia's contested mode of transition. The following section explores a separate aspect of international involvement in Bosnia's mode of transition, and highlights the multiple ways in which international administrators have involved themselves in the development of those institutions themselves.

5.3. INSTITUTIONAL DESIGN

Unlike in Kosovo and East Timor, a clear institutional framework for Bosnian self-government was set down prior to the arrival of international administrators. During the Dayton talks, the three parties negotiated on and agreed to a comprehensive set of political institutions and structures that would provide the foundation for post-conflict stability in Bosnia, although the result was a profoundly complex political system. While the parties all agreed to remain within a sovereign Bosnian state, neither the Croat nor Serb forces gave up their separatist political orientations, and in order for them to accept a united Bosnia, its Constitutional Framework had to reflect their positions. Consequently, the institutional structures created in Bosnia's new constitution were complex and diverse, with many levels of government and separate institutional systems for the two sub-state entities.

In terms of institutional design, the Constitutional Framework reflected many of the elements of the consociational model of democracy as developed by Arend Lijphart, including power-sharing, minority veto and group autonomy.[53] Almost every aspect of the constitution reflected the need to provide a sense of security for the three communities, and to reduce the possibility that any one of them would come to feel like a dominated minority. The state was divided into two political entities, the Croat and Bosniac dominated Federation, and the Serb dominated Republika Srpska, with a 51:49 division of territory in the Federation's favour. Power was heavily decentralized to the two entities, and was a feature of all significant institutions at the state level and within the Federation power-sharing. The central institutions were also given relatively weak powers compared to the entities, and were allocated control primarily in the areas of foreign policy, foreign trade and customs policy, immigration policy, inter-entity criminal law enforcement, communications and transport. The entities, on the other hand, were given extensive

---

[53] See Arend Lijphart, *Democracy in Plural Societies. A Comparative Exploration* (Yale University Press, 1977).

powers, including the right to form special parallel relationships with neigh-bouring states, control of civil law enforcement within their boundaries, and more importantly, all government functions not expressly assigned to the central government.[54]

At the state level, powers were to be divided between central institutions composed of a joint Presidency and a bicameral legislature. The joint Presidency was to consist of three members, with one Bosniac and one Croat elected from the Federation, and one Serb elected from Republika Srpska. Decisions could be carried by a two-to-one majority, but a dissenting member was given the right to cite the vital interest of their entity in order to block a measure, in which case a two-thirds vote in the assembly of the relevant entity confirming this view could veto the decision completely.

At the entity level, the nature of government differed considerably within the Federation and Republika Srpska. The latter was essentially a unitary entity, with a unicameral National Assembly and a parliamentary executive. The Federation, on the other hand, was heavily decentralized. Its constitution provided for a bicameral legislature consisting of a directly elected House of Representatives and an indirectly appointed House of Peoples with minimum representation for Bosnian Serbs, as well as a 'vital interest' procedure similar to that at the state level. At the local level, the Federation was divided into ten cantons, each with considerable political authority and a level of exclusive jurisdiction that enabled them to be decisive political players in Federation, and wider Bosnian, politics. The Council of Ministers and the National Assembly in the Federation had similar power-sharing and veto arrangements, providing for joint decision-making by Croat and Bosniac politicians, but with the ability of either side to veto measures that could be viewed as compromising their 'vital interests'.[55]

The extent of the constitutional provisions set down in the Dayton Agreement suggested that much of the institutional design and building role of the international community was completed before the arrival of the OHR in 1995/6, and that the international organizations present in Bosnia in the post-Dayton environment would have a limited role in this area. Once the final constitutional provisions were set down at Dayton, it appeared the comprehensive nature of the agreement left relatively little room for further international involvement in constitutional development. Yet the OHR and other international bodies found themselves involved in drafting and sometimes enforcing new provisions that would alter the structures set down in the

---

[54] Constitution of Bosnia and Herzegovina, General Framework Agreement, Annex 4, Article III.
[55] For a comprehensive overview of Bosnia's constitutional structure, see Sumantra Bose, *Bosnia After Dayton: Nationalist Partition and International Intervention* (Hurst and Company, 2002), Chapter 2.

Dayton Agreement.[56] One area of such involvement was in the electoral arena, which witnessed large-scale international involvement in rule-making and legislative initiation with the explicit aim of furthering moderate politics in Bosnia (this issue is discussed in detail in the next section). In terms of the structures of the political system itself, the post-Dayton period demonstrated that the Dayton Agreement was in fact relatively flexible, and allowed room for significant further development of Bosnia's regime structure.[57] The full structure of Bosnia's political regime was only partially outlined within the Dayton documents, and international and domestic authorities subsequently engaged in a lengthy and at times contested process of interaction over the development and evolution of the Dayton institutions.[58] The Office of the High Representative played a critical role in this process, engaging forcefully in Bosnian politics to direct, and at times impose, political change. In so doing, international administrators were thus once again central in shaping Bosnia's prolonged and contested mode of transition.

5.3.1. The evolution of the Council of Ministers

The first indication of this post-Dayton institutional design role for international authorities came in 1996, as the OHR worked to ensure that the common institutions set out in Dayton were established and that the two entities did not become de facto states. The elections of 1996 were held in part to pave the way for these common institutions, and to elect officials that would hold power at the state as well as entity levels. Even before the elections were completed, disagreements among the parties were evident regarding the structures of the state, with each side seeking to ensure that the flexibility that existed in Dayton was used to their advantage. Dayton did not contain specific power-sharing provisions at all levels of government, and disagreements soon emerged regarding the format of the Council of Ministers (CoM), essentially the state cabinet, and the allocation of senior positions in the state government. The Bosniacs, for example, sough to dominate key political positions (chairmanships of the Presidency and Council of Ministers, and the foreign minister position), while leaving less important posts in the Constitutional Court and

---

[56] On the flexibility of the Dayton constitutional structure, see also David Chandler, 'From Dayton to Europe', *International Peacekeeping*, Vol. 12, No. 3, 2005, pp. 336–349.

[57] ESI, 'Reshaping International Priorities in Bosnia and Herzegovina – Part II: International Power in Bosnia', 1 March 2000.

[58] ESI, 'Reshaping International Priorities in Bosnia and Herzegovina – Part III: The End of The Nationalist Regimes and the Future of the Bosnian State', 22 March 2001.

parliament for the Serbs and Croats. These moves were in turn opposed by the other parties, and deadlock soon developed over the formation of the CoM.[59]

Within the Dayton constitution, the provisions on the format of the Council of Ministers stipulated only that it should have a Chair, and that not more than two-thirds of its members should be from the Federation.[60] Yet the political realities on the ground meant that such a structure, with a single head of government, was unacceptable to the three political communities, each of which wanted representation at the senior levels and were opposed to the appointment of a single chair (unless he/she was a member of their own community).[61]

As a result, the OHR had to assume a significant mediation role, and also felt the need to move beyond the Dayton structures and introduce informal power-sharing measures to the state government that had not been present in the Dayton constitution. Although not provided for in Dayton, the initial international approach was to divide the three most important political posts (chair of the Presidency, chair of the Council of Ministers and foreign minister) between the three communities, thus further institutionalizing the quota system applied elsewhere in the constitution.[62] Yet continued resistance from the local parties meant that even more significant measures were necessary, and at a special session between the OHR and the political party leaders held in Dubrovnik, a substantial alteration to the Dayton provisions was ultimately made.[63] To accommodate the domestic parties, it was agreed that the CoM would have two co-Chairs rather than one as provided for in the constitution, and that a new Vice-Chair position would be created. It was also agreed that the two Chairs would be a Serb and a Bosniac, and that the Vice-Chair position would be held by a Croat politician.

Further negotiations were held on the number of ministers, with an agreement reached that it would be six, and international mediation was also needed on the issues of the division of responsibilities between the members and the personnel who would be appointed.[64] The final result was that the positions were carefully distributed among the three communities, so that the first Bosnian government involved a Bosniac Chair of the Presidency, Bosniac and Serb Co-Chairs of the Council of Ministers, a Croat Vice-Chair of the Council of Ministers and a Croat foreign minister. To further complicate matters, the agreement held that the two co-Chairs would rotate weekly in the role of Chair.[65]

[59] Bildt, *Peace Journey*, p. 273.

[60] Constitution of Bosnia and Herzegovina, General Framework Agreement, Annex 4, Article IV, Section 4.

[61] Author interview with former OHR official, June 2006.

[62] Bildt, *Peace Journey*, pp. 273, 280.

[63] Author interview with former OHR official, June 2006.

[64] Bildt, *Peace Journey*, p. 297.

[65] The Balkan Institute, 'Balkan Watch', 2 December 1996.

As early as 1996, therefore, it was clear that the international authorities had both the ability and intention to involve themselves in fundamental issues of institutional design, even if it meant pushing the boundaries of the Dayton Agreement signed just a year earlier. In particular, the negotiations over the Council of Ministers highlighted a number of key factors about post-Dayton politics in Bosnia that would resurface again in the subsequent months and years – first, that Dayton was not the end of institutional developments in Bosnia, but rather the beginning; second, that political progress would be the result of intricate and often strained negotiations among domestic and international actors; and third, that while the international authorities in Bosnia were central to the political processes under way, and highly influential regarding Bosnia's political development, their priorities could not be achieved as a matter of course and would sometimes have to be sacrificed in the face of implacable domestic resistance.

The agreement in 1996 did not mark the end of amendments to the Council of Ministers structure, however, and international involvement in developing this key governmental institution re-emerged again at a later stage. In 1999, a Constitutional Court decision essentially invalidated the Council of Ministers when it held that the introduction of the Co-Chair and Vice-Chair structure in 1996 was not in accordance with the Bosnian state constitution (the Court was responding to a case brought by Serb deputy speaker of the BiH House of Representatives).[66] With the state Presidency deadlocked on how to proceed, the OHR intervened and assumed a mediation role in the negotiations, while also drafting a new law that would meet the demands of the three opposing political factions. In order to achieve local agreement, however, the international authorities had to broker a compromise whereby the new single Chair of the Council could only serve a term of eight months at most, thus ensuring regular re-appointment and de facto rotation of the Chair between the three ethnic groups.[67] While this was not the desired solution of the OHR, the High Representative at the time, Wolfgang Petritsch, felt that imposition of a more functional solution would have been a step too far at the time, and that an incremental approach was preferable.[68]

As this provision for a rotating chair 'concerned' the High Representative, further reform of the Council of Ministers remained a priority for the

---

[66] Constitutional Court, Decision No. U 1/99, 14 August 1999. See also Venice Commission, 'Description of the Constitutional Court of Bosnia and Herzegovina as well as précis published in the Bulletin on Constitutional Case-Law', 15 September 2000, available at http://www.venice.coe.int.

[67] See *East European Constitutional Review*, 'Constitution Watch: Bosnia and Herzegovina', Vol. 9. Nos. 1/2, Winter/Spring 2000.

[68] Author interview with former senior OHR official, June 2006.

international authorities.[69] Arguing that the eight-month rotation system in the Council had produced a sense of instability and uncertainty, the new High Representative, Paddy Ashdown, took a more interventionist approach to address the problem.[70] Consequently, in December 2002, Ashdown imposed a revised law which sought to amend the composition and decision-making procedures of the Council.[71] The new law retained much of the consociational character developed since the post-Dayton negotiations, with provisions for power-sharing within the cabinet, but now stipulated that the term of office of the Chair should coincide with the mandate of the BiH Parliament, thus ending the pre-existing rotation provisions. The law also expanded the Council from six to eight ministers, and relaxed the decision-making procedures, which had previously required decision by consensus. The new amendments enabled the Council to make decisions by majority where those decisions required approval of the parliament (decisions purely within the competencies of the Council still had to be made by consensus).[72] In January 2003, the Council of Ministers approved the law, thus making the December imposition more permanent.[73] However, even this settlement failed to resolve the issue, and in late 2007 a subsequent High Representative, Miroslav Lajcak, imposed new changes to the Council of Ministers to minimize the effects of political boycotts. The changes sparked off a serious political crisis, including the resignation of the Chair of the CoM, before a new settlement was finally agreed (these developments are discussed further in the conclusion of this chapter).

The international authorities thus played a central role in the development of Bosnia's state-level cabinet structure, and from the earliest days of the international presence showed a willingness to move beyond Dayton and interpret and re-shape the provisions contained within the constitution, sometimes through consensus with local actors, and sometimes through imposition. The evolution of the Council of Ministers, one of Bosnia's most significant political institutions, reflects the extent of influence of the international administrators in Bosnia, including the ability to broker negotiations among local parties, draft compromise solutions that could achieve agreement, and ultimately impose changes in the face of domestic resistance. The OHR has acted not simply as an

---

[69] OHR, '16th Report by the High Representative for Implementation of the Peace Agreement to The Secretary-General of the United Nations', 3 May 2000.

[70] Speech by Paddy Ashdown to Economic Administrators and International Investors at the Joint Institutions Building, 9 October 2002.

[71] OHR, 'Decision Enacting the Law on the Council of Ministers of Bosnia and Herzegovina', 3 December 2002.

[72] Law on the Council of Ministers of Bosnia and Herzegovina, 3 December 2002.

[73] ICG, 'Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building', Balkans Report No. 146, 22 July 2003.

influence on domestic politics in this area, but rather as a central player in Bosnia's process of regime development.

5.3.2. The Constitutional Court decision and Bosnia's entity constitutions

The development, and strengthening, of the Council of Ministers was not the only significant instance of internationally led constitutional evolution in the post-Dayton period. Another major case of international involvement in the evolution of Bosnia's regime involved a fraught process of amendment to Bosnia's two entity constitutions, sparked when Bosnia's Constitutional Court concluded that the existing constitutions were inappropriate for a modern democracy. The resulting political fallout involved extensive international mediation, and ultimately intrusive international action, in order to resolve the issue and establish a long-term solution.

Each of Bosnia's two entities had developed its own written constitution, and in the immediate post-Dayton period international pressure and guidance ensured that both were brought into line with the Dayton Agreement.[74] Yet the issue of entity constitutional amendment resurfaced in 1998, when Alija Izetbegović, head of the SDA party but acting in his personal capacity, brought a case before the Bosnian Constitutional Court questioning the compatibility of the entity constitutions with the state constitution.[75] In 2000 the Court issued four partial decisions that decided the case, and ultimately found the entity constitutions to be incompatible with the constitution of Bosnia and Herzegovina in several crucial respects. The ruling, known as the Constituent Peoples' Decision, led to a lengthy and fraught period of political debate within both entities, as the international community and domestic parties negotiated over the extent and nature of the constitutional amendments. At the heart of the Constituent Peoples case and the constitutional amendment debate was the role of the concept of 'constituent peoples' in Bosnia. The preamble to the state constitution names the Bosniacs, Croats, and Serbs as constituent peoples in Bosnia, whereas the entity constitutions seemed to name entity constituent peoples more selectively; in RS, the entity constitution declared the entity to

---

[74] The Council of Europe's Venice Commission led the way here. See for example Venice Commission, 'Draft Opinion on the Compatibility of the Constitutions of the Federation of Bosnia and Herzegovina and the Republika Srpska with the Constitution of Bosnia and Herzegovina', CDL(1996)056, 24 June 1996.

[75] Constitutional Court of Bosnia and Herzegovina, 'Request for Evaluation of Constitutionality of Certain Provisions of the Constitution of Republika Srpska and the Constitution of the Federation of BiH, Case U 5/98, Partial Decision (30 January 2000), Partial Decision (19 February 2000), Partial Decision (1 July 2000), Partial Decision (19 August 2000)', available at www.ccbh.ba.

be 'the state of the Serb people', while the Federation constitution referred to 'Bosniacs and Croats as constituent peoples, along with Others'.

By a five-to-four majority the Constitutional Court ultimately ruled that these elements of the entity constitutions relating to the constituent peoples were unconstitutional.[76] The Court took as its point of departure the requirement that in a multi-national democratic state, ethnic groups should be accommodated rather than segregated. In identifying a 'constitutional principle of collective equality of constituent peoples' in the BiH constitution, the Court argued that the principle prohibited any special privilege or domination in government by one of these groups, or any ethnic homogenization through segregation.[77] Yet the Court found that by privileging some constituent peoples over others, the entity constitutions legitimized entity practices that led to such discrimination and segregation, and thus compromised democracy in Bosnia. In particular, the Court found that the constitutions were linked to discriminatory practices (especially in relation to refugee returns) and that certain aspects of the Federation constitution led to the 'total exclusion of persons on the ground of national or ethnic origin from representation and participation in executive and judicial bodies'.[78]

5.3.2.1. *Drafting the amendments*

The implications of the decision were highly politically significant, as the two entities now needed to amend their constitutions to bring them into line with the state constitution, and the requirements of the Court that all constituent peoples be given equal standing in each entity. However, while the Court's ruling suggested the need for constitutional amendment, the issue of how the constitutions were to be altered in order to take the Court's ruling into account was a political rather than judicial matter, and had not been directly addressed by the Court.[79] As a result, a political process was initiated to determine which political changes would be made to bring the two entity constitutions in line with the state constitution.

From the beginning, the international authorities sought to ensure this process would be domestically driven, and that the amendments would be agreed among the Bosnian political parties. The High Representative of the time, Wolfgang Petritsch, had consistently promoted a principle of

---

[76] The majority ruling was supported by the Court's three international judges and its two Bosniac judges, while Croat and Serb judges made up the minority.

[77] Constituent Peoples Decision, Partial Decision July 1, Paras 54–60.

[78] Ibid., paras, 112, 113.

[79] ICG, 'Implementing Equality: The "Constituent Peoples" Decision in Bosnia & Herzegovina', Balkans Report 128, 16 April 2002, p. 3.

'ownership' in Bosnia,[80] and his initial approach was to encourage the local parties to take the lead on the issue and draft amendments, while also providing some international guidance. In early 2001, the High Representative established two Constitutional Commissions, one in each entity, to prepare proposals for the required constitutional amendments and in the interim period to protect the vital interests of the three constituent peoples in each entity. An International Task Force, consisting of representatives from the OHR, the OSCE and the Council of Europe's Venice Commission, was also established to prepare initial proposals for the amendments, which it submitted to the Constitutional Commissions. The OHR sought to reassure local parties, however, that the work of the International Task Force was designed to 'assist' the Constitutional Commissions, and that its proposals were 'merely designed to provide suggestions for constitutional amendment whilst encouraging all interested individuals and bodies in Bosnia and Herzegovina to offer alternative ideas or models'.[81]

Progress within the Constitutional Commission was slow, however, and little was achieved during 2001. By December of that year, the Commission of Republika Srpska had not agreed on a single amendment, and although the Federation Commission had drafted a set of amendments, the Federation government was refusing to propose its constitutional changes until Republika Srpska's parliament also voted on its own.[82] It was also clear at this time that there were radically different conceptions within the two entities as to what was required, with Republika Srpska resisting any significant change, while the Federation parties sought to ensure that Republika Srpska would have to adopt many of the same group protection mechanisms that existed in the Federation, such as a second chamber with ethnic quotas.[83] As a result of the impasse, in February 2002 the OHR changed strategy and increased the international involvement in the process. The debate over the constitutional amendments was transferred from the Constitutional Commissions to the main political parties, and the OHR began a series of internationally mediated negotiations on the issues. The High Representative also began to increase the political pressure on the political parties, making it clear that the entity constitutions had to be amended by April of 2002, in order to allow for

---

[80] Speech by Wolfgang Petritsch at the Steering Board Ministerial Meeting, 22 September 1999.

[81] See Venice Commission, 'International Task Force for the Implementation of the Decisions in Case N°5/98 of the Constitutional Court of Bosnia and Herzegovina, Guidance and Options,' CDL (2001) 23, 6 March 2001.

[82] *East European Constitutional Review*, 'Constitution Watch: Bosnia and Herzegovina', Vol. 9, No. 3, Summer 2000; and ICG, 'Implementing Equality', p. 6.

[83] ICG, 'Implementing Equality', p. 6.

new electoral rules for the revised entity institutions to be introduced in time for the scheduled October 2002 elections.[84]

For many within the international administration, the Court's Decision also provided an opportunity to remove the existing guarantees for constituent people that existed in the entity constitutions and introduce a less complex 'citizens model' that would reduce the role for group rights, and thus ethnic-based politics, and be based more on individual rights. As a result, once the OHR began to intervene in the process, it sought to promote institutional changes that would reduce the complexity of the political regime rather than increase it.[85]

However, the resistance of the domestic political parties to some of the provisions, and their consistent pursuit of their ethnic interests, ensured that the international hopes for the process would not fully be met. The participating Croat parties consistently pushed for the expansion of minority protection, and sought full symmetry between the two entities. They argued that Republika Srpska should have a full second chamber like the House of Peoples in the Federation, with extensive vital interest protection provisions, and that both entity governments should be composed of equal numbers of each constituent peoples. These demands were unacceptable to the Serbs, who wanted to retain their majority status in the Republika Srpska governmental structures, and who were only willing to accept a more limited vital interest protection mechanism that could not be used excessively by the Croat minority. The Bosniacs had similar reservations about losing their majority status in the Federation, although were more sympathetic to a broad vital interest provision.[86]

The result of these conflicting positions was that at certain stages of the negotiations any agreement seemed unlikely, especially one that would meet the initial international preferences for a more streamlined and less ethnicity-based constitutional structure. In order to draw the parties together and achieve consensus, the OHR officials involved in the negotiations thus sought to find any common ground between the parties, even if it meant further entrenching the consociational elements that were central to the state-level Constitutional Framework. Throughout the negotiations, the international administrators set the agenda and frequently reiterated internationally set deadlines. Importantly, the OHR also took the lead role in drafting the proposals that were being discussed, and in so doing closely controlled the process.[87] One by one, the contentious issues of the talks were resolved, and

---

[84] ESI, 'Imposing Constitutional Reform? The Case For Ownership', 20 March 2002.

[85] Author interview with senior OHR legal officer, April 2005.

[86] Peter Neussl, 'Implementation of the Constitutional Court Decision on "Constituent Peoples" in Bosnia and Herzegovina', in *Human Rights Law Journal*, Vol. 24, No. 9–12, 2003, pp. 309–321.

[87] Author interview with senior OHR official, April 2005.

an agreement, known as the Mrakovica-Sarajevo Agreement, was finally reached between several of the parties on 27 March 2002.[88] It provided for the introduction of an upper house in the RS, the Council of Peoples, and ensured that vital interest procedures would exist in both entities. Significantly, it also set down highly specific power-sharing arrangements for both entity governments, with ethnic quotas built into the structure of governments in both the RS and the Federation.[89]

While the OHR had initially sought to ensure that this would be a purely domestically driven process, and one that led to more streamlined constitutional structures in the entities, international intervention was ultimately required to achieve local consensus on an agreement that fell short of international hopes. According to the High Representative, the achievement of any agreement between the local parties was a breakthrough, and it would not have been possible without the international intervention.[90] Yet while the international influence was considerable, the final document was also heavily shaped by the parties and their priorities, and its final content reflected the continued divisions that existed among Bosnia's political elite. These divisions also ensured that implementation of the Agreement would become a significant problem, and that the High Representative's involvement in the process would not end with the conclusion of the all-party negotiations.

5.3.2.2. The Mrakovica-Sarajevo Agreement and its implementation

Although the Mrakovica-Sarajevo text was presented as a final agreement on the constitutional amendments, it was not actually supported by all of the parties within Bosnia. Four parties from Republika Srpska signed a separate document supporting the Agreement, but expressing reservation about certain measures,[91] and the HDZ and the SDA rejected the Agreement outright – the HDZ had refused to participate, and the SDA had walked out of the talks in the final stages.[92]

As a result, implementation of the Agreement remained a problematic issue as nationalist parties in both entities sought to obstruct the final amendment

---

[88] 'Agreement on the Implementation of the Constituent Peoples' Decision of the Constitutional Court of Bosnia and Herzegovina', 27 March 2002.

[89] In RS, it was agreed the government would consist of 8 Serb, 5 Bosniac and 3 Croat ministers, while the Federation government would have 8 Bosniac, 5 Croat and 3 Serb ministers. For more details on the agreement, see ibid., and Neussl, 'Implementation of the Constitutional Court Decision on "Constituent Peoples" in Bosnia and Herzegovina'.

[90] Author interview with Wolfgang Petritsch, June 2006.

[91] These parties were the Party for Democratic Progress (PDP), the Serb Democratic Party (SDS), the Serb Independent Social-Democrats (SNSD) and the Republika Srpska Socialist Party (SPRS).

[92] OHR Press Release, 'Process of Constitutional Change in Bosnian and Herzegovina's Entities is Completed', 19 April 2000.

process. The general principles of the Agreement had to be developed into workable constitutional amendments by the two entities, and the international community, through both the PIC and OHR, began to pressurize the entities to achieve this by early April.[93] Yet the Republika Srpska parties quickly argued that the Agreement was not binding, and introduced a separate set of amendments in the Republika Srpska National Assembly over the objections of the Bosniac and Serb representatives.[94] Problems of implementation were also faced in the Federation, where a set of amendments were tabled that were largely loyal to the Mrakovica-Sarajevo Agreement, but that were voted down in the Federation House of Representatives when the SDA and three Croatian parties, including the HDZ, refused to support them.[95]

As a result of the developments, and just three weeks after the Mrakovica-Sarajevo Agreement was achieved, the High Representative took the decision to end the implementation process unilaterally and impose the amendments required to bring the entity constitutions in line with the original Agreement. Petritsch made three decisions in all: the first, to make a small number of changes to the RS amendments passed in April to bring them into line with the constitution; the second, to make significant amendments to the Federation constitution to incorporate the provisions that were voted down in the House of Representatives; and the final decision to amend the Election Law to provide for the electoral procedures for the new entity institutions.[96]

In the immediate aftermath of the impositions, Petritsch sought to present the actions as the culmination of a joint domestic and international process. Praising the political parties for engaging in negotiations, Petritsch suggested that his favoured concept of ownership was working well in Bosnia and that he had brought the political process to a close 'in partnership with the leaders of BiH'.[97] According to the High Representative, his decisions represented a 'new kind of imposition' that represented a partnership where most of the work was carried out by domestic actors. However, the limits of these ownership and partnership analogies could also be seen in the High Representative's criticism of the two main nationalist parties in the Federation, the SDA and HDZ. Describing the two parties as 'nationalistic dinosaurs', Petritsch argued that as guarantor of the Mrakovica-Sarajevo Agreement he could not allow them to

---

[93] See PIC, Communiqué of the Steering Board, 27 March 2002, which called for 'urgent and fast track adoption of constitutional amendments' by the second week of April.

[94] See *East European Constitutional Review*, 'Constitution Watch: Bosnia and Herzegovina', Vol. 11, No. 3, Summer 2002.

[95] Ibid.

[96] See OHR, 'Decision on Constitutional Amendments in Republika Srpska', 19 April 2002; OHR, 'Decision on Constitutional Amendments in the Federation', 19 April 2002; and OHR, 'Decision amending the BiH Election Law in accordance with the new Entity Constitutions', 19 April 2002.

[97] Wolfgang Petritsch Press Conference, 19 April 2002.

obstruct the implementation.[98] In doing so, he highlighted the continued role of the OHR in Bosnia as an authoritative executive actor, with both the capacity and the intention to shape the direction and nature of Bosnia's political transition, and to do so in the face of domestic resistance if necessary.

As with developments concerning the Council of Ministers discussed above, this prolonged political process surrounding the Constituent Peoples' Decision and the entity constitution amendments highlighted a number of core aspects of institutional development in Bosnia in the context of international administration. First, it again showed how the constitutional foundations of the state as established at the time of Dayton Agreement were not fixed, and that Bosnia's political system was subject to change in the post-Dayton period. Indeed, during this period the High Representative made reference a number of times to the fact that politics in Bosnia was not just about the implementation of Dayton, but also about the 'evolution' of Dayton.[99] Second, institutional change in Bosnia in the post-Dayton period has clearly been the result of complex international and domestic interactions, with input from both sides, including a range of strategies from international actors to use persuasion or leverage to achieve political progress at the domestic level. In the case of the constitutional amendments, the international authorities provided advice and guidance in the early stage, but increasingly took on a more intrusive role, mediating and then leading the negotiations, setting deadlines, and ultimately imposing the final amendments. Third, however, the process also highlighted the mediating role of domestic actors, and the manner in which international priorities are not easily transferred into domestic realities. Despite the considerable authority of the international actors in Bosnia, the demands of the domestic parties could not be completely set aside, and early international preferences for removing some of the consociational elements of the Dayton constitutional structure were dropped over time to accommodate the preferences of the domestic actors.

The wrangling over the entity constitutions did not mark the end of international involvement in Bosnia's constitutional affairs, however. A significant push for large-scale constitutional reform began in 2005 in response to both domestic and international pressures. In March 2005, the Venice Commission published a report on the constitutional situation in Bosnia which called for significant constitutional changes to strengthen the state institutions, including the abolition of the tripartite Bosnian Presidency in favour of a single Head of State and a strengthened Council of Ministers.[100] Subsequently, the

---

[98] Ibid.

[99] See especially, 'Address to the UN Security Council by the High Representative for Implementation of the BiH Peace Agreement, Wolfgang Petritsch', 5 March 2002.

[100] Venice Commission, 'Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative', CDL-AD (2005) 004, Venice, 11 March 2005.

international authorities sponsored a lengthy process of talks on constitutional reform among Bosnia's political parties, and a constitutional working group with representatives of the main political parties met regularly throughout 2006 on potential reforms, with a particular focus on state-level structures.[101] Progress was made, and a package of significant reforms was agreed in March 2006.

The proposed amendments included provisions to increase state-level powers, in particular by providing the Council of Ministers with greater competences, and also sought to make the Presidency more effective by introducing a single president and two less powerful vice-presidents.[102] However, when the proposals were put to Bosnia's parliament in April 2006, where they needed two-thirds majority approval, they were defeated by two votes. In particular, the package fell due to opposition from HDZ 1990, a breakaway party from HDZ, and the SBiH, which felt the reforms did not go far enough to centralize Bosnia's state structures.[103] The resulting fallout from the failed efforts soured political discourse in Bosnia for some time, and contributed to the particularly acrimonious atmosphere of the 2006 general elections.

The process of constitutional amendment in Bosnia has thus reflected the wider dynamics of international and domestic interaction in the country, where the task of building, and re-building, the political regime has continued to be a fraught one even many years after the Dayton Agreement was first signed by all parties. The result of the domestic and international interaction has been a prolonged and contested mode of transition, with international actors setting much of the pace and content of the political transition in the face of a divided and antagonistic domestic balance of elite actors, at times through unilateral international imposition. The following section shows how these dynamics have also operated in the electoral arena, and how international authorities sought to introduce, and constantly amend, electoral rules in Bosnia in order to shape the nature of its transition politics.

5.4. ELECTORAL ARENA

The rules and procedures through which political elites are elected to office represent some of the most central elements of any democratic political

---

[101] Bruce Hitchner, 'From Dayton to Brussels: The Story Behind the Constitutional Governmental Reform Process in Bosnia and Hercegovina', *The Fletcher Forum of World Affairs*, Vol. 30 (1), Winter 2006.

[102] For details on the proposed amendments, see Joseph Marko, 'Constitutional Reform in Bosnia and Herzegovina 2005–06', *European Yearbook of Minority Issues*, Vol. 5, 2006/07.

[103] See Sofia Sebastian, 'Leaving Dayton Behind: Constitutional Reform in Bosnia and Herzegovina', FRIDE Working Paper #46, November 2007.

regime. In Bosnia, the Dayton Agreement outlined some of the core issues to be introduced in relation to election politics, but left much to be determined in the early post-settlement period. As a result, electoral politics was one of the key issues that occupied domestic parties and international authorities in the early post-Dayton period, but it also continued to be an arena of political transition in subsequent years, as regular alterations were made to the electoral infrastructure up until 2001.

A central theme in this arena has been the use of electoral politics by international authorities to bring about political change in Bosnia, particularly in the direction of more moderate politics at the expense of the nationalist wartime parties. Through a range of strategies, especially the ongoing modification of the country's electoral rules, the international administration has sought to influence election outcomes and the overall political landscape of Bosnia. From the very early days of the post-Dayton period, the electoral process has been one where international authorities have played a central role, drafting rules, providing incentives and at times imposing procedures in order to advance international priorities.

Yet a central feature in this arena has been the fact that the political realities on the ground regularly produced electoral outcomes that the international administration had sought to avoid. The initial Dayton Agreement required that elections be held within a six-month period, extendable at most to nine months, thus locking in choices about the timing of elections that placed a constraint on the international administrators. As a result of the short time frame, there was only limited time for the normalization of politics in Bosnia after the period of conflict, and the electoral process was thus neither moderate nor fully democratic in the early stages. The first democratic elections in 1996 saw most electoral gains go to the three hardline nationalist parties, and also involved widespread electoral fraud, a complete absence of media freedom and extensive voter intimidation.[104] Although there has been a definite improvement in the fortunes of more moderate political forces since that time, the pattern of electoral politics in Bosnia has frequently been one of hardline nationalist success despite international efforts to minimize it. Elections in 2006, just months before the OHR was scheduled to close in Bosnia, produced another victory for a newer set of nationalist parties, the Party of Independent Social Democrats (SNSD) and the Party for BiH (SBiH), both of whom moved to the right in the run-up to the elections (this election is discussed further in the Conclusion of this chapter).

The following sections explore these dynamics in greater detail, examining in particular the development of Bosnia's initial electoral framework under

---

[104] ICG, 'Elections In Bosnia & Herzegovina', Bosnia Report No. 16, 22 September 1996.

the auspices of the OSCE, before turning to the most significant development of the period in terms of electoral politics: the drafting and introduction of the permanent Election Law in 2001. Events in this arena once again highlight that democratic political development in Bosnia has been heavily shaped by the extensive international presence, and that the mode of transition is one that shows features of a joint international and domestic pact, but marked at times by extensive levels of international imposition.

5.4.1. The 'Rules and Regulations'

One of the earliest tasks faced by the political authorities in Bosnia was to establish a set of formal rules to govern the elections called for in the Dayton Agreement. According to the peace accords, Bosnia's general elections were to be held within a maximum of nine months, which left little time for the development of a new institutional framework for elections. While the medium- to long-term aim was to have an election law passed by the domestic parties, the lack of elected officials or functioning domestic political institutions in the initial post-conflict period meant that interim rules would have to be drafted under the auspices of the OSCE and the Provisional Election Commission (PEC). This body was a seven-member Commission, chaired by the head of the OSCE, and further composed of three international members and three representatives of the main political parties. While the aim was for the Commission to arrive at its decisions through consensus, the Dayton accords stipulated that in the event of disagreement, the chairman would have the final say.

In the ensuing negotiations over Bosnia's interim election 'Rules and Regulations' (R&R), international and domestic members of the PEC regularly found themselves at odds with each other, and engaged in a lengthy struggle over the control of the electoral process. The three Bosnian members were representatives from the nationalist ruling parties, and thus pursued their party interests within the PEC almost exclusively. While certain uncontroversial issues were approved by consensus votes, and compromise was achieved on both sides of the international and domestic divide, the more politically sensitive issues were met with stalemate within the Commission. In these situations, the international authorities were in a position to pursue their own agenda, and use the powers available to them to overrule domestic objections, veto locally proposed provisions for the R&R and impose final outcomes.[105] In particular, the OSCE had an explicit aim of using the electoral rules to encourage the development of non-nationalist parties and limit the ability of the dominant nationalist parties to control the

---

[105] Author interview with senior OSCE official, June 2006.

political agenda in Bosnia, and it displayed a willingness to use its authority at the domestic level to ensure its aims were achieved.[106]

The clearest example of such international action occurred with the first draft of the R&R produced in 1996. The initial outline of the R&R was published in February of that year, but did not deal with all the issues on the PEC's agenda. Due to disagreements within the Commission, some of the more controversial issues were left un-addressed, especially the politically sensitive issue of voter eligibility, and the rules concerning the location of voting for refugees and internally displaced persons, an issue that would ultimately be resolved by the international Chair of the PEC.

The Dayton Agreement had included a provision that 'as a general rule' those citizens no longer living in the municipality in which they resided in 1991 should vote in that original municipality, thus encouraging returns and the reversal of the ethnic cleansing of the war. An exception was also allowed, however, if a citizen intended to continue to live in the municipality to which they had moved to during the war, in which case they could apply to the OSCE for registration in their place of residence.[107] In the negotiations over the R&R, this issue became a key point of conflict between the local parties, and between certain domestic parties and the international authorities. The Bosniac SDA party, in particular, was opposed to any rule that would allow voters to register in new locations, as it sought to ensure that the population transfers that resulted from the ethnic cleansing of the conflict were reversed. The party wanted voter registration to follow the results of the 1991 Bosnian census, thus ensuring that individuals would register in their place of residence from 1991.

The OHR and OSCE, however, came to the view that voters should be allowed a choice, and that it was necessary to take account of the realities of the war and the wishes of those voters who might not wish to return to their previous places of residence. Efforts to achieve agreement within the PEC on the issue failed, however, and no consensus was forthcoming between the local political party representatives. In the face of the impasse, the OSCE Chair of the PEC, Robert Frowick, imposed an internationally drafted resolution at the April 12 meeting of the PEC, which sought to find a middle ground between the local parties and satisfy the priorities of the international authorities. The new R&R thus stipulated that the voters would be able to choose to vote in their new municipality, but only if they did so in person, thus proving a genuine link with the new municipality. Postal votes would only be allowed for voters registered to vote at their 1991 address.[108]

---

[106] See David Chandler, *Bosnia: Faking Democracy After Dayton* (Pluto Press, 1999), chapter 4.

[107] General Framework Agreement, Annex 3, Article IV.

[108] OSCE, Provisional Election Commission, 'Rules and Regulations', 1996 edition, Article 10; Bildt, *Peace Journey*, p. 257.

After this issue was resolved, the formal R&R were then produced on 22 April 1996. Along with the new rules on voter registration, they also established the electoral systems that the different elections in Bosnia would follow, and included a set of provisions intended to structure political competition within Bosnia, along democratic lines. All parties were requested to abide by a Code of Conduct, and to declare their acceptance of it before being granted registration. The Code was aimed at 'promoting conditions conducive to the conduct of free and fair elections', and entailed a list of forbidden activities (including the display of weapons or campaigning at polling stations), and requirements to respect and cooperate with the PEC and to allow other parties to campaign unimpeded.[109] The international authorities also sought to ensure that the R&R limited the registration of political parties to those parties that declared their support for Dayton,[110] and, after an addition in July 1996, the Regulations stipulated that no person either indicted by or serving a sentence imposed by the International Tribunal for the Former Yugoslavia 'may stand as a candidate or hold any appointive, elective or other public Office'.[111]

Yet, despite international efforts to legislate for support for the Dayton Agreement and for free and fair elections more generally, events in 1996 highlighted the serious deficits in democratic norms and practices that existed within significant elements of Bosnia's political elite. In the run-up to the 1996 elections, it became clear that voter registration provisions in the initial R&R were being abused by the local parties on a large scale, especially by the Serb authorities. In many instances, Serb authorities encouraged displaced Serb voters to avail of the opportunity to register in new municipalities, and used a combination of incentives and coercion to ensure that they registered in municipalities in the RS. The result was the development of artificial Serb majorities in key municipalities, as Serbs registered in their thousands to live and vote in municipalities where they had not previously lived.[112] As the manipulation of the rules became clear, the OSCE decided to postpone the municipal elections until 1997, and in the interim, the R&R were revisited with a new set introduced in January 1997.

In order to limit the scope for electoral fraud, the OSCE drafted a new provision to make it more difficult to register to vote in new municipalities. Internally displaced people within Bosnia were made ineligible for registration in a location other than their 1991 residence, while refugees living abroad could only become eligible once they provided 'clear and convincing

---

[109] OSCE, Provisional Election Commission, 'Rules and Regulations', 1996 edition, Articles 119–124.
[110] Ibid., Article 46.
[111] Ibid., Article 15.
[112] See ICG, 'Elections in Bosnia & Herzegovina', Bosnia Report No. 16, 22 September 1996.

documentation to demonstrate [their] pre-existing, legitimate and non-transitory nexus with the future municipality'.[113] The OSCE's aim was to eradicate the fraud by making it almost impossible for voters to vote in new municipalities,[114] and the resulting criteria greatly reduced the number of voters successfully registering in new municipalities in the 1997 elections.[115]

As was the case with the institutional design arena discussed above, international administrators in Bosnia were thus in a position to shape the process through which the electoral infrastructure in Bosnia was established. By holding the Chair of the PEC, the OSCE was able to set the agenda on electoral issues, veto domestic proposals that were deemed unacceptable, and ultimately impose international provisions in the face of domestic opposition. When domestic parties were unable to come to an agreement, and when their actions clearly breached democratic norms and practices, international authorities intervened to introduce measures unilaterally with the aim of moving politics forward and reducing the scope for non-democratic actions. As discussed below, such international interventionism would continue in the electoral arena for many years after the Dayton Agreement was signed, and was not restricted to the interim R&R.

5.4.2. Drafting the Election Law

The next significant step in the evolution of Bosnia's electoral system was the adoption of a permanent election law to replace the interim R&R, and negotiations over this key piece of legislation once again reflected the complex relationship between the domestic parties and the international authorities. From the beginning of the discussions on the election law, it was made clear that the legislation was being planned with a view to furthering the international authorities' political agenda, which was to promote the growth of multi-ethnic parties and to strengthen those that already existed. The 1998 Madrid PIC Declaration discussed the election law in detail, and set down specific principles that the election law needed to enshrine, most notably that it should:

– promote the concept of a multi-ethnic state,
– encourage candidates, parties and coalitions to seek a broad base of support amongst all citizens of Bosnia and Herzegovina,

---

[113] See OHR Bulletin, 4 February 1997.
[114] Author interview with senior OSCE official, June 2006.
[115] See Chandler, *Faking Democracy in Bosnia*, pp. 116–117.

– preserve the rights of refugees and displaced persons to vote in the muni-
  cipalities of their pre-war homes, and
– favour political pluralism.[116]

The aims of the law were also spelt out explicitly by the OHR, who was even
more direct in his intention to limit the influence of nationalist parties.
According to Carlos Westendorp, High Representative from 1997 to 1999,
the aims of the bill included making mono-ethnic parties dependent on voters
from different ethnic groups and reducing the influence of extreme nation-
alist parties.[117]

   With such openly expressed international intentions regarding the purpose
of the law, Bosnia's international administrators unsurprisingly took a leading
role in the process by which it was developed. Preparations for the law were
initially made by the OHR, the OSCE and the Council of Europe in 1998, with
the OHR working with legal experts from the Council of Europe's Venice
Commission on an initial draft. In August 1998, a commission of seven
independent national experts was also established by the OHR and OSCE to
review the draft, with the aim of having it approved for presentation to the
PIC Steering Board by November 1998.[118] International authorities were
involved at all stages of the process, with the international experts providing
advice and reviewing the work of the domestic commission, and the High
Representative describing the process as one 'which I will follow extremely
closely to ensure that the provisions in the law are in accordance with
democratic norms and practices'.[119]

   By 1999, however, lack of agreement on a draft prompted the head of the
OSCE Mission in Bosnia to assume the chair of the national commission,
which became known as the Permanent Election Law Working Group
(PELWG), to help speed up its work, and in time a special international
Chair, François Froment-Meurice, was introduced.[120] However, although the
Working Group did agree on many issues, it was unable to produce an agreed
draft due to the lack of compromise among its members. As a result, the draft
law was finalized by the OSCE Secretariat, which took the provisions that were
agreed by the Working Group members, and completed the draft according to

[116] See PIC, Declaration of the Peace Implementation Council, Madrid, 16 December 1998.
[117] See OHR, '14th Report of the High Representative for Implementation of the Bosnian Peace
Agreement to the Secretary-General of the United Nations', 16 July 1999.
[118] See OHR, '11th Report of the High Representative for Implementation of the Bosnian
Peace Agreement to the Secretary-General of the United Nations', 14 October 1998.
[119] See OHR, '12th Report of the High Representative for Implementation of the Bosnian
Peace Agreement to the Secretary-General of the United Nations', 12 February 1999.
[120] See OHR Press Release, 'New Chairman of the Permanent Election Law Working Group',
14 May 1999.

international preferences.[121] The draft law was completed in August 1999, and distributed to the wider international community and domestic parties before being presented to the BiH parliament in November.[122]

The draft produced in 1999 differed in many respects from the existing PEC R&R.[123] Its main changes included the introduction of open lists in the proportional representation votes for Bosnia's legislative chambers, which would allow voters to choose the individual candidates they wished to vote for. This provision was recommended by the international election experts for its role in establishing a closer link between voter and candidate, and thus enhancing political accountability. It also had the benefit of removing authority from party leaders, in that it allowed voters rather than party officials to select the candidates. The new draft also entailed the introduction of multi-member constituencies for the legislative elections at state and entity levels, aimed at enhancing geographic accountability.

More significantly, the draft law envisaged the introduction of preference voting for both the RS and state-level presidential elections. The preference voting system allows voters to vote for more than one candidate, ranking each candidate in order of preference. If the candidate with the most number of votes does not achieve 50 per cent of the votes, then the candidate with the least number of votes is eliminated, and that candidate's second preference votes are distributed. This process continues until a candidate is awarded a majority of votes and deemed elected. The system has been advocated as a moderating influence on politics in divided societies in that it provides an incentive to candidates to moderate their political platforms in order to appeal to voters outside their core base and thus attract second preference votes.[124] The draft law provided for this method of voting in both the RS and the BiH Presidencies, both of which had previously utilized the first-past-the-post system.

To complement the preferential voting system, the draft also required political parties that wished to present candidates for the state Presidency to obtain 3,000 signatures, which either had to include 1,000 signatures from voters living in a different entity, or the support of four municipal councils from a different entity.[125] This measure was introduced to ensure a certain level of cross-entity support for presidential candidates, and also to provide a

---

[121] Author interview with former senior OSCE official, May 2005.

[122] See OHR Press Release, 'Draft Permanent Election Law Completed', 3 August 1999.

[123] Draft Election Law of Bosnia and Herzegovina, 21 October 1998, document with author.

[124] This argument is particularly associated with the writings of David Horowitz. See Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (University of California Press, 1991).

[125] Draft Election Law, Article 4.4.

symbolic signal that presidential candidates did not represent only one of the two Bosnian entities.[126]

The draft Election Law was thus clearly geared towards introducing moderation into Bosnian politics, and also towards reducing the electoral power of the main nationalist parties. Once it was released, the international community also quickly sought to reinforce its importance for the domestic politicians, and pressurize the domestic parties to accept it. In a communiqué issued shortly after the public release of the draft, the PIC Steering Board endorsed the law, requested the Bosnian parliament to 'act with urgency in passing the draft law', and also raised an issue that the international authorities would repeatedly cite in their efforts to have the bill passed – the importance of the bill for Bosnia's accession to the Council of Europe (CoE).[127] Bosnia had been a guest member of the Council of Europe since 1994, but had been seeking full membership since 1995. Accession to the Council of Europe was the first step in Bosnia's lengthy, and still ongoing, process of integration into Europe's regional institutions, and although the CoE has traditionally been much more lenient than the EU in relation to accession conditionality, membership was not automatic. In May 1999, the CoE had identified thirteen conditions that had to be met before Bosnia's accession would be approved, and the OSCE and OHR persuaded the Council to make the adoption of a permanent election law one of the conditions.[128] This CoE requirement would be used extensively by the international authorities in the ensuing stand-off over the law, with regular efforts being made to apply conditionality-based pressure on Bosnia's parliamentarians.

The draft law was presented to parliament on 21 October 1999, but was quickly criticized by many of the Bosnian political parties. A number of multi-ethnic parties, and especially the multi-ethnic SDP party, which the OSCE expected to be a supporter of the draft law, objected to the provisions in the law that retained separate electoral rights for the different constituent peoples in the two entities. Consistent with provisions in the state constitution, the law set out a procedure for election to the state Presidency that entailed the Serb member being elected in the RS and the Croat and Bosniac members being elected in the Federation. The result is that Serbs in the Federation and Croats and Bosniacs in the RS cannot run for election or vote for a candidate of their own community. It was alleged that these

---

[126] See ICG, 'Is Dayton Failing?: Bosnia Four Years After the Peace Agreement', ICG Balkans Report No. 80, 28 October 1999, footnote cl.

[127] PIC, 'Communiqué by the PIC Steering Board', 20 October 1999.

[128] Author interview with former OHR official, June 2006. On the Council of Europe's role in Bosnia, see Christophe Solioz, 'Bosnia and Herzegovina Beyond Dayton: From Intervention Towards Integration', Forum for Democratic Alternatives, Working Paper Number 2, September 2004.

measures violated the European Convention of Human Rights by limiting individuals' rights to vote and stand for election.[129] To press the point, the SDP also introduced its own draft to the parliament, which was largely the same as the OHR/OSCE draft other than alternative provisions for the election of the state-level Presidency and House of Peoples.[130]

The more nationalist parties also criticized the draft, although for different reasons. In particular, the SDA opposed provisions that would make it easier for internally displaced people to register to vote in new municipalities, with an article in the law facilitating registration in a municipality the voter has lived in for at least six months before the election date.[131] As discussed above, the SDA had long argued that registration should take place in the place of residence of the voter according to the pre-war 1991 census. The nationalist parties also objected strenuously to the provisions introducing preferential voting, and to the measure that required presidential candidates to have 1,000 signatures, or the approval of four local councils in a different entity in order to be certified for the election. The HDZ, in particular, alleged that the law would threaten the very existence of the Croats in Bosnia.[132]

Despite the international efforts to defend the law in the face of these criticisms,[133] it was rejected by the House of Representatives on 19 January 2000, in particular due to opposition from both the HDZ and the SDA.[134] Further efforts by the international authorities to push the law through the legislature, including the announcement of a new deadline of 15 February and reminders of Council of Europe accession requirements, failed in preventing the law from being defeated a second time in the House of Representatives on 15 February, leaving the future of the bill uncertain.[135]

As a result, in the subsequent months the international rhetoric and pressure increased on parliament, with the Chairperson-in-Office of the OSCE explicitly stating the law could be imposed if the parliament did not pass it. The OSCE in particular was eager to have the bill passed, and imposed

[129] See AIM Sarajevo, 'Dossier: Election law in BiH, Part Two', 2 February 2000, at http://www.aimpress.ch.

[130] See Florian Bieber, *Post-War Bosnia: Ethnicity, Inequality and Public Sector Governance* (Palgrave, 2005).

[131] AIM Sarajevo, 'Election Law in BiH'.

[132] Janez Kovac and Edina Becirevic 'Bosnia's Draft Election Law Exposes Dayton's Flaws', Institute for War and Peace Reporting, 2 November 1999.

[133] See OSCE/OHR, 'Responses to Discussion Held by the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina', 2001, document with author.

[134] See ICG 'Is Dayton Failing?: Bosnia Four Years After The Peace Agreement', Balkans Report No. 80, 28 October 1999.

[135] See *East European Constitutional Review*, 'Constitution Watch: Bosnia and Herzegovina' Vol. 9, No. 1/2, Winter/Spring 2000.

if necessary, as in the interim period it retained responsibility for the expensive costs of both funding and administering the Bosnian elections.[136] The OHR and OSCE also reiterated that the provisions of the original draft law would have to be approved:

This law must include the critical democratic reforms incorporated in the law drafted by the Permanent Election Law Working Group. Preferential voting, multi-member constituencies and open lists were among the key provisions agreed on by domestic and international experts. They are indispensable components for future democratic progress in Bosnia and Herzegovina and cannot be sacrificed for the sake of political expediency.[137]

With no progress made by the end of May 2000, however, the international authorities deemed it necessary to take a more intrusive approach and move beyond efforts of persuasion, pressure and conditionality. On 24 May, the Peace Implementation Council issued a Declaration after its Brussels meeting in which it made clear its dissatisfaction over the failure of the Bosnian authorities to pass the permanent law and, more significantly, requested the OSCE 'to incorporate the provisions of the draft Election Law, including open lists, multi-member constituencies and preferential voting' in the R&R for the November 2000 general elections.[138] The result was essentially an international imposition of key elements of the draft law, as rather than relying on the pre-existing R&R for the general elections of 2000, the OSCE enforced some of the new provisions contained within the draft Election Law and amended the R&R to bring them into effect. As a result, the most significant changes recommended in the draft bill were incorporated into the R&R in 2000, namely the provisions for open lists, preferential voting in the Republika Srpska presidential elections, and multi-member constituencies for the parliamentary contests, although preferential voting for the state Presidency was not introduced.[139]

More controversially, shortly before the 2000 elections, the OSCE also introduced changes in the electoral system for the Federation upper chamber, the House of Peoples. These modifications, not included in the draft election law, were designed with the purpose of reducing the authority of the nationalist parties in the Federation, especially the HDZ, and were the subject of a considerable degree of discussion in international circles before they were imposed.[140] Previously, Croat parties in each Cantonal Assembly in the

---

[136] Author interview with OHR official, June 2006. See also Network Bosnia, 'Bosnia Daily', Issue 2.49, 20 March 2000.

[137] OHR Press Release, 'OHR and OSCE continue to insist on Adoption of Election Law', 9 May 2000.

[138] PIC, Declaration of the Peace Implementation Council, Brussels, 24 May 2000.

[139] See OSCE, 'PEC Rules and Regulations', October 2000 version, with author.

[140] Interviews with OSCE and OHR officials, 2005/06.

Federation appointed the Croat members, and Bosniac parties appointed the Bosniac members. Under the new system, this was to change to a single popular vote in each Cantonal Assembly. While quotas would ensure that each group maintained the same number of seats in the house as before, the modification meant that the holders of those seats would now be determined by both constituent groups together, and not separately as before.[141] The change was 'calculated to allow the development of an election modus based on democracy rather than ethnicity'.[142]

In response to the introduction of the changes, just weeks before the elections, the Croat HDZ party initiated a major campaign of resistance, and a prolonged stand-off between the party and international community ensued. The HDZ responded to the rule change by holding a 'referendum' on the election day that was used to mobilize and demonstrate support for Croat autonomy within the Federation. The HDZ swiftly sanctioned the election administrators, who removed ten HDZ elected officials from the canton assemblies. In response, the HDZ boycotted the Federation institutions and ultimately declared Croat self-rule in March 2001, a move that led to the removal of the HDZ president and Croat member of the BiH Presidency, Ante Jelavić (see Section 5.2.2).[143]

The 2000 elections were thus held under a set of R&R that, while derived in part from a joint domestic and international consultative process, were ultimately imposed by international authorities in the face of direct and explicit opposition from Bosnia's highest legislative chamber, the House of Representatives. These were also the general elections that produced the Alliance for Change coalition at the national level, as discussed above in Section 5.2.3, and as such they met the international goals of furthering the cause of Bosnia's smaller and more moderate parties. However, the manner of their introduction had produced a strong backlash, and had still not overcome the ongoing underlying problem, which was the resistance of Bosnia's domestic political parties to adopting the draft permanent election law that remained on the table.

Renewed international efforts at having the law adopted began in early 2001, by which time the Alliance for Change coalition had assumed power at the state level. In a shift of tactic, the OHR and OSCE sought to gain the approval of the state-level cabinet, the Alliance for Change-led Council of Ministers, before putting the bill before parliament. After an unsuccessful attempt on 5 April 2001 to have the Council accept the law, not least due to

---

[141] *East European Constitutional Review,* 'Constitution Watch: Bosnia and Herzegovina', Vol. 9, No. 4, Fall 2000.

[142] Neussl, 'Implementation of the Constitutional Court Decision', p. 317

[143] ICG, 'Bosnia's November Elections: Dayton Stumbles', ICG Balkans Report No. 104, 18 December 2000.

continued objections from the SDP that the law breached the European Convention on Human Rights, some amendments to the law were made, and the Council finally approved it on 12 April.[144] The focus then returned to the parliamentary assembly, where the bill was considered once again by the House of Representatives. Although on this occasion it received support from all the RS parties, the draft law was rejected once again on 21 June, with the SDA and a number of Alliance parties voting against it or abstaining. As a result of the vote, and the perceived rebellion of Alliance for Change members against the recommendation of their own government, the Chair of the Council of Ministers, SDP member Bozidar Matić, resigned on 22 June.[145]

Once again, the international authorities issued statements 'deploring' the failure to pass the law, and increasing the political pressure on the domestic authorities to do so. Along with the usual citation of Council of Europe membership conditions, international pressure touched on a number of other issues. Domestic parties were told the wider 'road to Europe will remain blocked', and that foreign investment was at stake if Bosnia lacked 'such a basic element of statehood as an election law'. The OSCE also made clear it would not pay for or administer the 2002 elections, thus removing the option of continuation of the status quo.[146] The authority of the UN Secretary General was also brought to bear, when after a meeting with the High Representative in New York, Kofi Annan cited the urgent need for adoption of the law and called for it to be accepted by the end of August.[147] Ultimately, a combination of this international pressure and a number of further amendments to the draft law had the desired effects, and the law was adopted by the House of Representatives and House of Peoples on 21 and 23 August 2001, although without the support of the HDZ or SDS parties. The High Representative welcomed these decisions, and hailed the result as a positive example of pragmatism and political maturity in Bosnia.[148]

However, the success of the law had come at a price – significant elements of the original draft law were dropped, and gaps were left in the new version on key election provisions to state and entity institutions due to uncertainty of the entity constitution amendments. The most important alterations to the original draft law concerned key measures the international authorities had wanted to include in order to moderate politics in Bosnia. The biggest

---

[144] See OHR Chronology, April 2001; and OHR BiH Media Round-up, 12, 13 April 2001.

[145] See OHR BiH Media Round-up, 22, 25 June 2001.

[146] OHR Press Release, 'OHR and OSCE Call for Urgent Adoption of Election Law', 26 June 2001.

[147] OHR Press Release, 'High Representative meets U.N. Secretary General', 27 July 2001.

[148] OHR Press Release, 'High Representative Welcomes House of Peoples' Adoption of Election Law', 23 August 2001.

casualty was preferential voting for the BiH Presidency, which was dropped completely and replaced with the pre-existing first-past-the-post system. Also dropped was the requirement for presidential candidates to achieve cross-entity support before being certified to run for elections – the new law stipulated only that 3000 signatures had to be collected, and did not specify any minimum number of signatures to be collected from either entity. Due to the controversy over the Constituent Peoples' Decision, and the lack of consensus among local parties on how to implement the required changes, key provisions of the law were also left un-specified, including the election of the entity presidents and vice-presidents, and the election of the Federation House of Peoples.[149]

Once again, these compromises on the part of the international authorities highlighted the complex domestic and international interaction that regime-building entails. On one hand, the lengthy and fraught process that led to the adoption of a revised election law entailed the extensive use of international authority by the OSCE and OHR. Both institutions applied pressure on domestic parties at all stages of the process, regularly used conditionality, and ultimately imposed core elements of the law in the 2000 general elections despite their rejection in the state-level House of Representatives. When the House of Representatives finally adopted the law in August 2001, it was after an earlier rejection in April 2001 had led to intense international pressure and statements from the head of the OSCE suggesting the law would be imposed if the domestic authorities would not accept it themselves. Yet on the other hand, the process of drafting the law had involved a considerable degree of international consultation and negotiation with domestic parties. Part of the reason the process was so long was also the very fact that the international authorities were reluctant to impose the law outright, viewing it as one of the central elements of a democratic regime that must be adopted domestically.[150] And most significantly, key provisions of the law that were included to promote international aims of moderating Bosnian politics and ensuring cross-entity support for presidential candidates had to be dropped in the face of major domestic resistance. While the international authorities were ultimately successful in having the law passed in the Bosnian parliament rather than having to impose it unilaterally, their compromises along the way highlighted the key role played by domestic parties in shaping the final legislation. Reflecting the dynamic in Bosnia's overall mode of political transition, progress in terms of electoral rules and institutions came about

---

[149] See Election Law of Bosnia and Herzegovina, available at www.ohr.int. See also *East European Constitutional Review*, 'Constitution Watch: Bosnia and Herzegovina', Vol. 10, No. 4, Fall 2001.

[150] Author interview with former senior OHR official, June 2006.

through a complex process of international and domestic interaction, with limited scope for either side to operate independently of the other.

5.5. CONCLUSION

As of July 2008, the international community remains in Bosnia, with the Office of the High Representative still the highest authority in the country and still in possession of the Bonn Powers first conferred in 1997. Aside from its direct involvement in democratic regime-building in Bosnia, the OHR and the other international authorities in the country have maintained a prolonged and intensive involvement in the affairs of the state, pursuing a wide-ranging state-building mandate and seeking to direct a full programme of social, economic, and political changes. In June 2006, the PIC announced that the OHR would be drawn down in mid-2007, yet lack of reform progress and a return to inflammatory nationalist rhetoric among political parties during and after the 2006 elections resulted in a change of policy, as the PIC decided to maintain the OHR's presence and introduce a new High Representative, the Slovakian diplomat Miroslav Lajcak.[151]

The continued willingness of the international authorities to use their executive powers in Bosnia was also highlighted once again in late 2007, in an episode that sparked a serious political crisis. One of the core areas of reform that the OHR and EU have sought from Bosnia is police reform, and in particular the centralization of police structures to the state, rather than entity or cantonal levels. However, these proposals have been resisted by Bosnia's political parties, especially in Republika Srpska, and international proposals on the issue have continually been rejected. In October 2007, however, in a move widely interpreted as a response to continued intransigence on the police reform issue, the High Representative acted to alter the structure of the Council of Ministers in order to make its decision-making procedures more efficient. Instead of a majority decision requiring at least two members of each constituent people to be present, the changes required only one member from each to attend. Furthermore, the reforms changed the requirement for a majority decision from a majority of the Council's members, to a majority of those 'present and voting'.[152] The changes would thus

---

[151] See PIC, Communiqué by the PIC Steering Board, 23 June 2006. See also Antonio Prlenda, 'New international envoy in BiH to be the last … again', *Southeast European Times*, 9 July 2007.

[152] OHR, 'Decision Enacting the Law on Changes and Amendments to the Law on the Council of Ministers of Bosnia and Herzegovina', 19 October 2007.

allow consensus decisions to be made even if some members of the Council boycotted the meeting. High Representative Lajcak also called on the BiH parliament to amend its Rules of Procedures to prevent absentee parliamentarians from blocking votes, and threatened to impose new amendments on 1 December if no action was taken.

The imposed Council of Minister reforms were greeted with widespread demonstrations in Bosnia, and on 1 November, Nikola Špirić of SNSD resigned from his position as Chair of the Council of Ministers, citing the imposed reforms and arguing that twelve years of 'exclusive rule' by foreign authority was bad for Bosnia.[153] The resignation led to a political crisis, and the prospect loomed of a further deterioration of relations in the run-up to the 1 December deadline for the parliamentary Rules of Procedures amendments. In a remarkable turnaround, however, Bosnian Serbs agreed to drop their objections to the amendments by the end of November, and progress was swiftly made on police reform and European integration.[154] A new Action Plan for police reform was agreed on 22 November among the main parties, and new parliamentary Rules of Procedure were adopted on 30 November. It was agreed Špirić would return to the position of Chairman of the Council of Ministers, with the same cabinet members, and to cap the flurry of developments, Špirić took the symbolic step of initialling the Stabilization and Association Agreement with the EU's Enlargement Commissioner Olli Rehn, on 4 December.[155]

Bosnia's shift from political crisis to cooperation and political progress was attributable in part to an easing of international requirements on police reform, which shifted from a demand for a centralized police force in Bosnia to more lenient requirements for state-level oversight institutions, with a greater emphasis on achieving local agreement on the final police structures rather than conformity to the international authorities' original proposals.[156] Eventually, the police reform package was passed in April 2008 and in June 2008, Bosnia finally signed its Stabilization and Association Agreement with the EU, a development that was described by Olli Rehn,

[153] Quoted in David Chandler, 'Introduction: Inside the Bosnian Crisis', *Journal of Intervention and State Building*, Volume 1 Special Supplement 'Inside The Bosnian Crisis: Documents And Analysis', 1 December 2007.

[154] 'Bosnians resolve crisis over parliamentary voting rules', *Associated Press*, 30 November 2007.

[155] 'BiH leaders vow to prepare police reform package by mid-February,' *Southeast European Times*, 12 December 2007.

[156] Srecko Latal, 'Bosnia's Leaders Discover the Joys of Compromise', 12 December 2007, balkaninsight.com

the EU's Enlargement Commissioner, as a 'milestone that marks a new stage in our relations and it is also the gateway to eventual candidacy of the EU'.[157]

However, the shift from crisis to cooperation has not been total, and significant divisions remain in Bosnia's political landscape. The police reform legislation was only narrowly passed in the state-level lower house, and several key parties strenuously opposed it. Similarly, progress on constitutional reform is also qualified by the existence of continued divisions on the issue. Bosnian leaders re-established talks on constitutional reform after the 2007 crisis was resolved, and agreed Bosnia's current constitutional structures required amendment. Early signs, however, suggest that old differences remain and that the political parties within Bosnia continue to have radically different views on its appropriate Constitutional Framework.[158] As the OHR has made clear that further constitutional reform will be required before Bosnia can expect full membership of the EU,[159] the likelihood is that Bosnia's leaders will continue to struggle not only with each other, but also with international authorities over fundamental political issues.

The OHR remains a powerful presence in Bosnia in 2008, thirteen years after the Dayton Agreement was signed, and has regularly disappointed those who have predicted or called for its demise. Indeed, speculation about the closure of the OHR led it to stipulate a set of explicit conditions for Bosnia to meet before the position of the High Representative will be withdrawn. The OHR was due for closure in June 2008, but the political crisis of 2007 led the PIC to reconsider, and in February 2008, the body laid down a series of conditions before full transition to domestic executive authority can be achieved. These include resolution of disagreements over ownership of state property, fiscal sustainability, entrenchment of rule of law, the signing of the SAA, and a positive assessment of the situation in Bosnia to be carried out by the PIC itself.[160] With the SAA now signed, it is probable that the OHR will not remain in Bosnia for much longer – indeed, the High Representative himself suggested in May 2008 that its future life in Bosnia should be measured in 'months rather than years'. However, Lajcak also stated that the European Union Special Represenative (EUSR) would be a 'natural successor' to the OHR, suggesting that the international community could retain a continued significant presence in Bosnia through the European Union.[161]

[157] Tony Barber, 'Bosnia Signs EU Accord', *Financial Times*, 17 June 2008.

[158] Srecko Latal, 'Bosnia Constitutional Reform: a New Deadlock', 6 February 2008, balkaninsight.com

[159] 'Bosnia 'Must Fix' Constitution to Join EU', 22 May 2008, balkaninsight.com

[160] PIC, Declaration by the Steering Board of the Peace Implementation Council, 27 February 2008.

[161] EUSR, 'Lajčák: EU Integration Addresses Fundamental Issues of BiH Statehood', 6 February 2009, http://www.eusrbih.eu/media/pr/1/?cid=2495,1,1

From the very first post-Dayton days, international actors, especially the OHR and OSCE, have been central players in Bosnia's political transition. In the early months after the Dayton Agreement was signed, Bosnian politics existed in something of a vacuum – each of the three ethnic groups exercised authority through informal power structures, and the international civilian administration operated without formal or informal authority, or even the resources it required to carry out its basic functions. In time, however, the international administration gained authority and began to play a key role in developing a new political structure that covered all levels of government in Bosnia. Institutionally, successive High Representatives were central in bringing the political elites together to establish the state institutions provided for in Dayton, and also in overseeing a process of interpretation and evolution of the Bosnian constitutional structure itself. Similarly, Bosnia's electoral structure has consistently been altered by international authorities, especially the OSCE, in an effort to strengthen the position of moderates, encourage the growth of multi-ethnic political parties and thus enhance democratic politics within Bosnia. Every element of the political regime created in Bosnia has been shaped in some way by the actions of international administrators.

Throughout this process of transition in Bosnia, the international authorities have used a wide range of mechanisms to achieve their aims and involve themselves in domestic politics. On one level, the scope of the international influence on the political structure in Bosnia was limited by the fact that Annexes 4 and 5 of the Dayton Agreement incorporated a full constitution and a set of clear guidelines on electoral matters. Yet the international administrators in Bosnia found ways in which to move around or beyond Dayton when they felt the need to, with one senior OHR official, in explaining successful efforts of the OHR to strengthen central state institutions, encapsulating the approach with reference to 'creative interpretation and huge political pressure'.[162] On the interpretation side, the international authorities have regularly sought to read between the lines in the Dayton constitution, and build upon the core institutions outlined in that document. From the very early post-Dayton period, the OHR has used Dayton as a starting point rather than a fixed and final solution, and Paddy Ashdown's view that Dayton represented the floor and not the ceiling has been shared, implicitly if not explicitly, by each of the High Representatives who have served in Bosnia.[163] International measures regarding the Council of Ministers, the Election Law, the entity constitution amendments and many other issues have been based in part on international interpretations of ambiguities within the Dayton constitution rather than on its explicit provisions.

---

[162] Author interview with senior OHR official, April 2005.
[163] See Inaugural Speech by Paddy Ashdown, 27 May 2002.

Along with interpretation, however, has been the consistent use of more direct international powers to pressurize domestic actors into taking action or to bypass domestic actors altogether to impose international solutions to domestic problems. These measures have included political statements by international officials placing pressure on domestic actors, internationally set deadlines for actions to be taken, and mediation among domestic parties by international figures, especially the High Representative. More intrusively, the High Representative has also frequently used conditionality to ensure political progress at the domestic level, with both economic and political benefits being made conditional on certain outcomes. Where these measures have not yielded the desired results, the executive authority inherent in international administration has allowed the international actors to impose decisions in the face of domestic opposition, or to remove those domestic officials who are blocking a particular measure at the domestic level.

The result in Bosnia has been a complex mode of transition, with political progress in regime-building sometimes the result of joint agreement between international and domestic elites, but frequently the result of international pressure, conditionality or outright imposition. International and domestic consensus has been relatively rare, and the political transition has been in much part led by international priorities and international actions.

Consequently, the implications for long-term democratization in Bosnia suggest that regime consolidation may not be automatic once international authorities depart. On one hand, the Bosnian state now contains a set of well-developed democratic institutions of self-government that were seriously under threat in the early post-Dayton years. By closing off non-democratic space, and by ensuring that democratic institutions were established, international authorities undoubtedly contributed to the establishment of the foundations of democracy in Bosnia.

However, the democratic nature of the political regime that has been developed and put in place since 1995 remains heavily qualified by the extent of the international powers, and the manner of the international presence and intervention in Bosnia after 1995 has left some legacies that raise questions over the prospects for longer-term consolidation. Speaking in 2006, the fourth High Representative, Paddy Ashdown, rejected the idea that Bosnia was a protectorate, but acknowledged its complex political arrangements by referring to it as a 'managed tutelage democracy'.[164] Whatever terminology is used, and there are many options,[165] it is clear the genuine democracy had not

---

[164] Paddy Ashdown speech, St Antony's College, Oxford, 26 April 2006.
[165] On the wide range of varying concepts that deal with the similar phenomenon of qualified democracy, see David Collier and Steven Levitsky, 'Democracy With Adjectives: Conceptual Innovation in Comparative Research', in *World Politics*, Vol. 49, No. 3, 1996, pp. 430–451.

been achieved in Bosnia by 2008 due to the continued international administration, and that the country has thus yet to complete its prolonged and fraught process of democratic transition. As long as politics in Bosnia is 'managed' by external authorities, the channels of accountability and representation so central to democracy will remain unattainable.

Furthermore, the nature of the intervention, with heavy international oversight of the political transition and the regular use of conditionality and imposition, has established a precedent for political activity that may not easily disappear as soon as the international administrators withdraw. Such unilateral international action, often in the face of opposition from democratically elected leaders, clearly compromises the norms of democratic government and thus undermines the very message that international administrators profess to be promoting. This undesired side effect of democratic regime-building is further entrenched the longer the period of international administration continues, and the thirteen years of international presence in Bosnia have thus created a prolonged period in which the most authoritative actors in the country have acted without either the basic foundations of an electoral mandate, or the mechanisms of political accountability usually associated with democratic government. As Caplan has observed, such an 'accountability deficit' can set a bad example for governance that may harm the democracy promotion goal that international administrations clearly seek to pursue.[166]

These problems are further compounded by structural issues that present obstacles to democratic development in Bosnia. As discussed in Chapter 2, state cohesion is of critical importance to long-term democratic development, yet it is largely lacking in Bosnia. The legacies of the war in the early 1990s ensure that political divisions within Bosnia still follow ethnic lines, and while there has been a process of moderation in Bosnian politics from the extreme nationalism of the initial post-Dayton period,[167] subsequent developments suggest that political cohesion remains a distant goal in Bosnia. In October 2006, Bosnia held its fifth set of general elections since Dayton, and they prompted the re-emergence of heated nationalist rhetoric and ethnic-based political campaigning of the sort that had been declining in previous years. The Republika Srpska-based Party of Independent Social Democrats (SNSD) and the Federation-based Party for BiH (SBiH) clashed heavily in the run-up to the elections, with the former party openly talking of holding a referendum on RS secession from Bosnia, and the latter calling for the abolition of the RS

[166] On the 'accountability deficit' in Bosnia, see Richard Caplan, 'Who guards the guardians? International accountability in Bosnia', *International Peacekeeping*, Vol. 12, Issue 3, pp. 463–476.

[167] Carrie Manning, 'Elections and Political Change in Post-War Bosnia and Herzegovina', in *Democratization*, Vol. 11, No. 2, April 2004, pp. 60–86.

and establishment of a unitary Bosnian state.[168] Both parties translated their hardline political campaigning into electoral success, with each having winning candidates for seats on Bosnia's three-member Presidency and also gaining strong representation in the national parliament.[169]

Aside from state cohesion, Bosnia also faces state capacity problems, not least due to the continued presence of the international administration and the somewhat perverse effects the OHR has had on domestic capacity within Bosnia. By retaining an executive role for so long, the international mission has limited room for local capacity-building and has contributed to the emergence of a political and administrative dependency problem. With the international authorities taking on so much responsibility for governance in Bosnia, domestic structures are not able to develop their own independent strength.[170] Furthermore, a weak economy and high unemployment have had implications for state strength in Bosnia, as poor job prospects have led to the emigration of much of Bosnia's younger generations, which in turn has undermined the effectiveness of the country's political institutions.[171]

Bosnia thus faces many challenges related to long-term democratic consolidation. As with Kosovo, however, while Bosnia's history within the former Yugoslavia brings with it problematic legacies of communism and conflict, it also means that the country is benefiting from the increasingly strong links that the Western Balkans are developing with the European Union and wider European institutions. European institutions are increasingly active in guiding the direction and content of Bosnia's political agenda, and international institutions are thus likely to continue to play a role in political development in the country. As discussed above, Council of Europe conditionality was a key strategy during the negotiations over the permanent election law, and the CoE set down a number of conditions for membership that required political action in Bosnia. Since 2000, the EU has also played an increasingly large role in Bosnia, and has initiated a process through which Bosnia may ultimately gain EU membership. In order to prepare Bosnia for the Stabilization and Association Process, the EU issued a Roadmap in 2000, setting out eighteen conditions that had to be met before Bosnia could become a subject of a Feasibility Study, which was carried out in 2003 and led to another series of

---

[168] See Oxford Analytica, 'Europe Daily Briefing: Bosnia', 26 September 2006.

[169] Nicholas Wood, 'Early Results of Bosnia Vote Reinforce Ethnic Split', *New York Times*, 3 October 2006.

[170] Richard Caplan, *International Governance of War-Torn Territories* (Oxford University Press, 2005), p. 179. For a particularly critical analysis on this point, see David Chandler, 'From Dayton to Europe', *International Peacekeeping*, Vol. 12, No. 3, 2005, pp. 336–349.

[171] Sumantra Bose 'The Bosnian State a decade after Dayton', *International Peacekeeping*, Vol. 12, No. 3, 2005, pp. 323–335.

benchmarks.[172] The process culminated, after much delay and international intervention, in the signing of the Stabilization and Association Agreement (SAA) in June 2008.

Symbolizing the increasing role of the EU in Bosnia, in 2002 the High Representative also became the EU's Special Representative (EUSR) in Bosnia, and it is expected that the Office of the EUSR will remain even once the OHR itself is dismantled. Bosnia is thus developing an ever closer relationship with the EU, and is therefore likely to be subject to continued international influences long after the OHR has been drawn down. Democratization by convergence remains a possibility in Bosnia, with the EU continuing the international oversight of Bosnia's prolonged political transition. Yet it is also the case that much of the progress that has been made on the EU's requirements has been the result of heavy conditionality and the direct intervention of the High Representative. As such, the real test of the commitment of Bosnia's leaders to democratization and EU integration will only come when Bosnia's government is independent of the international administration, and acting on its own initiative. Recent events suggest that nationalism is still a potent force in Bosnia, and it may well be the case that it will lead to political dynamics that obstruct rather than facilitate further democratic development in the absence of international oversight. While the international presence in Bosnia has thus contributed to an institutional framework that has the potential to provide the foundations of a fully democratic regime, the prospects for long-term democratic consolidation rest more with domestic actors. It is only in the coming years that it will become clear whether Bosnia's contested and imposed mode of transition will ultimately lead to sustainable and successful democratic rule.

---

[172] See European Union, 'Bosnia and Herzegovina 2006 Progress Report', SEC (2006) 1384, 8 November 2006.

This page intentionally left blank

Conclusion

Although there is a wide body of research examining the role of international actors and environments in regime change, few studies have dealt directly with one of the most intrusive forms of international engagement in domestic politics, that of international administration.[1] Furthermore, no single-authored study has been carried out to date with a view to assessing the specific impact of international administration on regime change through a comparative lens. This book has sought to address this lacuna by examining the experience of international administration in three cases, Bosnia, Kosovo and East Timor, with the specific aim of assessing the impact of large-scale international administration on the politics of regime change.

The experiences of Kosovo, Bosnia and East Timor suggest that the context for democratic transition that exists in cases of international administration is systematically different from more conventional cases, where such extensive levels of international involvement are absent. With far-reaching political authority on the ground, coupled with mandates requiring the promotion of democratic self-government, international administration operations are in a position to play an integral role in the politics of regime change.

The most significant impact of international administration derives from the fact that external actors can assume roles conventionally held by domestic actors and thus have access to extensive mechanisms of influence on domestic democratic development. International agents can favour some local elites over others, structure the political environment through agenda-setting and veto powers, and ultimately bypass local actors if deemed necessary by drafting and imposing laws and institutions. These mechanisms enable international administrations to both guide and direct the processes of democratic development in ways simply not available to other, less intrusive, forms of international engagement. As a result, the final mode of transition in these contexts is heavily shaped by the presence of international administrators, and one of the most significant

---

[1] See principally Edward Newman and Roland Rich (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality* (United Nations University Press, 2004), and particularly the chapter by Laurence Whitehead, 'Democratization with the Benefit of Hindsight: The Changing International Components'.

implications of external influence is that purely non-democratic regime out-
comes are unlikely to emerge. Given the authority and mandates of international
administration operations, the mode of transition is unlikely to entail the kind
of re-imposition of authoritarian rule that has occurred in many cases of the so-
called third wave of democratization.

However, regime change is not, and cannot be, a purely top-down political
process, and for this reason the project of international democratic regime-
building is an inherently limited one. While international actions may be able
to veto certain non-democratic options, they alone cannot create sustainable
democracy, and it is rather the interaction between international administra-
tions and domestic actors that ultimately determines the final transition
outcome. While external administrations are certain to have some implica-
tions for the regime change environment, for example by reducing uncer-
tainty and ruling out certain non-democratic options, the final impact on the
transition process itself will depend in large part on the nature of the domestic
political landscape, and in particular the balance of power and ideology
among the domestic political parties. When domestic elites are favourable
to democracy, international administrations can either monitor a domestic-
ally driven democratic transition or work with local actors to co-author a new
democratic regime through a pacted transition. When dominant local parties
are opposed to democratic development, however, international administra-
tions may ultimately impose the institutions of a democratic regime against
local resistance, and contribute to a more conflictual and contentious mode
of transition. These dynamics also have implications for regime consolida-
tion, as unless there is domestic support for democratic governance, demo-
cratic institutions brought about through the efforts of international
administrators may not prove to be sustainable once the international au-
thorities withdraw. In short, while international authorities can shape the
process of transition in quite significant ways, and help lay the foundations
for democracy, the final regime outcome is largely determined by domestic
elites and their actions once domestic politics re-asserts itself after inter-
national withdrawal.

The remainder of this conclusion discusses these findings in greater detail.
The next section explores the impact of democratic regime-building oper-
ations, paying particular attention to the mechanisms of influence, the influ-
ence on the mode of transition and the implications for regime consolidation.
Subsequent sections then examine a set of further issues, including the
implications of the findings for theory and for policy, and also the issue of
generalizability.

6.1. THE IMPACT OF DEMOCRATIC REGIME-BUILDING

In each of the cases examined here, international administrators engaged directly in the political transition and played a significant role in the regime-building process. All three international operations were mandated to support and provide for democratic self-government, among other objectives, and all three took intrusive actions that shaped transitional processes and guided the direction of regime change. In Bosnia, both the OHR and OSCE involved themselves in the politics of elections and electoral reform, and the OHR became a heavily active executive authority, making explicit efforts to alter the political landscape through various forms of political intervention. While the UN missions in Kosovo and East Timor differed from each other in their duration and the extent of their intervention, both UNMIK and UNTAET took extensive political actions in each case and left their mark on transition politics. In all three cases, therefore, international administrators played an independent political role, and their presence had important implications for the political dynamics of regime change. The following sections explore these implications in greater detail and address, in particular, the mechanisms of international influence and the impact on the mode of transition.

6.1.1. Mechanisms of influence

As Chapter 2 outlined, international administrators have access to particular mechanisms of influence on domestic politics that are not enjoyed by other types of international actors, and that derive in large part from their exceptional positions of authority at the domestic level. As international administrators assume political roles that are generally held by domestic actors, they gain the ability to influence political developments through a range of mechanisms that are not generally open to international actors.

In all three cases examined, international actors were in a position to set the political agenda at key stages of the transition period. In Bosnia, the OHR and OSCE repeatedly put electoral reform on the political agenda in the initial post-Dayton years and ensured that electoral rules were revisited on at least an annual basis until the permanent Election Law was finally passed in 2001. Similarly, the OHR repeatedly put Council of Ministers reform on the agenda, and while the Constitutional Court was responsible for paving the way for the entity constitution amendments, in more recent times the international community in Bosnia has placed large-scale constitutional reform firmly on the agenda once again. In Kosovo, political developments have been

structured very heavily by UNMIK, which strongly guarded the political agenda and sought to ensure that the political timetable in Kosovo was not being driven purely by domestic priorities. The clearest examples were the issues of political status and possible independence, which UNMIK consistently sought to remove from the political agenda until the United Nations finally agreed in 2005 to commence status negotiations. In East Timor, UNTAET controlled the political agenda largely at the beginning of the transition, as it prioritized humanitarian issues and postponed consideration of political issues on the grounds that it was 'too early to politicize the environment'.[2] Later, when it came to developing more permanent institutions of self-government, UNTAET worked jointly with local parties to draft Regulation 2001/2 and was also willing to override the concerns of some members of political and civil society who felt that the transition was moving too fast.

International veto powers were also used extensively, although not to the same extent in each case. The experience in Bosnia highlights the role of international vetting of potential ministers, with international administrators reserving and exercising the right to veto ministerial nominations from domestic political parties. Bosnia and Kosovo also highlight the role of international vetoes regarding legislative proposals. In Bosnia, domestic proposals for electoral and institutional reform were regularly vetoed by the OHR, and in Kosovo a number of resolutions of the elected Assembly were declared 'null and void' by the SRSG. When the Kosovo Assembly also proposed significant changes to the Constitutional Framework in 2003, they were immediately rejected by UNMIK's legal office and none of the suggested amendments were made. East Timor highlights a more nuanced approach by international administrators, where on occasions the UNTAET mission rejected domestic proposals, or at least sought to work around them, without ever resorting to a formal executive veto. For example, on occasions when the Timorese National Council voted on measures that UNTAET did not support, most notably on the issues of gender quotas in the election law and public consultation on the constitution, it accepted the letter but not the spirit of the votes when it took unilateral action to ensure its desired outcomes came about through other means.

Finally, all three cases highlight the role that international administrators can play in drafting, and at times imposing, critical legislation and key political institutions. Each of the case studies highlight multiple instances where international administrators directly involved themselves in institutional design and legislation drafting, and few instances where local actors worked on these issues independently of international oversight and involvement – the constitution

---

² See Chapter 3.5.2.

drafting process in East Timor is the only clear example in this respect. In Bosnia, the interim electoral rules and the final election law were heavily drafted by international actors, often with limited input from local parties. The international community was clearly a critical participant at the Dayton talks that led to Bosnia's constitution, and the OHR continued the international involvement in constitutional affairs by spearheading reform of the Council of Ministers and the entity constitutions, as well as attempting to broker amendments to the state-level Bosnian constitution. In Kosovo, the OSCE drafted the election laws and the United Nations was the lead partner in negotiations over that entity's Constitutional Framework, while in East Timor UNTAET negotiated with the National Council and transitional cabinet to draft the foundational Regulation 2001/2.

Furthermore, while the empirical analysis of the three cases shows that on many occasions this involvement in drafting key constitutional provisions was carried out jointly with local actors, in several important instances no such consensus was forthcoming, and external actors used their executive authority to impose key decisions in the face of local resistance. Formal imposition was not used in East Timor, but it was relied on extensively in Bosnia after the Bonn Powers were acquired in 1997, and was used, among other ways, in relation to ministerial dismissals, key legislation and significant institutional reform. The Constitutional Framework in Kosovo was also imposed unilaterally in 2001, after a consultative process that involved considerable input from local actors ultimately failed to achieve consensus on the document across the international and domestic divide.

The lack of imposition in East Timor highlights that the mechanisms of influence available to international actors were not used in the same way or to the same extent in each case. Although international authorities in all three cases had broad executive powers, the exercise of such powers varied from context to context, in part as a result of the varying nature of the domestic political landscape. In turn, the international and domestic interaction had implications for the nature of the political transition. The following section explores the implications of these dynamics in greater detail and addresses the ultimate impact of these domestic and international interactions on the final mode of transition in the three cases of interest.

6.1.2. Implications for the mode of transition

As the section above makes clear, international administrations have significant implications for transition politics, and do so through a variety of means, and in a variety of political arenas. As outlined in Chapter 2, one way

of conceptualizing the process of democratic transition, and thus one way of conceptualizing this international impact on democratic transition, is to talk in terms of the 'mode of transition'. This concept has been used widely in the democratization literature to capture the complexity of the process of regime change and classify different types of transition into recognizable categories. As discussed, however, it is also a concept that has been explored almost exclusively with reference to domestic actors and their interaction with little attention to international environments or actors.

This book has sought to recast the analysis of transition modes to take into account the role of international administrations and incorporate their presence into the analysis of regime change. Rather than viewing the mode of transition as a function of domestic actors and their interaction, the argument here is that the final mode of transition is determined by the interaction between domestic political contexts and international administrations. More specifically, the balance of power and ideology between domestic actors plays a critical role, as international actors can face very different domestic political contexts. Where the local balance of power favours democrats, international and local actors can work together towards a common set of aims and ensure that the mode of transition resembles that of a joint pact. However, when local forces are dominated by, or evenly composed of, those who oppose democratic reform, the resulting mode of transition is much more likely to be conflictual rather than consensual, and involve significant elements of international imposition rather than joint agreement.

Of the three cases examined here, the clearest example of mode of transition as joint domestic and international pact occurred in East Timor. In that case, the domestic context was the most favourable of the three in terms of the domestic political landscape. The primary root of the conflict of 1999, the Indonesian occupation and the presence of Indonesian troops and their proxy militias, had been largely removed by October 1999. The remaining political actors in East Timor were overwhelmingly united in favour of an independent East Timor and were openly committed to a transition to democratic rule in the country. While the years of occupation and the widespread violence of 1999 have left legacies that are still being dealt with today, and that continue to provide serious challenges to stability in East Timor, during the transition period at least there were no significant political parties that were opposed to the goals of independence and democracy. As a result, international and domestic actors were able to work closely together towards a common goal, and East Timor was the most consensual of the three political transitions examined in this study.

However, it is also the case that it took some time before this constructive relationship could be developed. In the early stages of the transition,

UNTAET acted unilaterally and provided local actors with only token involvement in decision-making. Three factors in particular combined that paved the way for a more cooperative international and domestic relationship: first, increasing domestic pressure for greater involvement in decision-making; second, recognition by the international administrators that the local elites held political aims that were compatible with their own, including a commitment to democratic rule; and finally, an increasing desire within UNTAET to share the responsibility, and also blame, for governance in the transition period. Once changes were made in mid-2000 and the new National Council and transitional cabinet were introduced, the East Timorese parties and leaders became key partners in the remainder of the political transition, working with UNTAET on Regulation 2001/2, and ultimately leading the way in relation to the constitution drafting process after the 2001 elections.

In Bosnia and Kosovo, however, the transition dynamics were considerably different, and in each case the mode of transition was marked by considerably higher levels of international intervention and imposition. In Bosnia, the domestic political landscape was the least conducive to democratic change of the three cases. After the war of the early 1990s, politics in Bosnia was divided almost purely along ethnic lines, with no significant multi-ethnic parties in the early post-Dayton period. The three main nationalist parties that did exist were also hardline in their political stances and were led by wartime leaders who in many cases were known war criminals. Early party behaviour included control and manipulation of media organizations, electoral fraud and the intimidation of voters, and restrictions on freedom of movement and the return of refugees. Consequently, the domestic balance of power in Bosnia clearly favoured those who opposed rather than supported democratic development, and suggested that without direct international intervention the democratic institutions provided for in the Dayton constitution would not have been respected. With the presence of the international administration, however, the dynamics were more complex, and the mode of transition reflected the interaction between the nationalist parties and the international administrators. Initially, the international mission in Bosnia was relatively weak and was neither in a position to prevent wide-scale voter fraud in the 1996 national elections nor to ensure that the democratic institutions or human rights in Bosnia were fully respected.

Yet the powers of the OHR were considerably enhanced in 1997, leading to a much more interventionist international presence. As outlined in Chapter 5, the OHR used its Bonn Powers frequently and often intrusively, imposing legislation and institutional reform in the face of domestic opposition. As a result, key elements of Bosnia's political transition were imposed by the

international community, and other elements, such as the permanent Election Law, were only achieved after the use of conditionality and the threat of imposition. While the use of the Bonn Powers has been declining in recent years, extensive international intervention in Bosnia has been sustained, and international administrators continue to oversee political developments, most recently with the imposition of new Council of Ministers reforms in 2007. As a result of this interaction of domestic and international political actors, the mode of transition in Bosnia has been prolonged, confrontational and, in many significant arenas, heavily imposed. It is also still ongoing, as the High Representative remains in Bosnia and also retains his Bonn Powers. It is thus too early to make definitive comments about the final impact of the international presence on Bosnia's political transition, but the nature of the mode to date does suggest there are difficulties ahead for democracy's prospects in Bosnia, many of which are discussed in the next section.

The Kosovo experience also highlights the particular implications of international administration in a divided political context for the mode of transition. In Kosovo's post-conflict environment, with a highly polarized elite landscape between Serb and Albanian parties, and limited local commitment to some of the key norms and practices of democracy, international authorities have intervened heavily to guide the political transition. As with East Timor, UNMIK initially assumed full control in Kosovo to deal with the immediate post-conflict environment and slowly devolved more authority to domestic institutions as the local demands for greater involvement in decision-making increased. Yet UNMIK heavily structured the transition period, limiting the authority of the local institutions, imposing core elements of the Constitutional Framework against local opposition and setting the political agenda through conditionality with the 'Standards before Status' process. The extent of UNMIK's intervention stemmed from two key considerations. The first related to international concerns about key issues of democratic government that might be compromised in the absence of international authority and rule by an Albanian majority, especially the need to ensure political freedoms and minority rights protection for Serb communities. The second consideration related to Kosovo's status question, and the need to postpone full self-government until an international or regional consensus had been reached on the status issue. As a result of these concerns, UNMIK maintained a sustained political presence in Kosovo and intervened heavily in the political sphere. The resulting domestic and international interaction has, as with Bosnia, led to a prolonged and at times confrontational mode of transition, with significant elements of international imposition. Although UNMIK has not been as intrusive in Kosovo as the OHR has been in Bosnia, it has still used extensive conditionality to guide the direction of political developments

in Kosovo and has shown a willingness to use its executive authority to impose laws and institutions against domestic opposition. Yet Kosovo also shares with East Timor the trend that international intervention has decreased over time, as international authorities devolved powers to local actors and institutions. While UNMIK remained in Kosovo even after its declaration of independence in 2008, its role was significantly reduced from that of earlier in the decade. The breath of external executive powers decreased significantly, and the Constitutional Framework was replaced by a new Constitution in June 2008, providing domestic institutions with considerably greater legal authority.

The mode of transition in each of the three cases has thus clearly been affected by the presence of the international administration and the nature of the interaction between international and domestic actors. The domestic balance of power among political actors and parties has combined with the presence and intervention of international administrators to shape the process of political transition, with different outcomes according to the varying domestic contexts. Yet while each case has taken a different path and experienced a different transition mode, there are some commonalities that suggest that international administrations can have more general implications for democratic transition that can be seen in each case.

Most significantly, the presence of international administration operations appears to reduce the scope for purely non-democratic transition modes. In contrast with more conventional cases of regime change, where those opposed to democracy are often sufficiently strong to ensure that a new form of authoritarian rule is introduced rather than democracy, in cases of international administration the probability of such outcomes coming about is significantly reduced. With extensive executive authority and a clear commitment to ensuring that only a democratic system of domestic self-government is introduced, international administrations act as guarantors that even in the face of significant domestic opposition the institutions of democratic rule will be established. Of the three cases examined here, Bosnia is the clearest example of this, where the international presence was a key factor in ensuring that the institutions of the Dayton constitution were established and that many of the non-democratic activities of the initial post-Dayton period were eradicated. Similar dynamics were also seen in Kosovo once UNMIK was established, as the international presence helped ensure the provision of basic minority rights and freedoms at a time when the dominant Kosovo Albanian leadership was not reaching out to protect Serb minorities.

The case studies thus suggest that international administrations bring with them a significant positive implication for regime change – that the scope for non-democratic modes of transition is significantly reduced, and that at least

the institutions of a democratic regime will be established under the auspices of external governance. Uncertainty, a traditional hallmark of transitions from authoritarian rule,[3] is significantly reduced during the transition period as international administrators act as guarantor that the foundations of democracy will be laid. Non-democratic actors are deprived of authority they might otherwise wield and are prevented from taking control of state institutions and imposing a form of authoritarian rule. International administrations can thus reduce the scope for the kind instability and insecurity that has been associated with some cases of regime change. Snyder has noted how processes of democratization can lead to insecurity and violence when opportunistic leaders gain control of media outlets and mobilize nationalist sentiments to enhance their own power base.[4] In the context of international administration, however, such opportunistic elites are prevented from gaining full control of interim institutions due to the presence of international civilian and military forces, and the scope for insecurity is thus lessened.

6.2. CHALLENGES TO DEMOCRATIC REGIME-BUILDING

The practice of democratic regime-building would thus seem to bring with it some important advantages for the prospects of democratic regime change. Yet while the benefits of international administration should not be underestimated, it is also the case that international administrations are limited in the extent to which they can 'guarantee' democratic politics, and their presence also indicates that the domestic context is a particularly troubled one. While certain non-democratic outcomes may be largely removed from the agenda during the transition phase due to the authority of international administrators, other considerations suggest that international actors alone are far from able to ensure sustainable democratic governance and may even at times undermine the good governance agenda they are mandated to promote.

Three points are important to note here. The first is that when international administrations make use of their executive authority, at times they govern in a way that would seem to contravene the principles of democratic rule that they promote. Acting as unelected authorities, often without

---

[3] Guillermo O'Donnell and Philippe C. Schmitter, 'Tentative Conclusions about Uncertain Democracies', in Guillermo O'Donnell, Philippe C. Schmitter and Laurence Whitehead, *Transitions from Authoritarian Rule: Prospects for Democracy* (The Johns Hopkins University Press, 1986).

[4] See for example Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict* (W. W. Norton, 2000).

accountability mechanisms or methods of domestic oversight, external administrators can sometimes provide an example that harms rather than enhances the democratization project.

Second, regardless of the extent to which international actors help ensure the establishment of democratic institutions, the real test of democratic transition in these contexts comes once international actors leave and local actors gain independent power. Full democracy requires free and fair elections and a range of political freedoms in a context where elected authorities have real authority to govern, and do not have to share power with unelected actors. Consequently, as long as international actors hold positions of executive authority at the domestic level, no democratic transition can be complete. If democracy is to be genuine, it must ultimately be driven and sustained by domestic, and not international, actors. International administrations themselves cannot, and should not be expected to, enforce or impose a successful and enduring democratic regime.

Finally, it is also the case that even if local actors are pro-democratic, the consolidation of democracy may face strong structural challenges in settings where international administrations have been established. As such international missions are created in order to deal with serious domestic problems, particularly civil conflict and state failure, their presence indicates the existence of some of the most unfavourable settings for democratic development.[5] As the recent experience of East Timor highlights, even where domestic actors are largely pro-democratic, structural weaknesses can lead to political crises and instability that can threaten to undermine democracy.

6.2.1. Inherent limitations of democratic regime-building

Many authors have identified a key problem with international efforts at state-building, namely, that the means by which these missions operate can harm the ends that they seek to promote.[6] Zaum has written of the 'pathologies' of international state-building, those aspects of international governance that result in outcomes at the domestic level that conflict with international objectives.[7]

---

[5] See Whitehead, 'Democratization with the Benefit of Hindsight'.

[6] Simon Chesterman, *You, the People: The United Nations, Transitional Administration and State-Building* (Oxford University Press, 2004), Conclusion; Richard Caplan, *International Governance of War-Torn Territories* (Oxford University Press, 2005), chapter 8; Joel C. Beauvais, 'Benevolent Despotism: A Critique of UN State-Building in East Timor', *New York University Journal of International Law and Politics*, Vol. 33, No. 4, 2001; Dominik Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding* (Oxford University Press, 2007), Introduction and Conclusion.

[7] Zaum, *The Sovereignty Paradox*, Conclusion.

These pathologies are derived in part from the inherent nature of international administration – that unelected international actors assume such extensive levels of authority and must almost by definition deprive local authorities of political power. Several of these pathologies have implications for democratic transition and suggest that the goal of democracy promotion may be undermined in some ways by the means with which this promotion is pursued.

First, international administrations can often set a precedent for a style of governance that breaches democratic rules. As international administrations are unelected bodies with extensive executive powers, their exercise of authority can set precedents for actions that would not generally be seen as compatible with democratic norms. In particular, international administrations tend to operate without significant accountability mechanisms[8] and often take actions that suggest a certain disregard for the results of elections they themselves have helped organize.

Some of the clearest examples here are in the Bosnian case, where executive authority was used extensively, and where the OHR and OSCE often sought to change the rules of the game to promote certain political parties over others, and regularly used their executive authority to dismiss both elected and unelected officials. While the international administrators in Bosnia often justified their actions on the grounds that they were necessary to promote democratization, the regular use of international imposition by unelected officials, sometimes used against elected officials, sets a precedent that may not be easily discarded after the international withdrawal. Partly as a result of these dynamics, another negative implication of international administration is that it can foster resentment among certain political sectors who feel marginalized by the international presence.

Furthermore, the presence of strong international authorities can lead to unanticipated consequences, as the nature of the outside intervention creates perverse incentives for political behaviour that runs contrary to international goals.[9] This can be understood most clearly with reference to the concept of moral hazard, which suggests that when groups are 'insured' against the costs of certain behaviour, they will carry out that behaviour more recklessly.[10] In cases of international administration, the moral hazard stems from the willingness of international actors to intervene in domestic politics – if local actors feel that they can refrain from making political decisions that may be costly to them, in the knowledge that international actors will fill the political

[8] On accountability and international governance, see Caplan, *International Governance of War-Torn Territories*, chapter 9.

[9] See Whitehead, 'Democratization with the Benefit of Hindsight'.

[10] For discussions of moral hazard in international politics, see the special issue of *Ethnopolitics*, Vol. IV, No. 2, June 2005.

void left by their inaction, there is little incentive for local politicians to make difficult decisions. In post-conflict situations, this means there can be incentives for political leaders to refrain from engaging in cooperative and reconciliatory behaviour towards rival communities, as such actions may be unpopular with electoral constituencies and unnecessary given the likelihood that international administrators will intervene to minimize the costs that come with a lack of cooperation.

Conditionality is one of the tools used by international authorities to reduce the potential for moral hazard, as it increases the costs of uncooperative behaviour on the part of domestic actors, but in certain cases the incentives created by moral hazard may be stronger than the disincentives associated with conditionality. For example, in recent years in Bosnia international authorities regularly stated that reform in several key sectors, including police and defence, was necessary if Bosnia was to progress to a closer relationship with Europe. However, this conditionality did not prevent local parties from blocking reform efforts for prolonged periods, in the knowledge that they would improve their positions within their own electoral constituencies and would most likely not have to bear the full costs of the decisions as international agencies would intervene to minimize the negative implications of the lack of domestic action.[11] Similarly, Bosnian Serb politicians were able to increase their electoral profile in 2006 by calling for the secession of Republika Srpska in the knowledge that the international authorities were never likely to allow for a secession referendum to take place.

Finally, prolonged international administration can lead to both economic and political dependency.[12] On the economic side, the donor-driven economies that come with international intervention can mean domestic economic capacity is not prioritized and that economic self-sufficiency is sacrificed in the short-term as international agencies carry out key economic functions. On the political side, international administration can lead to dependency among domestic institutions, as continued international governance substitutes for domestic capacity building and local institutions do not gain the experience of government, or the resources and training necessary for government. The result can be an under-resourced political administration that lacks the skill-sets and experience bank necessary for independent and effective government.[13]

---

[11] See for example 'Schwarz-Schilling urges BiH Parliament to enact key laws before October elections', *Southeast European Times*, 25 May 2005.

[12] See Caplan, *International Governance of War-Torn Territories*, chapter 8; Zaum, *The Paradox of Sovereignty*, Conclusion.

[13] Ibid.

6.2.2. Illusions of consolidation

A second problematic issue concerning democratic consolidation stems from the fact even when it appears that the process of political transition may be developing towards consolidated democracy, it will not be possible to assess the full situation as long as international administrators remain in place. In the cases examined here, international actors have not only sought to introduce a new regime, but have also sought to promote and entrench aspects of politics that are generally associated with consolidated democracies. Yet it is also the case that any achievements made due to these efforts cannot be taken as indicators of genuine consolidation until they are seen to be sustainable in the absence of international oversight. Thus, the rate at which international authorities devolve authority has implications for the confidence with which it is possible to assess the prospects for consolidation. In East Timor, the executive international mission was largely co-terminus with a period of political transition, finishing not long after founding elections had taken place. Subsequent events can thus be judged as real indicators of Timor's capacity to consolidate its regime, as they are not directed or imposed by outside powers. As the discussions above show, East Timor has clearly struggled with the challenge of achieving and maintaining stability and regime consolidation.

In both Bosnia and Kosovo, however, international actors have remained on the ground for longer periods and have sought to go beyond the promotion of basic state functions and democratic institutions necessary for democratic transition. In both cases, the external authorities have initiated programmes to promote and instil governmental practices in the political arena that approach international standards and that if fully adopted would represent significant progress in the consolidation of democratic rule. In Bosnia, for example, a Mission Implementation Plan introduced in 2003 talked of entrenching the rule of law and strengthening state institutions to ensure high standards of accountability for those in elected office.[14] The Standards Implementation Plan in Kosovo also referenced international standards of government that are more generally associated with democratic consolidation rather than initial transition, and required Kosovo's governmental institutions to be 'impartial, transparent and accountable' and represent fully the interests and needs of all Kosovo communities.[15]

The point here is not that these objectives are ill-advised or unattainable, but that there is a certain paradox in requiring that they be achieved in the context of international administration, when any progress made in such

---

[14] OHR, 'Mission Implementation Plan', January 2003.
[15] UNMIK, 'Kosovo Standards Implementation Plan', 31 March 2004.

circumstances must be viewed as somewhat conditional. While outside actors may be able to introduce the formal rules of democratic governance, and ensure that at least the procedures of democracy are established, genuine and sustainable regime consolidation must be a domestically driven process and can only be properly assessed after there has been independent self-government at the domestic level for some time. As the empirical record of recent transitions from authoritarian rule has shown, while transition may give way to regime consolidation, it is not always democratic regimes that are the result. Many stable non-democratic and hybrid regimes have been the final consequence of attempted processes of democratization.

It is therefore necessary to be cautious in making predictions about democratic consolidation in cases where the international authorities remain. In both Bosnia and Kosovo, international administrations continue to hold executive authority and oversee political developments, and the extent of regime consolidation will not be known until after full self-government is achieved. While the authorities in Kosovo have devolved powers to domestic actors at a far greater rate than in Bosnia, both cases suggest there may be significant challenges to consolidation once international officials leave, as the presence of minority communities, and the strength of inter-ethnic divisions, may make the compromise that is essential to democratic politics difficult to achieve once international authorities are not in place to reassure minorities or restrain majorities. This observation leads to the final point concerning the challenges to and limits of democratic regime-building, that even if the domestic political landscape is dominated by those who wish to support democracy, there may be structural constraints inherent in these problematic contexts that limit the prospects and potential for fully democratic governance.

6.2.3. Problems of state capacity and cohesion

While this book has focused primarily on elite interactions during the process of regime-building, it is also the case that the sustainability of any democratic government will rely in large part on the extent to which state structures are strong or robust enough to support it. As discussed in Chapter 2.4, there are two dimensions of statehood here that are particularly relevant, those of state capacity and state cohesion. While a democratic political regime can be successfully established under the auspices of international administrations, state capacity and cohesion problems can place significant constraints on domestic political actors and limit the potential for successful consolidation once international authorities depart. As international administrations are established in contexts that have significant problems to begin with, these

state-related challenges are likely to be of particular importance in the cases of interest here.

In Bosnia and Kosovo, international authorities remain in place and it is thus difficult to judge the extent to which state capacity and cohesion issues will hamper regime consolidation once the international administrators leave. In Bosnia considerable achievements have been made since 1995 in strengthening state institutions, reducing the extreme levels of political obstructionism that existed in the initial post-Dayton years and institutionalizing regular, free, and fair elections. Yet the Bosnian state retains significant structural weaknesses, and state cohesion is limited. In particular, developments surrounding the 2006 general elections highlight the fact that deep cleavages remain within Bosnian political society that present challenges for regime consolidation. After Montenegro voted for independence in May 2006, calls were immediately made by certain Bosnian Serb leaders for a similar independence referendum in Bosnia, and the threat of a secession referendum became an issue in the October 2006 elections. While the Bosniac SBiH party campaigned on unifying the state and abolishing the two entities, the Alliance of Independent Social Democrats (SNSD) increased its vote significantly to become the largest Bosnian Serb party not least by suggesting that any attempt to abolish the entity of Republika Srpska would lead to a referendum on its independence. The leader of the SNSD, and Prime Minister of Republika Srpska, Milorad Dodik, easily won re-election, and his party also took the Serb seat on the tripartite state presidency.[16]

In Kosovo, there has been a similar record of achievement and progress under international auspices, but with similar concerns that capacity and cohesion problems may prove to be significant obstacles to post-independence regime consolidation. Due to lack of funding and staffing, as well as some serious lapses in impartiality, the institutional structures of government and administration remain in Kosovo unable, and at times unwilling, to extend authority throughout the territory and ensure that all members of the political community have equal access to the legal and political system. Although the entity has declared independence and now acts as an established state, some of its core structures remain fragile and reliant on international support. Similarly, lack of cohesion can be seen in the segregation of Albanian and Serb communities, the lack of any significant multi-ethnic parties and the existence of a series of Serb-run parallel institutions in the north of the territory.

Evidence thus suggests that even with democratic political institutions, both Balkan cases will face significant challenges of consolidation once international

---

[16] See Nedim Dervisbegovic, 'Bosnia elects men with clashing visions of future', *Reuters*, 2 October 2006.

administrators withdraw. In both cases, however, there are some signs that even after the international community withdraws the current missions, and external authorities relinquish the executive power they currently wield, that international oversight will continue in other ways and mechanisms will be put in place to minimize the potential for the reversal of key political measures that have been achieved to date. In both Bosnia and Kosovo, the European Union in particular is increasingly playing a central role and looks set to become the lead international institution in both entities in the coming years. Although recent developments, especially the votes against the proposed EU Constitution in referendums in France and the Netherlands, and then a vote against the Lisbon Treaty in Ireland, have put back full Balkan integration in the EU,[17] there is still a strong commitment within the EU to bring Bosnia and Kosovo into a broader European community of democratic states. Consequently, the EU is planning sustained engagement in both territories and this commitment suggests political development in these cases may continue to be overseen by international actors, although in less intrusive ways. Previous experience in Europe suggests that the EU can have positive implications for democratic development,[18] and it may be the case in Bosnia and Kosovo that the EU will play a role in 'underwriting democracy' after the international administrations withdraw, providing guarantees for democrats and providing sufficient disincentives for those who would consider undermining democracy.[19] Recent research has also shown that high density 'linkages' between democratizing states and international actors can have positive implications for long-term democratization prospects, which points to a strong supportive role for European Union ties in the two Balkan cases.[20]

In East Timor, on the other hand, the UNTAET mission withdrew in May 2002, and the former colony and occupied territory became an independent state. East Timor's experience of democratic development since that date presents a mixed picture, with indicators that there are significant weaknesses in East Timor's state institutions, but also that the democratic regime put in place between 1999 and 2002 has been able to withstand considerable

[17] See Patrick Moore, 'Balkans: Worries over EU Enlargement', *RFERL*, 6 June 2005.

[18] Jon C. Pevehouse, *Democracy From Above: Regional Organizations and Democratization* (Cambridge University Press, 2005); Geoffrey Pridham, Eric Herring and George Sanford (eds), *Building Democracy: The International Dimension of Democratization in Eastern Europe* (Leicester University Press, 1997).

[19] Basilios Tsingos, 'Underwriting Democracy: The European Union and Greece', in Laurence Whitehead, *The International Dimensions of Democratization* (Oxford University Press, 2001). See also Gerald Knaus and Marcus Cox, 'The "Helsinki Moment" in Southeastern Europe', *Journal of Democracy*, Vol. 16, No. 1, 2005, pp. 39–53.

[20] See Steven Levitsky and Lucan A. Way, 'Linkage versus Leverage: Rethinking the International Dimension of Regime Change', *Comparative Politics*, Vol. 38, No. 4, 2006, pp. 379–400.

challenges. The crisis of 2006 was the clearest example of the structural weaknesses in East Timor's state institutions, as divisions among political factions were reflected in the army and police, and ultimately contributed to the breakdown of law and order and the humanitarian crisis that ensued. These events, as well as the assassination attempt of 2008, not only raised questions over the wisdom of the UN decision to downgrade its security support when it did, but also highlighted the susceptibility of East Timor's state structures to internal political cleavages and divisions.

Significantly, however, while the 2006 security crisis was resolved only with considerable military intervention by foreign troops, the political crisis was resolved according to the domestic, democratic institutions that were established during the transition phase. Although there were unsubstantiated allegations that the 2006 violence was part of a pre-meditated coup attempt,[21] the government ultimately fell because the Prime Minister resigned voluntarily, and the new government came to power according to the rules of the constitution introduced in May 2002. The successful elections of 2007 also suggest that the political regime retains the capacity to withstand robust challenges, as the votes went off peacefully and the government came to power despite the objections of the former incumbent party. While the attack on José Ramos-Horta in early 2008 was a violent indicator of continuing political instability in Timor, the fallout from the event has arguably bolstered rather than damaged the country's security situation, as the militant rebel group has largely been eradicated. What remains to be seen is whether East Timor's institutional weaknesses can be overcome in the long term, so that the state itself has the capacity to ensure genuine democratic rule. For East Timor's regime to be fully consolidated, such institutionalization needs to take place to a much greater extent than it has.

6.3. IMPLICATIONS FOR THEORY

As discussed in the Introduction, there is no single, coherent body of theory that pertains to the cases and subject matter examined here, and this study thus has relevance for more than one body of work. The literature on state-building and international administration has contributed to this research, as has the wide range of work carried out on comparative democratization. Neither, however, has placed a similar emphasis on the international

---

[21] See Mark Dodd and Stephan Fitzpatrick, 'Conspiracy Theory Haunts East Timor', *The Australian*, 15 July 2006.

influences on democratization in the context of external administration, with each only focusing on separate elements of the particular political relationship examined here. Consequently, the findings of this book have implications for more than one body of research, and highlight aspects of existing work that may need to be revisited.

In relation to the work on state-building, this book has highlighted the need for greater attention to domestic contexts, actors and structures. While much of the work on state-building highlights the importance of local factors such as consent and local capacity,[22] there has been a lack of more systematic theoretical statements about how state-building efforts are likely to work in different domestic contexts. This book has identified the domestic balance of power and ideology as a critical factor in accounting for the nature of political development, and a similar approach would shed further light on other elements of the state-building enterprise, such as international efforts in the economic and social spheres. Domestic politics are central to the success or failure of international administration, and the nature of the local political landscape in terms of both the distribution of authority and the political outlook of the principal political actors are critical issues that should be incorporated into theories about the impact of international administration operations.

Similarly, this study highlights the importance of disaggregating the broad concept of state-building and pursuing theory building with reference to more narrowly defined concepts such as democratic regime-building. Much of the state-building literature seeks to incorporate the full range of activities of this form of large-scale international intervention, but the pursuit of theoretical findings is often furthered when more limited concepts are examined, as it becomes possible to conduct a more focused exploration of complex causal mechanisms. Such mid-range theory could be extended further with similar focused analyses of other constituent elements of state-building and international administration. However, it is also the case that democratic regime-building remains intrinsically linked to broader state-building efforts, and it is inadvisable to explore the two activities in complete isolation. The empirical findings here clearly suggest that state structures are critical for the consolidation of fragile democratic regimes, and theoretical explorations of particular elements of state-building operations must not lose sight of the wider political context.

In terms of the democratization literature, the findings here re-affirm much of the work that has emerged in recent years pointing to international as well as domestic influences on regime change. Democratization is clearly not a process that is immune to external pressures and influences, and in the context of

---

[22] See for example Caplan, *International Governance of War-Torn Territories*, Introduction.

international administration outside actors play a particularly central role. The analysis here highlights the ways in which international administrators assume roles conventionally held by domestic actors and thus become key participants in the processes of regime change. Under-theorized by previous work on the international aspects of democratization, the exceptional international powers at the domestic level in these contexts provide external actors with the ability to shape the transition environment in direct and intrusive ways.

As a result, some of the theoretical approaches of the transitions literature need to be re-assessed, not least in relation to the concept of the mode of transition. In earlier theoretical work on regime transitions, the mode of transition as a concept has always been conceived of as a domestically determined element of democratization. Yet it should be clear from the empirical chapters above that in the context of international administration this is not the case, and that the mode of transition is a function of domestic and international interactions. This study thus highlights the intrinsic role that international actors have the potential to play in processes of regime change, and more so than previous work in the field of comparative democratization, identifies circumstances in which international actors are integral participants in these processes at the domestic level. As the following section will highlight, these findings may not be applicable to all contexts, but they have the potential to change the way democratization is conceived of in a broader range of cases than the three examined here.

6.4. FURTHER ISSUES

6.4.1. Scope of findings

This study has explored the experience of democratic regime-building in three cases and has used the process tracing method in each to establish the influence of extensive international intervention on the process of regime change. When considered together, the three cases suggest a set of findings, outlined above, that highlight a common set of international mechanisms of influence along with a strong mediating role of domestic political factors.

The extent to which these findings are generalizable is limited, however, as such cases of international governance at the domestic level are rare in world politics. As outlined in Chapter 1, a number of international administration missions have been mandated in the post-Cold War years, but few have had the same combination of executive authority and democratic regime-building mandates as those discussed here. Although international administration has

been proposed for a number of territories that are currently experiencing conflict or internal crises, including the Palestinian Territories, Somalia and Kashmir, at the time of writing there are no other ongoing international administration missions in the same vein as those created in Bosnia, Kosovo and East Timor. Yet it is not unlikely that similar missions will be authorized by the international community again, and under certain specific conditions it may thus be possible to generalize conclusions made here about causal mechanisms and domestic and international interactions to other cases. In cases where international authorities assume significant levels of executive authority and pursue mandates that include the establishment of a democratic political regime at the domestic level, then the findings of this study concerning the mechanisms of international influence and the likely implications for the mode of transition will apply.

Aside from other instances of international administration, it is only in the context of state-led military occupation that external actors wield similar levels of power. As discussed in Chapter 1, the key difference between international administration and state-led occupation concerns the role of sponsoring multilateral institutions, and the consequent implications for legitimacy and permissible conduct that follow. Yet while there are thus some distinct differences between international occupation and international administration, the arguments presented here have relevance also for occupation operations, particularly the recent experience in Iraq.

Since the events of 11 September, US-led interventions in both Afghanistan and Iraq have led to sustained international involvement in those two countries. While the international presence in Afghanistan followed a light-footprint approach, with a limited formal role for international authorities in the governance of the country, the situation in Iraq has been considerably different.[23] Military invasion was quickly followed by military and political occupation, with a Coalition Provisional Authority (CPA) established under the lead of a US Administrator. The CPA enjoyed full executive and legislative authority, and held as one of its aims the establishment of a democratic political regime in Iraq. As with the transitional administration missions examined here, the CPA involved itself in the three central arenas of democratic transition and used a broad range of mechanisms to influence the transition process. US political authorities chose interlocutors selectively, led the way in institution building and involved themselves heavily in electoral issues, including the design of the electoral system. Even after the CPA was dissolved, and full sovereignty was officially returned to Iraq in June 2004, the US has maintained its substantial

---

[23] On the international intervention in Afghanistan, see Simon Chesterman, 'Walking Softly in Afghanistan: the Future of UN State-Building', *Survival*, Vol. 44, No. 3, September 2002, 37–45.

security presence in the country and has retained extensive political influence.[24] The experience in Iraq also highlights the critical importance of domestic factors, both in terms of the balance of power among domestic elites, and also structural issues such as state capacity (for example in the state security structures) and cohesion (especially among Iraq's three ethnic groupings). Such similarities warrant further investigation, with comparative research that addresses the contrasting influences of international administration and international occupation on domestic political development.

6.4.2. Policy implications

Democracy has become increasingly valued within the international community as the most appropriate form of government, and democracy promotion has become a central activity of international organizations and institutions that engage in the domestic politics of developing states. This book shows, however, that international democracy promotion efforts, even when backed by considerable levels of international power, cannot be assumed to be sufficient in order for democracy to flourish. The clearest policy implication of this study is that prospective international administrators should not take their influence for granted, and should rather assess in detail the domestic context of any territory which is under consideration for external governance. The findings of the case study analyses highlight the critical role that domestic factors play in mediating the international influence on domestic politics, and policy decisions should clearly be made according to the specific domestic context.

In particular, findings of the case studies suggest that the choice to authorize international administration missions should be made with reference to the nature of the domestic balance of power in a given case, and the extent of consensus that exists over the transition end goal. If the majority of parties are united in their commitment to democracy, then international administration has a much greater chance of being successful. Such contexts may include decolonization-type situations like that of East Timor, where democracy and independence were widely agreed goals.

However, in contexts where internal conflict has been acute, where parties are polarized over the political direction of the territory or country, and where there is limited commitment to the democratic norms of political freedom and rights protection for all communities, then international administration

---

[24] The literature on the US-led occupation of Iraq is growing at a rapid rate, but for a study, by a scholar of democratization that focuses in particular on the political transition and the effort to establish democracy, see Larry Diamond, *The American Occupation and the Bungled Effort to Bring Democracy to Iraq* (Times Books, 2005).

should be pursued with caution. In such contexts, the possibilities are much stronger that democratic institutions introduced by international authorities will be introduced in part through conditionality and imposition, and in turn the possibility that these institutions will not endure after international withdrawal is also greater.

The cases of Bosnia and Kosovo suggest that sustained international administration over a period of years may help to entrench democratic institutions, as international authorities spend more time overseeing political developments. However these cases are somewhat exceptional given their situation within Europe, and it is less likely that international authorities would be willing to authorize such sustained international engagement outside the European context. In particular, their location within Europe has provided a large role for the EU, both as an incentive for further domestic reform on the part of domestic actors and as an international actor in its own right. Yet while previous experience with the EU suggests that regional international institutions can play a role 'underwriting' democracy and promoting 'democratization through convergence',[25] the absence of similarly strong regional organizations in other parts of the world suggests that the experiences in the Balkans may not be easily replicable. Moreover, it is also the case that sustained international involvement also prolongs the period in which the pathologies of international administrations may negatively affect domestic politics, thus potentially reducing the positive impacts of sustained engagement.

Arguably the worst case scenario for international administration is when there is a polarized political landscape dominated by parties with limited democratic commitment, coupled with a relatively short term international intervention due to a lack of international willingness or resources for a sustained administration presence. In such cases, international oversight of the introduction of democratic institutions followed by a swift international withdrawal may simply pave the way for a hybrid political regime, one in which democratic institutions co-exist with non-democratic actors. Possibly the clearest example of this has been the Cambodian experience, where a large-scale international administration mission in the early 1990s oversaw the development of a democratic political regime, but where domination of politics by the former communist ruling authorities has led to divided coalitions, weak institutions and limitations on political competition. Cambodia still has democratic institutions and holds regular elections, but

[25] Tsingos, 'Underwriting Democracy: The European Union and Greece', and Laurence Whitehead 'Democracy by Convergence: Southern Europe', both in Laurence Whitehead (ed.), *The International Dimensions of Democratization: Europe and The Americas* (Oxford University Press, 2001).

it lacks many of the freedoms and protections necessary for genuine demo-cratic rule.[26]

Consequently, the Balkan model would seem to represent a more desirable approach than a short-term international mission for unfavourable contexts, but it may also represent a more unfeasible approach outside of Europe. As such, international administrations in the future will have to rely on domestic commitment to democracy if democratic regime-building efforts are to be sustainable in the long-term. Without international commitment to pro-longed engagement, decisions to authorize international administrations in unfavourable contexts may ultimately not result in the promotion of sustain-able democratic governments, but rather in the promotion of unstable, hybrid regimes.

[26] See Duncan McCargo, 'Cambodia: Getting Away with Authoritarianism', *Journal of Democracy*, Vol. 16, No. 1, October 2005, pp. 98–112.

....
Bibliography
....

Relevant Websites

United Nations Resolutions
  http://www.un.org/documents/
OSCE Documents
  http://www.osce.org/documents/
ICG
  www.crisisgroup.org
ESI
  www.esiweb.org
Kosovo
  Local Media Monitoring
  http://www.unmikonline.org/dpi/localmed.nsf/f0300?OpenForm
  Press Releases
  http://www.unmikonline.org/dpi/pressrelease.nsf/p0301?OpenPage
  Press Briefings
  http://www.unmikonline.org/dpi/transcripts.nsf/p0200?OpenPage
  Regulations
  http://www.unmikonline.org/regulations/unmikgazette/02english/Econtents.htm
East Timor
  Press Briefings
  http://www.un.org/peace/etimor/DB/UntaetDB.htm
  Regulations
  http://www.un.org/peace/etimor/untaetR/r-2002.htm
  Secretary General Reports
  http://www.un.org/peace/etimor/docs/UntaetDr.htm
Bosnia
  OHR
  www.ohr.int
  OHR Decisions
  http://www.ohr.int/decisions
  OHR Press Releases
  http://www.ohr.int/ohr-dept/presso/pressr/archive.asp
  PIC Statements
  www.ohr.int/pic
  OHR Reports
  http://www.ohr.int/other-doc/hr-reports/archive.asp?sa = on
  OHR Speeches
  http://www.ohr.int/ohr-dept/presso/presssp/
  Venice Commission
  www.venice.coe.int

This page intentionally left blank

....
Documents and Speeches
....

Ashdown, Paddy, Inaugural Speech as High Representative, 27 May, 2002.
—— Press Conference, 30 June 2004.
—— Press Conference, 4 March 2005.
—— Press Conference, 12 December 2005.
—— Press Conference, 27 January 2006.
—— Speech at St Antony's College, Oxford, 26 April 2006.
Assembly of Kosovo, 'Evidence of the Processed and Adopted Laws', 2005, available at http://www.assembly-kosova.org/common/docs/ligjet/matrix_en.pdf
—— 'Kosovo Declaration of Independence', Pristina, 17 Feb. 2008. Available at http://www.assembly-kosova.org/?lang=en
Associated Press, 'Quiet Returns to East Timor's Capital After Deadly Riots by Ex-soldiers', 29 April 2006.
The Age, 'Gusmão Takes over Security in East Timor', 30 May 2006. http://www.theage.com.au/news/World/Gusmao-takes-over-security-in-East-Timor/2006/05/30/1148754970475.html, accessed 13 March 2009.
Bush, George W., Second Inauguration Address, 20 January 2005.
Carter Center, 'The East Timor Political and Election Observation Project: Final Project Report', April 2004.
CNRT, 'Broad Timeline for the Process leading to East Timor's Declaration of Independence', document with author.
Commission for Reception, Truth, and Reconciliation Timor-Leste, 'The Report of the Commission for Reception, Truth, and Reconciliation Timor-Leste', 2005.
Constitution of Bosnia and Herzegovina, 1995.
Constitution of the Democratic Republic of East Timor, 2002.
Constitutional Court of Bosnia and Herzegovina, 'Decision No. U 1/99', 14 August 1999. See also Venice Commission, 'Description of the Constitutional Court of Bosnia and Herzegovina as well as précis published in the Bulletin on Constitutional Case-Law', 15 September 2000.
—— 'Request for Evaluation of Constitutionality of Certain Provisions of the Constitution of Republika Srpska and the Constitution of the Federation of BiH, Case U 5/98, Partial Decision (30 January 2000), Partial Decision (19 February 2000), Partial Decision (1 July 2000), Partial Decision (19 August 2000)'.
Constitutive Act of the African Union, Articles 4, 30.
Contact Group, 'Guiding Principles of the Contact Group for a Settlement of the Status of Kosovo', available as annex to UN document S/2005/709, 10 November 2005.
Draft Election Law of Bosnia and Herzegovina, 21 October 1998, document with author.
East Timor National NGO Forum, Letter to UN Security Council, 17 March 2001, document with author.

EU, 'Bosnia and Herzegovina 2006 Progress Report', SEC (2006) 1384, 8 November 2006.

EU, 'Summary Note on the Joint Report by Javier Solana, EU High Representative for the CFSP, and Olli Rehn, EU Commissioner for Enlargement, on the Future EU Role and Contribution in Kosovo', July 2006. Available at: http://www.consilium. europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/90537.pdf, accessed on 4 November 2006.

—— and UNMIK, 'Ninth Meeting of the Stabilization and Association Process Tracking Mechanism', Pristina/Brussels, 29 March 2006, Available at: www.euinkosovo. org/upload/9th%20STM%20meeting.pdf, accessed on 4 November 2006.

European Council, Council Joint Action on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, 2008/124/CFSP, 4 February 2008.

—— Council Joint Action Appointing a European Union Special Representative in Kosovo, 2008/123/CFSP, 4 February 2008.

Galbraith, Peter, Speech at Tibar Conference, 29 May–2 June 2000.

—— Testimony to the National Council, 20 January 2001.

General Framework Agreement for Peace in Bosnia and Herzegovina, reprinted in OHR, *Bosnia and Herzegovina: Essential Texts*, fourth edition (Sarajevo: OHR, 2004).

Gusmão, Xanana, Address to the UN Security Council, 18 May, 2001.

—— New Year's Eve Speech, 31 December 2000.

Jessen-Petersen, Søren, Speech to the Royal Institute of International Affairs, Wednesday, 8 December 2004.

Military-Technical Agreement Between the International Security Force (KFOR) and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia, 9 June 1999, available at http://www.nato.int/kosovo/docu/a990609a.htm, accessed on 20 November 2006.

Network Bosnia, 'Bosnia Daily', Issue 2.49, 20 March 2000.

OHR, '5th Report by the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations', 16 April 1997.

—— '9th Report of the High Representative for Implementation of the Bosnian Peace Agreement to the Secretary-General of the United Nations', 9 April 1998.

—— '11th Report of the High Representative for Implementation of the Bosnian Peace Agreement to the Secretary-General of the United Nations', 14 October 1998.

—— '12th Report of the High Representative for Implementation of the Bosnian Peace Agreement to the Secretary-General of the United Nations', 12 February 1999.

—— '14th Report of the High Representative for Implementation of the Bosnian Peace Agreement to the Secretary-General of the United Nations', 16 July 1999.

—— '16th Report by the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations', 3 May 2000.

—— '18th Report by the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations', 12 March 2001.

—— '26th Report by the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations', 18 November 2004

—— 'Agreement on the Implementation of the Constituent Peoples' Decision of the Constitutional Court of Bosnia and Herzegovina', 27 March 2002.

—— 'Decision removing Mr. Nikola Poplasen from the Office of President of Republika Srpska', 5 March 1999.

—— 'Decision Removing Ante Jelavic from His Position as the Croat Member of the BiH Presidency', 7 March 2001.

—— 'Decision providing the Agreement on Gornji Vakuf-Uskoplje from 2 August 2001, which unites Gornji Vakuf and Uskoplje into One Municipality, with a Legal Base', 15, September 2001.

—— 'Decision amending the BiH Election Law in Accordance with the New Entity Constitutions', 19 April 2002.

—— 'Decision Enacting the Law on the Council of Ministers of Bosnia and Herzegovina', 3 December, 2002.

—— 'Decision Enacting the Law on Changes and Amendments to the Election Law of Bosnia and Herzegovina', 27 January 2006.

—— 'Decision on Constitutional Amendments in Republika Srpska', 19 April 2002.

—— 'Decision on Constitutional Amendments in the Federation', 19 April 2002.

—— 'Election Law of Bosnia and Herzegovina', September 2001.

—— 'Human Rights Priorities for 2001: Human Rights Steering Board Recommendations to the Human Rights Task Force', 5 February 2001.

—— 'Law on the Council of Ministers of Bosnia and Herzegovina', 3 December 2002.

—— 'List of Removed and Conditionally Removed Officials by the High Representative', 30 June 2004.

—— 'Mission Implementation Plan', January 2003.

—— BiH Media Round-up, multiple entries.

—— Bulletin, multiple entries.

—— Chronology, multiple entries.

—— Human Rights Coordination Centre, 'Human Rights Quarterly Report', 15 May–31 August 2000, 31 August 2000.

—— 'Decision to remove Mr. Predrag Čeranić from his current position in the Intelligence and Security Agency of Bosnia and Herzegovina', 30 May 2008.

—— 'Decision removing Dragan Covic from his position as a Member of the Presidency of BiH', 29 March 2005.

—— 'Decision Enacting the Law on Changes and Amendments to the Law on the Council of Ministers of Bosnia and Herzegovina', 19 October 2007.

OHR Press Release, 'Draft Election Law resubmitted to Parliament', 26 January 2000.

—— 'Draft Permanent Election Law Completed', 3 August 1999.

—— 'Drvar Arbitration Award', 16 September 1999.

—— 'High Representative Allows Removed Officials to Hold Non Managerial Public Positions', 28 November 2005.

—— 'High Representative and Ambassador Barry discuss Amended Draft Election Law with Heads of Clubs and Political Parties', 3 February 2000

—— 'High Representative and the OSCE Head of Mission Announce the Removal from office of various public officials', 29 November 1999.

—— 'High Representative Appoints National Members of the BiH Election Commission', 16 November 2001.

OHR Press Release, 'High Representative Appoints Zepce Interim Board', 13 October, 2000.

—— 'High Representative Meets U.N. Secretary General', 27 July 2001.

—— 'High Representative to Vet New Ministers', 21 October 2002.

—— 'High Representative Welcomes House of Peoples' Adoption of Election Law', 23 August 2001.

—— 'New Chairman of the Permanent Election Law Working Group', 14 May 1999.

—— 'OHR and OSCE Call for Urgent Adoption of Election Law', 26 June 2001.

—— 'OHR and OSCE Continue to Insist on Adoption of Election Law', 9 May 2000.

—— 'Process of Constitutional Change in Bosnian and Herzegovina's Entities is Completed', 19 April 2000.

—— 'Process of Constitutional Change in Bosnian and Herzegovina's Entities is Completed', 19 April 2002.

—— 'The Role of Peace Implementation Council Steering Board Ambassadors in BiH', 7 February 2001.

OSCE, 'Annual Report 1996 on OSCE Activities', DOC.SEC/3/96/Corr., 15 January 1997.

—— 'Eight Years After: Minority Returns and Housing and Property Restitution in Kosovo', June 2007.

—— 'Independent Agencies and Institutions in Kosovo Democracy', December 2007.

—— 'JIAS Employment Survey: Results Report', 12 November 2001.

—— 'Parallel Structures in Kosovo', 2006–2007.

—— 'Report on the Monitoring of the Assembly of Kosovo', 7 July 2004, document with author.

—— 'Tenth Assessment of the Situation of Ethnic Minorities in Kosovo', March 2003.

—— 'The Response of the Justice System to the March 2004 Riots', December 2005.

—— Provisional Election Commission, 'Rules and Regulations', 1996 edition.

—— Provisional Election Commission, 'Rules and Regulations', October 2000 edition.

—— /OHR, 'Responses to Discussion Held by the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina', 2001, document with author.

Pact of National Unity, 8 July 2001, document with author.

Petritsch, Wolfgang, Address to the UN Security Council, 5 March 2002.

—— Press Conference, 19 April 2002.

—— Speech at the Steering Board Ministerial Meeting, 22 September 1999.

PIC, 'Bonn Peace Implementation Conference 1997 – Bosnia and Herzegovina 1998: Self-sustaining Structures', 10 December 1997.

—— 'Declaration by the Steering Board of the Peace Implementation Council', 27 February 2008.

—— 'Declaration of the Peace Implementation Council', Madrid, 16 December 1998.

—— 'Communiqué of the PIC Steering Board', 20 October 1999.

—— 'Declaration of the Peace Implementation Council', Brussels, 24 May 2000.

—— 'Communiqué of the PIC Steering Board', 27 March 2002.

—— 'Communiqué of the PIC Steering Board', 23 June 2006.

Ramos-Horta, José, at Inaugural Address as Prime Minister, 10 July 2006.

—— Testimony to the National Council, January 2001.

'Report of the EU/U.S./Russia Troika on Kosovo', 4 December 2007.

Steiner, Michael, Press Conference, 23 May 2002.

—— Press Conference, 28 February 2002.

Suara Timor Lorosae, 'Xanana Resigns as National Council President', 30 March 2001.

Treaty of Versailles, 28 June 1919.

UN General Assembly Resolution A/RES/43/157, 8 December 1988.

—— UN General Assembly Resolution, A/RES/49/190, 9 March 1995.

UN Newswire, 'E Timor Votes Against Consultative Process Leading to Constitution', 27 March 2001.

UN Security Council Resolution 745, S/RES/745, 28 February 1992.

—— 940, S/RES/940, 31 July 1994.

—— 1037, S/RES/1037, 15 January 1996.

—— 1132, S/RES/1132, 8 October 1997.

—— 1244, S/RES/1244, 10 June 1999.

—— 1272, S/RES/1272, 25 October 1999.

—— 1704, S/RES/1704, 25 August 2006.

UNDP 'Early Warning Report: Kosovo' series, available at www.kosovo.undp.org/publications/publications.asp

—— 'Assessment of Administrative Capacity in Kosovo', April 2005.

—— 'Early Warning Report: Kosovo', May–August, 2002.

—— 'Early Warning Report: Kosovo', January–June 2008.

United Nations, 'A Comprehensive Review of the Situation in Kosovo', S/2005/635, 7 October 2005.

—— 'An Agenda for Democratization', A/51/761, 17 December 1996.

—— 'An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping', Report of the Secretary-General, A/47/277–S/24111, 17 June 1992.

—— 'Interim Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2001/436, 2 May 2001.

—— 'Question of East Timor: Progress Report of the Secretary-General', A/54/654, 13 December 1999.

—— 'Report of the Panel on United Nations Peace Operations (the Brahimi Report)', S/2000/809, 21 August 2000.

—— 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo', S/2000/1196, 15 December 2000.

—— 'Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo', S/1999/779, 12 July 1999.

—— 'Report of the Secretary General on the United Nations Interim Administration in Kosovo', 14 February 2005.

—— 'Report of the Secretary General on the United Nations Interim Administration in Kosovo', 12 June 2008.

United Nations, 'Report of the Secretary General Pursuant to Paragraph 10 of Security Council Resolution 1244' (1999), S/1999/672, 12 June 1999.

United Nations, 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2000/53, 26 January 2000.

—— 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2001/42, 16 January, 2001.

—— 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor', S/2001/42, 15 January 2001.

—— 'Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo', S/2001/218, 13 March 2001.

—— 'Report of the Secretary-General on Timor-Leste pursuant to Security Council resolution 1690 (2006)', S/2006/628, 8 August 2006.

—— 'Report of the Secretary-General Pursuant to Paragraph 10 of Security Council Resolution 1244', S/1999/672, 12 June 1999.

—— *Charter of the United Nations*, 26 June 1945.

—— 'Report of the Special Envoy of the Secretary-General on Kosovo's future status', S/2007/168, 26 March 2007.

UNMIK, 'Kosovo Standards Implementation Plan', 31 March 2004.

—— 'Standards for Kosovo', 10 December 2003.

—— 'UNMIK at Two: Turning Point for Self-Governance', 2001.

UNMIK Local Media Monitoring, 'Haekkerup Signs Constitutional Framework', 16 May 2001.

—— 'PDK Favors a Majority System and Not a Proportional One', 20 June 2000.

UNMIK Press Briefing, 'Joint Press Conference of UN Under Secretary-General for Peacekeeping Operations Jean-Marie Guéhenno and SRSG Harri Holkeri', 14 March 2004.

—— 10 July 2000.

—— 14 February 2001.

—— 5 April 2000.

—— 'Joint Press Conference of SRSG Harri Holkeri and US Under Secretary of State for Political Affairs Marc Grossman', 5 November, 2003.

UNMIK Press Release, 'Address to the Security Council by Michael Steiner, Special Representative of the Secretary-General', UNMIK/PR719, 24 April 2002.

—— 'Interim Administrative Council Discusses Electoral System Proposals', 13 June 2000.

—— 'Kosovo Group to Begin Work on Legal Framework', 6 March 2001.

—— 'SRSG Issues Declaration on Kosovo Assembly Resolution on War Values', 15 May 2003.

—— 'SRSG's Remarks at the Launch of Kosovo Standards Implementation Plan', 31 March 2004.

—— 'UNMIK Considers the Decision of the Assembly as invalid', 11 December 2003.

UNMIK Regulation 1999/1, 'On the Authority of the Interim Administration in Kosovo', 25 July 1999.

UNMIK Regulation 2000/1, 'On the Kosovo Joint Interim Administrative Structure', 14 January 2000.

—— 2000/39, 'On the Municipal Elections in Kosovo', 8 July 2000.

—— 2002/9, 'On an Amendment to the Constitutional Framework for Provisional Self-Government', 3 May 2002.

UNOSEK, 'The Status Process', March 2007, available at www.unosek.org

UNTAET Daily Briefing 'New East Timorese Government Sworn-In', 20 September 2001.

—— 'Assembly Committee Completes Draft Constitution', 27 November 2001.

—— 'Assembly Delays Passage of Constitution Until 16 March', 12 February 2002.

—— 'First Democratic Elections in East Timor To Be Held on 30 August 2001', Dili, 16 March 2001.

—— 'First Meeting of Transitional Cabinet', 17 July 2000.

—— 'Gusmão, Bishop Belo Call for More Constitutional Debate', 20 February 2002.

—— 'Political Parties Agree to Pact of National Unity', 4 July 2001.

—— 'Timorese Cabinet Considers Consultation on Constitution', 28 March 2001.

UNTAET Directive No. 2001/3 'On the Establishment of Constitutional Commissions for East Timor', 31 March 2001.

UNTAET News, 'Nobel Peace Laureate Takes over Foreign Affairs Portfolio in East Timor', 19 October 2000.

UNTAET Regulation 1999/2, 'On the Establishment of a National Consultative Council', 2 December 1999.

—— 2000/13, 'On the Establishment of Village and Sub-District Development Councils for the Disbursement of Funds for Development Activities', 10 March 2000.

—— 2000/23, 'On the Establishment of the Cabinet of the Transitional Government in East Timor', 14 July 2000.

—— 2000/24, 'On the Establishment of a National Council', 14 July 2000.

—— 2001/2 'On the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor', 16 March 2001.

Venice Commission, 'Draft Opinion on the Compatibility of the Constitutions of the Federation of Bosnia and Herzegovina and the Republika Srpska with the Constitution of Bosnia and Herzegovina', CDL(1996)056, 24 June 1996.

—— 'International Task Force for the Implementation of the Decisions in Case N°5/98 of the Constitutional Court of Bosnia and Herzegovina, Guidance and Options', CDL (2001) 23, 6 March 2001.

—— 'Opinion on the Competence of Bosnia and Herzegovina in Electoral Matters', CDL(1998)069, 22 September 1998.

—— 'Opinion on the Implications of Partial Decision III of the Constitutional Court of Bosnia and Herzegovina in Case U 5/98 on the Issue of the "Constituent Peoples"', CDL-INF (2001) 6, 12 March 2001.

—— 'Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative', CDL-AD (2005) 004, 11 March 2005.

Vieira de Mello, Sergio, 'How Not to Run a Country: Lessons for the UN from Kosovo and East Timor', unpublished manuscript with author.

—— Speech at Ministry of Education, Dili, 28 August 2001.

—— Speech at the CNRT Congress, 21 August 2001, with author.

Vieira de Mello, Sergio, Speech on the occasion of the signing of UNTAET Regulation 2001/2, 16 March 2001, document with author.

—— Speech to CNRT Congress, Dili, 21 August 2000.

—— Briefing to UN Security Council, SC/6799, 3 February 2000.

Westendorp, Carlos, Speech by to the North Atlantic Council, 8 October 1997.

World Bank, *Joint Assessment Mission to East Timor – Governance Background Paper* (Washington, DC: World Bank, 1999).

Books and Articles

AIM Sarajevo, 'Dossier: Election Law in BiH, Part Two', 2 February 2000.

Allison, Graham and Robert Beschel, 'Can the United States Promote Democracy?', *Political Science Quarterly*, Vol. 107, No. 1, Spring 1992, pp. 81–98.

Anderson, Benedict, 'Imagining East Timor', in *Arena Magazine*, No. 4, April–May, 1993, pp. 23–7.

Annan, Kofi, 'Democracy as an International Issue', *Global Governance*, Vol. 8, Issue 2, 2002, pp. 135–42.

Associated Press, 'Timor Cabinet Members Renege Threat', 9 December 2000.

—— 'U.N. Prepares to Start a New Peacekeeping Mission in East Timor', 14 June 2006.

—— 'Bosnians resolve crisis over parliamentary voting rules', 30 November, 2007.

Babo Soares, Dionísio, 'Political Developments Leading to the Referendum', in James F. Fox and Dionísio Babo Soares, *Out of the Ashes: Destruction and Reconstruction of East Timor* (Adelaide: Crawford House Publishing, 2000).

—— 'Successes, Weaknesses and Challenges: A Critical Overview of the Political Transition in East Timor', paper presented at the Council for Asia Europe Co-operation (CAEC) Conference, 'Comparing Experiences with State Building in Asia and Europe: The Cases of East Timor, Bosnia and Kosovo', October 2001.

Bain, William, *Between Anarchy and Society: Trusteeship and the Obligations of Power* (Oxford: Oxford University Press, 2003).

Balkan Insight, 'Bosnia "Must Fix" Constitution to Join EU', 22 May 2008, http://balkaninsight.com, accessed 16 February 2009.

Balkan Institute, 'Balkan Watch', 2 December 1996, http://www.publicinternationallaw.org/programs/balkans/archives/1996/BW3–49.DOC, accessed 13 March 2009.

Baltazar, Alipio, 'An Overview of the Constitution Drafting Process in East Timor', *East Timor Law Journal*, Article No. 9, 2004, available at: www.eastimorlawjournal.org.

Barber, Tony, 'Bosnia Signs EU Accord', *Financial Times*, 17 June 2008.

Barkin, Samuel, 'The Evolution of the Constitution of Sovereignty and the Emergence of Human Rights Norms', *Millennium: Journal of International Studies*, Vol. 27, No. 2, 1998, pp. 229–52.

Basilios, Tsingos, 'Underwriting Democracy: The European Union and Greece', in Laurence Whitehead (ed.) *The International Dimensions of Democratization: Europe and The Americas* (Oxford University Press, 2001).

Baskin, Mark, 'Review Article: Post-conflict Administration and Reconstruction', *International Affairs*, Vol. 79, No. 1, 2003, pp. 161–70

BBC News, 'Kosovo Serbs seize UN courthouse', 14 March 2008, at http://news.bbc.com.

Beauvais, Joel C., 'Benevolent Despotism: A Critique of UN State-Building in East Timor', *New York University Journal of International Law and Politics*, Vol. 33, No. 4, 2001, pp. 1126–78.

Bermeo, Nancy, 'Rethinking Regime Change', *Comparative Politics*, Vol. 22, No. 3, 1990, 359–77.

—— (ed.), *Liberalization and Democratization: Change in the Soviet Union and Eastern Europe* (Baltimore, MD: Johns Hopkins University Press, 1992).

—— 'The Import of Institutions', *Journal of Democracy*, Vol. 13, No. 2, 2002, pp. 96–110.

—— 'What the Democratization Literature Says – or Doesn't Say – About Post-war Democratization', *Global Governance*, Vol. 9, Issue 2, April–June, 2003, pp. 159–77.

Berry, Jeffrey M. 'Validity and Reliability Issues in Elite Interviewing', *PS: Political Science and Politics*, Vol. 35, No. 4, December 2002, pp. 679–82.

Bertram, Eva, 'Reinventing Governments: On the Promise and Perils of United Nations Peacebuilding', *Journal of Conflict Resolution*, Vol. 39, No. 3, 1995, pp. 387–418.

Bieber, Florian, *Post-War Bosnia. Ethnicity, Inequality and Public Sector Governance* (London: Palgrave, 2005).

Bildt, Carl, *Peace Journey: The Struggle for Peace in Bosnia* (London: Weidenfeld and Nicolson, 1998).

Bose, Sumantra, 'The Bosnian State a Decade After Dayton', *International Peacekeeping*, Vol. 12, No. 3, 2005, pp. 323–35.

—— *Bosnia After Dayton: Nationalist Partition and International Intervention* (London: Hurst and Company, 2002).

Budge, Ian, Kaare Strøm, and Michael Laver, 'Constraints on Cabinet Formation in Parliamentary Democracies', *American Journal of Political Science*, Vol. 38, No. 2, 1994, pp. 303–35.

Burg, Steven and Paul Shoup, *The War in Bosnia-Herzegovina: Ethnic Conflict and International Intervention* (Armonk, NY: ME Sharpe, 1999).

Burnell, Peter, 'Democracy Assistance: The State of the Discourse', in Peter Burnell (ed.), *Democracy Assistance: International Co-operation for Democratization* (London: Frank Cass, 2000).

—— (ed.), *Democracy Assistance: International Co-operation for Democratization* (London: Frank Cass, 2000).

—— 'Political Strategies of External Support for Democratization', *Foreign Policy Analysis*, Vo.1, No. 3, 2005, pp. 361–84.

Burwitz, Bernd, 'The Elections in Bosnia-Herzegovina, October 2002', *Electoral Studies*, Vol. 23, No. 2, 2002, pp. 329–38.

Caplan, Richard, 'International Diplomacy and the Crisis in Kosovo', in *International Affairs*, Vol. 74, No. 4, 1998, pp. 745–61.

—— 'International Authority and State Building: The Case of Bosnia and Herzegovina', in *Global Governance*, Vol. 10, No. 1, 2004, pp. 53–66.

—— 'Who Guards the Guardians? International Accountability in Bosnia', *International Peacekeeping*, Vol. 12, Issue 3, 2005, pp. 463–76.

—— *Europe and the Recognition of New States in Yugoslavia* (Cambridge: Cambridge University Press, 2005).

—— *International Governance of War-Torn Territories* (Oxford: Oxford University Press, 2005).

Carey, Peter and G. Cater Bentley (eds), *East Timor at the Crossroads: The Forging of a Nation* (New York: Social Science Research Council, 1995).

Carothers, Thomas, *Aiding Democracy Abroad: The Learning Curve* (Washington, DC: Carnegie Endowment for International Peace, 1999).

—— 'The End of the Transition Paradigm', *Journal of Democracy*, Vol. 13, No. 1, 2002, pp. 5–21.

Chandler, David, *Bosnia: Faking Democracy After Dayton* (London: Pluto Press, 1999).

—— 'From Dayton to Europe', *International Peacekeeping*, Vol. 12, No. 3, 2005, pp. 336–49.

—— 'Introduction: Inside the Bosnian Crisis', *Journal of Intervention and State Building*, Vol. 1, Special Supplement, 'Inside The Bosnian Crisis: Documents And Analysis', 1 December 2007.

Chesterman, Simon, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001).

—— 'East Timor in Transition: Self-Determination, State-Building, and the United Nations', *International Peacekeeping*, Vol. 9, No. 1, 2002, pp. 45–76.

—— 'Walking Softly in Afghanistan: The Future of UN State-Building', *Survival*, Vol. 44, No. 3, 2002, pp. 37–45.

—— *You, the People: The United Nations, Transitional Administration and State-Building* (Oxford: Oxford University Press, 2004).

Chopra, Jarat, 'The UN's Kingdom of East Timor', in *Survival*, Vol. 43, No. 1, Spring 2000, pp. 27–40.

—— 'Building State-Failure in East Timor', *Development and Change*, Vol. 33, No. 5, 2002, pp. 979–1000.

Chowdhuri, Ramendra Nath, *International Mandates and Trusteeship Systems: A Comparative Study* (The Hague: Martinus Nijhoff, 1955).

Collier, David and Steven Levitsky, 'Democracy with Adjectives: Conceptual Innovation in Comparative Research', *World Politics*, Vol. 49, No. 3, 1996, pp. 430–51.

Conflict, Security and Development Group, 'A Review of Peace Operations: A Case for Change. East Timor Report', King's College London, 10 March 2003.

Crawford, Timothy W., 'Pivotal Deterrence and the Kosovo War: Why the Holbrooke Agreement Failed', *Political Science Quarterly*, Vol. 116, No. 4, 2001–2, pp. 506–7.

Croissant, Aurel, 'The Perils and Promises of Democratization through United Nations Transitional Authority – Lessons from Cambodia and East Timor', *Democratization*, Vol. 15, No. 3, 2008, pp. 649–68.

Crouch, Harold, 'The TNI and East Timor Policy', in James F. Fox and Dionísio Babo Soares (eds), *Out of the Ashes: Destruction and Reconstruction of East Timor* (Adelaide: Crawford House Publishing, 2000).

Curtain, Richard, 'Crisis in Timor Leste: Looking Beyond the Surface Reality for Causes and Solutions', State, Society and Governance in Melanesia Working Paper, Number 2006/1.

Dervisbegovic, Nedim, 'Bosnia Elects Men with Clashing Visions of Future', *Reuters*, 2 October 2006.

Diamond, Larry, *Developing Democracy: Toward Consolidation* (Baltimore, MD: The Johns Hopkins University Press, 1999).

—— 'Elections Without Democracy: Thinking About Hybrid Regimes', *Journal of Democracy*, Vol. 13, No. 2, 2002, pp. 21–35.

—— *The American Occupation and the Bungled Effort to Bring Democracy to Iraq* (New York: Times Books, 2005).

Dodd, Mark, 'Give Us a Free Hand or We Quit, E. Timor Leaders Say', *Sydney Morning Herald*, 5 December 2000.

—— 'Gusmão Quits Council Post in Row over Autocratic Style', *Sydney Morning Herald*, 2 December 2000.

—— 'People to Have Their Say – But So Will the UN', *Sydney Morning Herald*, 29 June 2001.

—— and Stephen Fitzpatrick, 'Conspiracy Theory Haunts East Timor', *The Australian*, 15 July 2006.

Doyle, Michael W., Ian Johnstone, and Robert C. Orr, *Keeping the Peace: Multidimensional UN Operations in Cambodia and El Salvador* (Cambridge: Cambridge University Press, 1997).

—— 'War and Peace in Cambodia', in Barbara Walter and Jack Synder (eds), *Civil Wars, Insecurity and Intervention* (New York: Columbia University Press, 1999).

—— 'The New Interventionism', *Metaphilosophy*, Vol. 32, Nos. 1–2, 2001, pp. 212–35.

—— and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Princeton, NJ/Oxford: Princeton University Press, 2006).

Drezner, Daniel W. (ed.), *Locating the Proper Authorities: The Interaction of Domestic and International Institutions* (Ann Arbor, MI: University of Michigan Press, 2003).

Dunn, James, *Timor: A People Betrayed* (Brisbane: The Jacaranda Press, 1983).

—— 'East Timor in International Perspective', in Peter Carey and G. Cater Bentley (eds), *East Timor at the Crossroads: The Forging of a Nation* (New York: Social Science Research Council, 1995).

Durch, William J., *The Evolution of UN Peacekeeping* (London: Macmillan, 1994).

East European Constitutional Review, 'Constitution Watch: Bosnia and Herzegovina', Vol. 9, No. 3, Summer 2000.

—— 'Constitution Watch: Bosnia and Herzegovina', Vol. 9, No. 4, Fall 2000.

—— 'Constitution Watch: Bosnia and Herzegovina', Vol. 9, Nos. 1/2, Winter/Spring 2000.

—— 'Constitution Watch: Bosnia and Herzegovina', Vol. 10, No. 4, Fall 2001.

—— 'Constitution Watch: Bosnia and Herzegovina', Vol. 11, No. 3, Summer 2002.

—— 'Constitution Watch: Yugoslavia', Vol. 11, Nos.1/2, Winter/Spring 2002.

Edelstein, David M., 'Occupational Hazards: Why Military Occupations Succeed or Fail', *International Security*, Vol. 29, No. 1, Summer 2004, pp. 49–91.

ESI, 'Imposing Constitutional Reform? The Case for Ownership', 20 March 2002.

—— 'Reshaping International Priorities in Bosnia and Herzegovina – Part II: International Power in Bosnia', 1 March 2000.

—— 'Reshaping International Priorities in Bosnia and Herzegovina – Part III: The End of the Nationalist Regimes and the Future of the Bosnian State', 22 March 2001.

Ethnopolitics, Special Issue on Moral Hazard, Vol. IV, No. 2, June 2005.

EUSR, 'Lajcak: EU Integration Addresses Fundamental Issues of BiH Statehood,' 2 May 2008, http://www.eusrbih.eu/media/pr/1/?cid=2495.1.1

Falk, Richard, 'The East Timor Ordeal: International Law and Its Limits', in Richard Tanter, Mark Selden, and Stephen R. Shalom (eds), *Bitter Flowers, Sweet Flowers: East Timor, Indonesia and the World Community* (Lanham MD: Rowman and Littlefield Publishers, 2001).

Farer, Tom J., 'The Promotion of Democracy: International Law and Norms', in Edward Newman and Roland Rich (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality* (Tokyo: United Nations University Press, 2004).

Fearon, James D. and David D. Laitin, 'Neotrusteeship and the Problem of Weak States', *International Security*, Vol. 28, No. 4, 2004, pp. 5–43.

Fox, Gregory H., 'Democratization', in David M. Malone (ed.), *The UN Security Council: From the Cold War to the 21st Century* (Boulder, CO: Lynne Rienner, 2004).

—— and Brad R. Roth (eds), *Democratic Governance and International Law* (Cambridge: Cambridge University Press, 2000).

Fox, James J., 'East Timor: Assessing UNTAET's Role in Building Local Capacities for the Future', paper presented at the Council for Asia Europe Co-operation (CAEC) Conference, 'Comparing Experiences with State Building in Asia and Europe: The Cases of East Timor, Bosnia and Kosovo', October 2001.

Franck, Thomas, 'The Emerging Right to Democratic Governance', *American Journal of International Law*, Vol. 86, No. 1, January 1992, pp. 46–91.

Freedom House, 'Freedom in the World 2008: Selected Data from Freedom House's Annual Global Survey of Political Rights and Civil Liberties', 2008. See www.freedomhouse.org.

Garrison, Randall, 'The Role of Constitution-Building Processes in Democratization: Case Study East Timor', International Institute for Democracy and Electoral Assistance, 2005, available at http://www.idea.int/conflict/cbp/, accessed on 24 September 2006.

Geddes, Barbara, 'How the Cases You Choose Affect the Answers You Get: Selection Bias in Comparative Politics', *Political Analysis*, Vol. 2, No. 1, 1990, pp. 131–50.

—— *Paradigms and Sandcastles: Theory Building and Research Design in Comparative Politics* (Ann Arbor, MI: University of Michigan Press, 2003).

George, Alexander and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge, MA: MIT Press, 2005).

Gheciu, Alexandra, 'International Norms, Power and the Politics of International Administration: The Kosovo Case', *Geopolitics*, Vol. 10, No. 1, 2005, pp. 121–46.

Gleditsch, Kristian Skrede, *All International Politics Is Local: The Diffusion of Conflict, Integration, and Democratization* (Ann Arbor, MI: The University of Michigan Press, 2002).

Goldstone, Anthony, 'UNTAET with Hindsight: The Peculiarities of Politics in an Incomplete State', *Global Governance*, Vol. 10, No. 1, 2004, pp. 83–99.

González, Francisco E. and Desmond King, 'The State and Democratization: The United States in Comparative Perspective', *British Journal of Political Science*, Vol. 34, No. 2, 2004, pp. 193–210.

Gorjao, Paulo, 'UNMISET's Hastily [sic] Replacement by UNOTIL in East Timor', May 2005, available at www.etan.org.

Greenlees, Donald, 'East Timor, Shaken by Attack on Leaders, Weighs Causes', *New York Times*, 14 February 2008.

Hainsworth, Paul, 'Conclusion: East Timor After Suharto – A New Horizon', in Paul Hainsworth and Stephen McCloskey (eds), *The East Timor Question: The Struggle for Independence from Indonesia* (London/New York: I. B. Tauris Publishers, 2000).

Halperin, Morton H. and Kristen Lomasney, 'Guaranteeing Democracy: A Review of the Record', *Journal of Democracy*, Vol. 9, No. 2, 1998, pp. 134–47.

Hitchner, Bruce, 'From Dayton to Brussels: The Story Behind the Constitutional Governmental Reform Process in Bosnia and Herzegovina', *The Fletcher Forum of World Affairs*, Vol. 30, No. 1, Winter 2006.

Hoge, Warren, 'Kosovo Independence Measure Withdrawn From U.N. Council', *New York Times*, 21 July 2008.

Hohe, Tanja, 'Local Governance After Conflict: The Community Empowerment Project in East Timor', unpublished paper, 2004.

Holbrooke, Richard, *To End a War* (New York: The Modern Library, 1998).

Hood, Ludovic, 'Security Sector Reform in East Timor, 1999–2004', *International Peacekeeping*, Vol. 13, No. 1, 2006, pp. 60–77.

Horowitz, David, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley, CA: University of California Press, 1991).

Huntington, Samuel P., 'The Modest Meaning of Democracy', in Robert A. Pastor (ed.), *Democracy in the Americas: Stopping the Pendulum* (New York: Holmes and Meier, 1989).

—— *The Third Wave: Democratization in the Twentieth Century* (Norman, OK: University of Oklahoma Press, 1991).

ICG, 'Elections in Bosnia & Herzegovina', Bosnia Report No. 16, 22 September 1996.

—— 'Republika Srpska: Poplasen, Brcko and Kosovo: Three Crises and Out?', Balkans Report No. 62, 6 April 1999.

—— 'Is Dayton Failing?: Bosnia Four Years After the Peace Agreement', Balkans Report No. 80, 28 October, 1999.

—— 'Starting from Scratch in Kosovo', Balkans Report No. 83, 10 December 1999.

—— 'Elections in Kosovo: Moving Toward Democracy', Report No. 97, 7 July 2000.

—— 'Kosovo Report Card', Report No. 100, 28 August 2000.

—— 'Bosnia's November Elections: Dayton Stumbles', ICG Balkans Report No. 104, 18 December 2000.

—— 'Turning Strife to Advantage: A Blueprint to Integrate the Croats in Bosnia and Herzegovina', ICG Balkans Report No. 106, 15 March 2001.

—— 'The Wages of Sin: Confronting Bosnia's Republika Srpska', Balkans Report No. 118, 8 October 2001.

—— 'Implementing Equality: The "Constituent Peoples" Decision in Bosnia & Herzegovina', Balkans Report 128, 16 April 2002.

—— 'Kosovo's Ethnic Dilemma: The Need for a Civic Contract', Report No. 143, 28 May 2003.

—— 'Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building', Balkans Report No. 146, 22 July 2003.

—— 'Collapse in Kosovo', ICG Europe Report No. 155, 22 April 2004.

—— 'Kosovo: Toward Final Status', Report No. 161, 24 January 2005.

—— 'Kosovo Countdown: A Blueprint for Transition', Europe Report No. 188, 6 December 2007, p. 8, fn. 54.

—— 'Kosovo's First Month', 18 March 2008.

IFES, 'Europe and Asia Report', July 1999.

Ignatieff, Michael, 'State Failure and Nation-Building', in J. L Holzgrefe and Robert O. Keohane (eds), *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003).

Independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford: Oxford University Press, 2000).

International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, at www.iciss.ca/report2-en.asp

IWPR, 'Cowboy Toughs It Out in Bosnia', 16 February 2001.

Jacobson, Harold Karan, 'ONUC's Civilian Operations: State-Preserving and State-Building', *World Politics*, Vol. 17, No. 1, 1964, pp. 75–107.

Jolliffe, Jill, *East Timor: Nationalism and Colonialism* (St Lucia: University of Queensland Press, 1978).

—— 'East Timor approves draft constitution', *Sydney Morning Herald*, 11 February, 2002.

Joyner, Christopher C., 'The United Nations and Democracy', *Global Governance*, Vol. 5, Issue 3, July–September 1999, pp. 333–57.

Judah, Tim, 'Ban's Kosovo Conjuring Trick', 16 June 2008, balkaninsight.com

—— 'Kosovo's Moment of Truth', *Survival*, Vol. 47, No. 4, Winter 2005–6, pp. 73–84.

—— *Kosovo: War and Revenge* (New Haven, CT: Yale University Press, 2000).

Kaela, Laurent C. W., *The Question of Namibia* (London: Macmillan, 1996).

Karl, Terry Lynn and Philippe C. Schmitter, 'Modes of Transition in Latin America, Southern and Eastern Europe', *International Social Science Journal*, Vol. 128, No. 2, 1991, pp. 269–84.

Keohane, Robert O., 'Political Authority After Intervention: Gradations in Sovereignty', in J. L. Holzgrefe and Robert O. Keohane (eds), *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003).

Killick, Tony, *Aid and the Political Economy of Policy Change* (London: Routledge, 1998).

King, Charles, 'The Benefits of Ethnic War: Understanding Eurasia's Unrecognized States', *World Politics*, Vol. 53, No. 4, 2001, pp. 524–52.

Knaus, Gerald and Marcus Cox, 'The "Helsinki Moment" in Southeastern Europe', *Journal of Democracy*, Vol. 16, No. 1, 2005, pp. 39–53.

Knaus, Gerald, Marcus Cox and Felix Martin, 'Lessons from Bosnia and Herzegovina: Travails of the European Raj', *Journal of Democracy*, Vol. 14, No. 3, 2003, pp. 60–74.

Kondoch, Boris, 'The United Nations Administration of East Timor', *Journal of Conflict Resolution and Security Law*, Vol. 6, No. 2, 2001, pp. 245–65.

Kovac, Janez and Edina Becirevic, 'Bosnia's Draft Election Law Exposes Dayton's Flaws', Institute for War and Peace Reporting, 2 November 1999.

Krasner, Stephen D., 'Sharing Sovereignty: New Institutions for Collapsed and Failing States', *International Security*, Vol. 29, No. 2, 2004, pp. 85–120.

Krastev, Ivan, 'The Balkans: Democracy Without Choices', *Journal of Democracy*, Vol. 13, No. 3, July 2002, pp. 39–53.

Kumar, Krishna (ed.), *Postconflict Elections, Democratization and International Assistance* (Boulder CO: Lynne Rienner, 1998).

Latal, Srecko, 'Bosnia's Leaders Discover the Joys of Compromise', 12 December 2007, balkaninsight.com

—— 'Bosnia Constitutional Reform: a New Deadlock', 6 February 2008, balkaninsight.com

Levitsky, Steven and Lucan A. Way, 'The Rise of Competitive Authoritarianism', *Journal of Democracy.* Vol. 13, No. 2, 2002, pp. 51–65.

—— —— 'International Linkage and Democratization', *Journal of Democracy*, Vol. 16, No. 3, 2005, pp. 20–34.

—— —— 'Linkage Versus Leverage: Rethinking the International Dimension of Regime Change', *Comparative Politics*, Vol. 38, No. 4, 2006, pp. 379–400.

Lewis, Ioan and James Mayall, 'Somalia', in James Mayall (ed.), *The New Interventionism 1991–1994: United Nations Experience in Cambodia, Former Yugoslavia and Somalia* (Cambridge: Cambridge University Press, 1996).

Lijphart, Arend, *Democracy in Plural Societies: A Comparative Exploration* (New Haven, CT/London: Yale University Press, 1977).

—— 'Constitutional Design for Divided Societies', *Journal of Democracy*, Vol. 15, No. 2, 2004, pp. 96–109.

—— and Carlos Waisman (eds), *Institutional Design in New Democracies, Eastern Europe and Latin America* (Boulder, CO: Westview Press, 1996).

Linz, Juan, 'Totalitarian and Authoritarian Regimes', in Fred I. Greenstein and Nelson W. Polsky (eds), *Handbook of Political Science*, Vol. 3 (Reading, MA: Addison Wesley, 1975).

—— and Alfred Stepan, 'Political Identities and Electoral Sequences: Spain, the Soviet Union and Yugoslavia', *Daedalus*, Vol. 121, No. 2, Spring 1992, pp. 123–39.

—— —— *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (Baltimore, MD/London: The Johns Hopkins University Press, 1996).

Lloyd, Grayson J., 'The Diplomacy on East Timor: Indonesia, the United Nations and the International Community', in James F. Fox and Dionísio Babo Soares (eds), *Out of the Ashes: Destruction and Reconstruction of East Timor* (Adelaide: Crawford House Publishing, 2000).

Lombardo, Caroline E., *The United Nations and Democratization, 1945–1996: Ideas, Institutions and Action*, D.Phil. Thesis, University of Oxford, 2004.

Lusa, 'National Council Members Explain Rejection of Quotas for Women', 16 March 2001.

Lutz, Nancy M., 'Constitutionalism as Public Culture in East Timor', paper presented at the Law and Society Association meetings, Pittsburgh, 7 June 2003.

Lyons, Terrence, 'The Role of Postsettlement Elections', in Stephen John Stedman, Donald Rothchild, and Elizabeth M. Cousens (eds), *Ending Civil Wars: The Implementation of Peace Agreements* (Boulder CO: Lynne Rienner, 2002).

Mahoney, James, 'Knowledge Accumulation in Comparative Historical Research: The Case of Democracy and Authoritarianism', in James Mahoney and Dietrich Rueschemeyer (eds), *Comparative Historical Analysis in the Social Sciences* (Cambridge: Cambridge University Press, 2003).

—— 'Path-Dependent Explanations of Regime Change: Central America in Comparative Perspective', *Studies in Comparative International Development*, Vol. 36, No. 1, 2001, pp. 111–41.

Malcolm, Noel, *Kosovo: A Short History* (Basingstoke: Macmillan, 1998).

Malone, David M., *The UN Security Council: From the Cold War to the 21st Century* (Boulder CO: Lynne Rienner, 2004).

Manning, Carrie, 'Elections and Political Change in Post-War Bosnia and Herzegovina', *Democratization*, Vol. 11, No. 2, 2004, pp. 60–86.

—— 'Local Level Challenges to Post-conflict Peacebuilding', *International Peacekeeping*, Vol. 10, No. 3, 2003, pp. 25–43.

Marko, Joseph, 'Constitutional Reform in Bosnia and Herzegovina 2005–06', *European Yearbook of Minority Issues*, Vol. 5, 2006/07.

Martin, Lisa L. and Beth A. Simmons, 'Theories and Empirical Studies of International Institutions', *International Organization*, Vol. 52, Issue 4, Autumn 1998, pp. 729–57.

Matheson, Michael J., 'United Nations Governance of Postconflict Societies', *The American Journal of International Law*, Vol. 95, No. 1, 2001, pp. 76–85.

Mayall, James, *The New Interventionism 1991–1994: United Nations Experience in Cambodia, Former Yugoslavia and Somalia* (Cambridge: Cambridge University Press, 1996).

—— 'Democratizing the Commonwealth', *International Affairs*, Vol. 74, No. 2, 1998, pp. 379–92.

McCargo, Duncan, 'Cambodia: Getting Away with Authoritarianism', *Journal of Democracy*, Vol. 16, No. 1, October 2005, pp. 98–112.

McCloskey, Stephen, 'Introduction: East Timor – From European to Third World Colonialism' in Paul Hainsworth and Stephen McCloskey (eds), *The East Timor Question: The Struggle for Independence from Indonesia* (London/New York: I. B. Tauris Publishers, 2000).

McFaul, Michael, *Russia's Unfinished Revolution: Political Change from Gorbachev to Putin* (Ithaca, NY: Cornell University Press, 2001).

McFaul, Michael 'The Fourth Wave of Democracy and Dictatorship: Noncooperative Transitions in the Postcommunist World', *World Politics*, Vol. 54, No. 2, 2002, pp. 212–44.

—— 'Democracy Promotion as a World Value', *The Washington Quarterly*, Vol. 28, No. 1, Winter 2004–2005, pp. 147–63.

McWilliam, Andrew, 'Performing Politics: The 2007 Parliamentary Elections in Timor Leste', *The Asia Pacific Journal of Anthropology*, Vol. 9, Issue 1, March 2008, pp. 66–82.

Moore, Patrick, 'Balkans: Worries over EU Enlargement', *RFERL*, June 6, 2005.

Moravcsik, Andrew, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (London: UCL Press, 1999).

Morrow, Jonathan and Rachel White, 'The United Nations in Transitional East Timor: International Standards and the Reality of Governance', *Australian Year Book of International Law*, Vol. 22, 2002, pp. 1–45.

Müller Wolfgang C. and Kaare Strøm, *Coalition Governments in Western Europe* (Oxford: Oxford University Press, 2000).

Munck, Gerardo L., 'Disaggregating Political Regime: Conceptual Issues in the Study of Democratization', Working Paper No. 228 (The Helen Kellogg Institute for International Studies, University of Notre Dame, 1996).

—— 'The Regime Question: Theory Building in Democracy Studies', *World Politics*, Vol. 54, No. 1, 2001, pp. 119–44.

—— and Carol Skalnik Leff, 'Modes of Transition and Democratization: South American and Eastern Europe in Comparative Perspective', *Comparative Politics*, Vol. 29, No. 3, 1997, pp. 343–62.

Neussl, Peter, 'Implementation of the Constitutional Court Decision on "Constituent Peoples" in Bosnia and Herzegovina', *Human Rights Law Journal*, Vol. 24, Nos. 9–12, 2003, pp. 309–21.

Newman, Edward and Roland Rich (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality* (Tokyo: United Nations University Press, 2004).

Niner, Sarah, 'A Long Journey of Resistance: The Origins and Struggle of CNRT', in Richard Tanter, Mark Selden, and Stephen R. Shalom (eds), *Bitter Flowers, Sweet Flowers: East Timor, Indonesia and the World Community* (Lanham, MD: Rowman and Littlefield Publishers, 2001).

Northedge, F. S., *The League of Nations: Its Life and Times 1920–1946* (Leicester: Leicester University Press, 1986).

O'Donnell, Guillermo, *Modernization and Bureaucratic-Authoritarianism: Studies in South American Politics* (Berkeley, CA: Institute of International Studies, University of California, 1973).

—— 'Illusions About Consolidation', *Journal of Democracy*, Vol. 7, No. 2, 1996, pp. 34–51.

—— 'On the State, Democratization, and Some Conceptual Problems: A Latin American view with Glances at Some Postcommunist Countries', *Counterpoints*: *Selected Essays on Authoritarianism and Democratization* (Notre Dame: University of Notre Dame Press, 1999).

—— and Philippe C. Schmitter, 'Tentative Conclusions About Uncertain Democracies', in Guillermo O'Donnell, Philippe C. Schmitter, and Laurence Whitehead

(eds), *Transitions from Authoritarian Rule: Prospects for Democracy* (Baltimore, MD: The Johns Hopkins University Press, 1986).

—— —— and Laurence Whitehead (ed.), *Transitions from Authoritarian Rule: Prospects for Democracy* (Baltimore, MD: The Johns Hopkins University Press, 1986).

O'Neill, William G., *Kosovo: Unfinished Peace* (Boulder, CO: Lynne Rienner, 2002).

Oxford Analytica, 'Europe Daily Briefing: Bosnia', 26 September, 2006.

Paris, Roland, *At War's End: Building Peace after Civil Conflict* (Cambridge: Cambridge University Press, 2004).

Parker, Tom, 'The Ultimate Intervention: Revitalising the UN Trusteeship Council for the 21st Century', Report of the Centre for European and Asian Studies, Norwegian School of Management, April 2003.

Pegg, Scott, *International Society and the De Facto State* (Aldershot: Ashgate, 1998).

Pevehouse, Jon C., 'Democracy from the Outside-In? International Organizations and Democratization', *International Organization*, Vol. 56, No. 3, Summer 2002, pp. 515–49.

—— *Democracy from Above: Regional Organizations and Democratization* (Cambridge: Cambridge University Press, 2005).

Pierson, Paul, 'Increasing Returns, Path Dependence and the Study of Politics', *American Political Science Review*, Vol. 94, No. 2, June 2000, pp. 251–67.

Pinder, John, 'The European Community and Democracy in Central and Eastern Europe', in Geoffrey Pridham (ed.), *Building Democracy: The International Dimension of Democratisation in Eastern Europe* (Leicester: Leicester University Press, 1997).

Pires, Milena, 'East Timor and the Debate on Quotas', IDEA, 2000, available at www.idea.int.

Ponzio, Richard, 'Transforming Political Authority: UN Democratic Peacebuilding in Afghanistan', *Global Governance*, Vol. 13, No. 2, 2007, pp. 255–75.

Pridham, Geoffrey, 'International Influences and Democratic Transition: Problems of Theory and Practice in Linkage Politics', in Geoffrey Pridham (ed.), *Encouraging Democracy: The International Context of Regime Transition in Southern Europe* (Leicester: Leicester University Press, 1991).

—— 'The International Dimension of Democratisation: Theory, Practice and Interregional Comparisons', in Geoffrey Pridham (ed.), *Building Democracy: The International Dimension of Democratisation in Eastern Europe* (Leicester: Leicester University Press, 1997).

—— (ed.), *Building Democracy: The International Dimension of Democratisation in Eastern Europe* (Leicester: Leicester University Press, 1997).

—— *The Dynamics of Democratization: A Comparative Approach* (London/New York: Continuum, 2000).

—— 'European Union Accession Dynamics and Democratization in Central and Eastern Europe: Past and Future Perspectives', *Government and Opposition*, Vol. 41, No. 3, 2006, pp. 373–400.

—— and Tom Gallagher (eds), *Experimenting with Democracy: Regime Change in the Balkans* (London and New York: Routledge, 2000).

Pridham, Geoffrey, Eric Herring, and George Sanford (eds), *Building Democracy: The International Dimension of Democratisation in Eastern Europe*, revised edition (Leicester: Leicester University Press, 1997).

Prlenda, Antonio, 'New international envoy in BiH to be the last . . . again', *Southeast European Times*, 9 July 2007.

Przeworski, Adam, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge: Cambridge University Press, 1991).

Ratner, Steven R., *The New UN Peacekeeping: Building Peace in Lands of Conflict After the Cold War* (New York: St Martin's Press, 1995).

Reilly, Benjamin, 'Post-Conflict Elections: Constraints and Dangers', *International Peacekeeping*, Vol. 9, No. 2, 2002, pp. 118–39.

Reka, Blerim, *UNMIK as an International Governance with Post-war Kosova; NATO's Intervention; UN Administration and Kosovar Aspirations* (Shkup, Prishtinë, Tiranë: Logosa, 2003).

Rose, Gideon, 'Democracy Promotion and American Foreign Policy: A Review Essay', *International Security*, Vol. 25, No. 3, Winter 2000/1, pp. 186–203.

Rozen, Laura, 'The Struggle for Legitimacy', *Salon Magazine*, 24 June 1999.

Rueschemeyer, Dietriech, Evelyne Huber Stephens, and John D. Stephens, *Capitalist Development and Democracy* (Cambridge: Polity Press, 1992).

Russett, Bruce, *Grasping the Democratic Peace* (Princeton, NJ: Princeton University Press, 1993).

Rustow, Dankwart, 'Transitions to Democracy: Toward a Dynamic Model', *Comparative Politics*, Vol. 2, No. 3, 1970, pp. 337–63.

Schmitter, Philippe C., 'The Influence of the International Context Upon the Choice of National Institutions and Policies in Neo-Democracies', in Laurence Whitehead (ed.), *The International Dimensions of Democratization: Europe and The Americas* (Oxford: Oxford University Press, 1996).

—— and Terry Lynn Karl, 'What Democracy Is . . . and Is Not', *Journal of Democracy*, Vol. 2, No. 3, 1991, pp. 75–88.

Schwarz, Adam and Jonathan Paris, *The Politics of Post-Suharto Indonesia* (New York: Council on Foreign Relations Press, 1999).

Sebastian, Sofia, 'Leaving Dayton Behind: Constitutional Reform in Bosnia and Herzegovina', FRIDE Working Paper #46, November 2007.

Shain, Yossi and Juan Linz, *Between States: Interim Governments and Democratic Transitions* (Cambridge: Cambridge University Press, 1995).

Shoesmith, Dennis, 'Timor-Leste: Divided Leadership in a Semi-Presidential System', *Asian Survey*, Vol. XLIII, No. 2, March/April 2003, pp. 231–52.

Shugart, Matthew S. and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992).

Silber, Laura and Allan Little, *The Death of Yugoslavia* (London: Penguin Books, 1997).

Snyder, Jack, *From Voting To Violence: Democratization and Nationalist Conflict* (New York: W. W. Norton, 2000).

Soltan, Karol, 'The United Nations and the Development of Constitutional Order', unpublished paper.

Southeast European Times, 'EU Reveals Plan for Kosovo, Backs Direct Talks Between Belgrade and Pristina', 19 July 2006.

—— 'Schwarz-Schilling Urges BiH Parliament to Enact Key Laws Before October Elections', 25 May 2005.

—— 'BiH leaders vow to prepare police reform package by mid-February', 12 December 2007.

Starr, Harvey, 'Democratic Dominoes: Diffusion Approaches to the Spread of Democracy in the International System', *Journal of Conflict Resolution*, Vol. 35, No. 2, 1991, pp. 356–81.

Stepan, Alfred, 'Paths Toward Re-democratisation: Theoretical and Comparative Perspectives', in Guillermo O'Donnell, Philippe C. Schmitter, and Laurence White-head (eds), *Transitions from Authoritarian Rule: Prospects for Democracy* (Baltimore, MD: The Johns Hopkins University Press, 1986).

Subianto, Landry Haryo, 'A State in the Making: The Role of UNTAET in East Timor', paper presented at the Council for Asia Europe Co-operation (CAEC) Conference, 'Comparing Experiences with State Building in Asia and Europe: The Cases of East Timor, Bosnia and Kosovo', October 2001.

Suhrke, Astri, 'Peacekeepers as Nation-Builders: Dilemmas of the UN in East Timor', *International Peacekeeping*, Vol. 8, No. 4, Winter 2001, pp. 1–20.

Tansey, Oisín, 'Democratization Without a State: Democratic Regime-Building in Kosovo', *Democratization*, Vol. 14, No. 1, 2007, pp. 129–50.

—— 'The Concept and Practice of Democratic Regime-building', *International Peace-keeping*, Vol. 14, No. 5, 2007, pp. 633–46.

Tanter, Richard, 'Ten Questions About East Timor for Which We Need Answers', paper presented at the 'Beyond the Crisis in Timor-Leste' conference, Australian National University, 9 June 2006.

Taylor, Andrew, 'Electoral Systems and the Promotion of 'Consociationalism' in a Multi-ethnic Society: The Kosovo Assembly Elections of November 2001', *Electoral Studies*, Vol. 24, No. 3, 2005, pp. 435–63.

Tornquist, Olle, 'Dynamics of Indonesian Democratisation', *Third World Quarterly* Vol. 21, No. 3, June 2000, pp. 383–423.

Tsingos, Basilios, 'Underwriting Democracy: The European Union and Greece', in Laurence Whitehead (ed.), *The International Dimensions of Democratization: Europe and The Americas* (Oxford: Oxford University Press, 1996).

Van Evera, Stephen, *Guide to Methods for Students of Political Science* (Ithaca, NY: Cornell University Press, 1997).

Walsh, Pat, 'East Timor's Political Parties and Groupings: Briefing Notes', Australian Council for Overseas Aid, April 2001.

Walter, Barbara, 'Designing Transitions from Civil War', *International Security*, Vol. 24, No. 1, 1999, pp. 127–55.

Weller, Marc, 'The Rambouillet Conference On Kosovo', *International Affairs*, Vol. 75, Issue 2, 1999, pp. 211–51.

Wheeler, Nicholas J. and Tim Dunne, 'East Timor and the New Humanitarian Interventionism', *International Affairs*, Vol. 77, No. 4, 2001, pp. 805–27.

White, Nigel D., 'The United Nations and Democracy Assistance: Developing Practice Within a Constitutional Framework', in Peter Burnell (ed.), *Democracy Assistance: International Co-operation for Democratization* (London: Frank Cass, 2000).

Whitehead, Laurence, 'Comparative Politics: Democratization Studies', in Robert E. Goodin and Hans-Dieter Klingemann (eds), *A New Handbook of Political Science* (Oxford: Oxford University Press, 1996).

—— 'Democracy by Convergence: Southern Europe', in Laurence Whitehead (ed.), *The International Dimensions of Democratization: Europe and The Americas* (Oxford: Oxford University Press, 2001).

—— 'The Three Dimensions of Democratization', in Laurence Whitehead (ed.), *The International Dimensions of Democratization: Europe and The Americas* (Oxford: Oxford University Press, 2001).

—— (ed.), *The International Dimensions of Democratization: Europe and The Americas* (Oxford: Oxford University Press, 2001).

—— *Democratization: Theory and Experience* (Oxford: Oxford University Press, 2002).

—— 'Democratization with the Benefit of Hindsight: The Changing International Components', in Edward Newman and Roland Rich (eds), *The UN Role in Promoting Democracy: Between Ideals and Reality* (Tokyo: United Nations University Press, 2004).

—— 'Freezing the Flow: Theorizing about Democratization in a World in Flux', *Taiwan Journal of Democracy*, Vol. 1, No. 1, 2005, pp. 1–20.

Wilde, Ralph, 'From Danzig to East Timor and Beyond: The Role of International Territorial Administration', *American Journal of International Law*, Vol. 95, No. 3, 2001, pp. 583–606.

—— *International Territorial Administration: How Trusteeship and the Civilizing Mission Never Went Away* (Oxford: Oxford University Press, 2008).

Wood, Nicholas, 'Early Results of Bosnia Vote Reinforce Ethnic Split', *New York Times*, 3 October 2006.

—— 'Future of Kosovo in Question', *International Herald Tribune*, 1 November 2006.

Woodward, Susan L., *Balkan Tragedy: Chaos and Dissolution After the Cold War* (Washington, DC: Brookings Institution, 1995).

—— 'Bosnia and Herzegovina: How Not to End a Civil War', in Barbara Walter and Jack Snyder (eds), *Civil Wars, Insecurity, and Intervention* (New York/Chichester: Columbia University Press, 1999).

Yannis, Alexandros, 'Kosovo Under International Administration', *Survival*, Vol. 43, No. 2, 2001, pp. 31–48.

Yannis, Alexandros, 'The UN as Government in Kosovo', *Global Governance*, Vol. 10, No. 1, 2004, pp. 67–81.

Youngs, Richard, *The European Union and the Promotion of Democracy* (Oxford: Oxford University Press, 2002).

Zaum, Dominik, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding* (Oxford: Oxford University Press, 2007).

Zuern, Elke K., 'Bibliographical Essay: The Genealogy of Democratization', in Lisa Anderson (ed.), *Transitions to Democracy* (New York: Columbia University Press, 1999).

······················

Interviews

······················

Alexander Anderson, ICG Kosovo Project Director

Idioa Aranceta, OSCE Election Office, Bosnia

Arsim Bajrami, Rector of the Pristina University Law Faculty, PDK Assembly Member and PDK Representative on Joint Working Group on the Legal Framework

Robert Barry, Former Head of OSCE Mission, Bosnia

Dietrich Becker, Deputy to Senior Deputy High Representative, Bosnia

Alexander Borg-Olivier, UNMIK Head of Legal Affairs, Kosovo

Jonathan Cubbon, UNMIK Legal Advisor, Kosovo

Roy Dickinson, EU Pillar Representative on Joint Working Group on the Legal Framework, Kosovo

Edouard D'Aoust, Head of Legal Office, OHR, Bosnia

Peter Galbraith, Former Head of Political Affairs, and Member of Transitional Cabinet, East Timor

David Haeri, Former Secretary to Transition Cabinet, East Timor

Graham Hand, Former British Ambassador to Bosnia

Munehiko Harada, Political Affairs Officer, UNMIK

Elizabeth Hume, Former Head of OSCE Secretariat, Bosnia

Adam Kanne, Former OHR Legal Advisor, Bosnia

Rebecca Kilhefner, OSCE Assembly Monitor, Kosovo

Minna Jarvenpaa, Former Advisor to SRSG Steiner, Kosovo

Sven Lindholm, OSCE Spokesperson, Kosovo

Johan van Lamoen, Chairman of the Joint Working Group on the Legal Framework, Kosovo

Gianni La Ferrara, Former OHR Legal Advisor, Bosnia

Nancy Lutz (via email), Head of Carter Center Observation Mission in East Timor

Leon Malazogu, KIPRED (Research Institute), Kosovo

Michael Maturo, USAID Office, Kosovo

Jens Modvig, Deputy Head of UNMIK Pillar III, OSCE, Kosovo

Jonathan Morrow, Former UNTAET Legal Advisor, East Timor

Peter Neussl, Former OHR Political Advisor, Bosnia

Gro Nysteun, Former OHR Legal Officer, Bosnia

Ruairí O'Connell, Second Secretary (Political), British Office, Kosovo

Wolfgang Petritsch, Former High Representative, Bosnia

Richard Ponzio, Former UNDP Democratization Team Leader, Kosovo

John Reid, Former Member of Provisional Election Commission, Bosnia

Blerim Reka, Civil Society Representative on Joint Working Group on the Legal Framework, Kosovo

Fatmir Sejdiu, Current President of Kosovo, and LDK Representative on Joint Working Group on the Legal Framework, Kosovo

Blerim Shala, Editor of *Zeri* Newspaper, Media Representative on Joint Working Group on the Legal Framework, Kosovo

Peter Sorensen, Former Advisor to SRSG Haekkerup, Deputy Head of UNMIK EU Pillar, Kosovo

Colin Stewart, Former UNTAET Political Officer and UNTAET Director of Political Affairs, East Timor

Johan te Velde, Director of Democratization, OSCE, Pristina, Kosovo

Franklin de Vrieze, Head of Assembly Support Initiative, OSCE, Kosovo

Alexandros Yannis, Former Advisor to UNMIK SRSG Kouchner, Kosovo

Index