

Conflict Transformation through State Reform

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1. Introduction: Reform is more than just changing administration

State reform and conflict are closely interrelated. While state reform can on the one hand be seen as a prerequisite for conflict transformation and sustainable peace, it can also easily become a source of conflict. The potential of state reform itself depends on the proper establishment of structures, values and attitudes that can enable the different groups within the society to handle their conflicts peacefully.

State reform must in any case encompass more than just a reorganisation of the administrative system or of the way in which resources are allocated. Rather, it must set the stage for the establishment of participatory and legitimised nation-building processes. By forging democratic development, the participation of the population and rule of law, it will also develop structures that can offer an effective means for the peaceful management of deep-rooted conflicts. As democracy takes root, it will itself have a pacifying effect since it is based on values such as pluralism, tolerance, inclusiveness and compromise, and because it helps to establish norms of behaviour such as negotiation, compromise and cooperation among the political actors.

Nevertheless, state reform can also have negative consequences. In situations of externally induced rapid change, it can well become a source of acute conflict, and provoke violent reactions on the part of the ruling regime. Poorly designed state reform can even lead to the deterioration of a conflict. In the case of Angola, for example, the resurgence of war after the peace accord of Bicesse was an unfortunate consequence of the prior establishment of a winner-takes-all system. State reform must therefore be seen as a 'tightrope walk', always seeking a fine line between conflict mitigation and crisis escalation.

This chapter will focus on the potential of state reform to prevent, to mitigate and to heal the effects of violent intrastate conflicts. Section II offers an overview of actual challenges in crisis regions, and describes some of the ways in which state reform can deal with these problems. In the following sections, these strategies will be discussed in more detail: section III addresses the possibilities of strengthening participatory processes; section IV deals with institutional reforms; and section V focuses on security sector reform. The article concludes with some open questions which deserve much more attention in the near future (section VI).

2. Challenges in Crisis Regions

While the number of armed conflicts between states has decreased in recent years, an increasing number of states are now torn by intrastate violent conflict. This development is linked closely to a new phenomenon that has emerged especially since the end of the Cold War: the failure of nation-states, characterized by a general breakdown of government, economic privation, civil strife and overall human misery (Helman & Ratner 1993).

This failure of states can be traced to a lack of *vertical* as well as *horizontal* legitimacy in these societies (Holsti 1991; Heinrich 2000). In the case of a lack of vertical legitimacy the connection

between the state and the society is severed. The common understanding and acceptance of the state elite's right to rule on the basis of a set of norms, rules and values is at least partially compromised. Horizontal legitimacy, on the other hand, refers to the membership and the definition of political communities. This kind of legitimacy is often lacking in war-torn societies characterized by ethnic struggle. In these countries, there is no positive notion of political community. The different ethnic groups share no national identity, so that they have no bond of loyalty or feeling of national unity (Soerensen 1998; Heinrich 2000).

In order to help these failed states to overcome civil struggle, to achieve economic development and to alleviate the human plight, it is necessary to enter into a process of reconstruction of the state. Traditional approaches for development assistance have proved to be woefully insufficient in these situations. Clearly, a more comprehensive approach is needed. A new political, economic and social environment must be established and society rebuilt.

One often cited catch-word in this context is 'good governance'. As defined by the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD/DAC), the good governance of a country consists of four core elements:

- rule of law;
 - management of the public sector;
 - anti-corruption;
 - reduction of excessive military expenditures;
- as well as three further associated elements:
- participatory development;
 - democratisation;
 - respect for human rights.

Good governance alone is of course not sufficient to meet the pre-conditions for sustainable peace and development, since it only serves to re-establish vertical legitimacy and does not yet provide for the horizontal legitimacy that can enable a plural society to function on the basis of a wide consensus on fundamental values. Thus, whole groups within such a state can still feel estranged from it and lack a common identity, one that would bind these different groups together as a nation.

International actors – be they inter-governmental organisations (IGOs) or non-governmental organisations (NGOs) – focus in particular on the following aspects of state reform: participation and democratisation, federalisation and decentralization, constitution and justice reform, security sector reform, and dialogue-oriented or intermediary institutions. These activities can be brought together into three threads, that summarise the most important challenges to state reform, and which will be discussed in detail in the following sections:

- the need to foster participation and democratisation in order to enhance social and political stability;
- the need for institutional reform in order to create and maintain a more durable societal fabric;
- the need for comprehensive security sector reform.

3. Participation and Democratisation

War-torn societies are typically characterized by a significant gap between the rulers and the ruled. It seems that if and when rebel movements assume power, they tend to follow more or less the same patterns of bad governance as did their predecessors. Quite often, Track I diplomacy (as

performed through direct talks between top leaders) is not feasible, because one or both sides refuse(s) to accept the other parties to a conflict as legitimate negotiation partners. Therefore, participation and democratisation are widely acknowledged to be essential to any serious effort at conflict transformation. This requires the successful resolution of various critical issues.

3.1 Participation of the rural population

If a transition process to peace and development is to be sustainable, it must enjoy the support of the entire population and not only of the political elite. Especially in societies in which 60% or more of the population are employed in the agricultural sector, it is critical to mobilize the people in rural areas, giving them the opportunity to participate in their own affairs at the lowest level possible (on the principle of subsidiarity). Rural citizens must be empowered to deal effectively with the socio-economic, environmental and communal issues that affect them, if they are to escape economic marginalisation, social decline, and, as a consequence, violence (for example cattle rustling in Kenya) or a general climate which encourages rebel mobilization (as in the Democratic Republic of Congo). Social mobilization must seek to strengthen the self-help abilities of vulnerable groups (*empowerment*), to make these vulnerable groups the owners of a self-sustaining peace and development process (*sustainability*) and also to lay the foundation for effective reconciliation and conflict resolution at the village level (*mediation*) (SLE 1999).

Ensuring the participation of the rural population is a process-oriented task, and thus also the necessary complementary counterpart to the structure-oriented approach of decentralization/devolution. This participation can be enhanced through specific programmes initiated by governments and/or international donors. One particularly promising approach starts with a participatory baseline study designed to provide an inventory of all available human and environmental resources. Within the normative framework of sustainable development, this action oriented research can then help to support projects which aim at improving agricultural practices, changing attitudes towards resource use and distribution, revitalising local mechanisms of conflict resolution, upgrading local infrastructure and creating off-farm opportunities and related training programmes for young people (Ghebru and Kohler 1999).

3.2 Strengthening the civil society

When civil society is absent or inactive, it is a clear sign of the dominance of an oppressive regime, in a nation likely to be characterized by widespread insecurity, and in which aggravated exploitation of ethnic and cultural differences is also likely to create a climate of distrust and suspicion. In contrast, a strong civil society can serve as a guarantee for a sound societal fabric, one that can support civil conflict resolution. Civil society encompasses all elements of active citizenship, reaching from the local level (for example, councils of elders), across the mid-level (NGOs, intellectuals), to the top level. It combines various societal sectors, including the business world, trade unions, women's associations, churches, peace and human rights activists, journalists and scientists.

Within the framework of multi-track diplomacy (Diamond & McDonald 1991) civil society may play a crucial role in building bridges between polarised groups, promoting dialogue and reconciliation across various societal levels, and fostering good governance at the official level. People-to-people talks, round tables, the creation of local capacities for peace, and cross-sector partnerships (such as The Prince of Wales Business Leaders Forum as described in Tennyson 1998)

are some of the vehicles that have been effectively employed. In failed states or in areas out of governmental control, civil society can also help to mitigate grievances, to lessen ethnic hatred, to build peace across cultures and to establish stable peace constituencies. A good example of this can be found in the peace initiatives undertaken at the end of the 1990s by the Angolan churches which worked hard to organize the civil society in order to overcome the political stalemate between President Dos Santos and the rebel leader Savimbi.

International NGOs and donors providing assistance to these countries must be sensitive to the constraints that civil society faces if they want to have any chance of contributing to stable and long term peacebuilding from below. Throughout all these activities, civil society enhances or even creates a moral community among the different groups or nations within a state's territory. In this sense, it assists in the societal and moral construction of a state, complementary to parallel efforts at legal construction.

If actors, however, are insensitive or perceived as pushy then their efforts at promotion or even artificial creation of the institutions of civil societies can easily, in themselves, constitute a trigger factor for crises – especially if and when external actors become involved. In particular it is poorly developed civil societies in the context of a repressive or democratically inexperienced regime that can trigger violent reactions from above, lead to the manipulation or fragmentation of citizen participation movements and, as a consequence, to the overall destabilization of the society.

3.3 Democratisation as a participatory process

While presidential and parliamentary elections have now been held in most countries of the developing world, democratisation processes are still fragile and underdeveloped. Bad governance and poor state performance quite often coincide with a leadership that has reached power through a coup d'état, secession or civil war. Since democracy is now known to be a necessary factor for stable peace (*see*, among many others, Muravchik 1996, 573) the promotion of open and participatory democratic processes that are acceptable for both the state and the civil society is itself a valuable contribution to crisis prevention and conflict transformation.

Dialogue-oriented development cooperation efforts must integrate adapted democratisation into any long-term, coherent and coordinated development strategies. Democratisation is a complex and gradual process, and must be adapted to national conditions. It is notoriously difficult to induce such fundamentally value- and norm-challenging processes from outside the society. However, once these efforts get started, there are many entry points to be addressed: the empowerment of individuals and groups; the strengthening of communities; support for organisations that can influence public affairs and the sponsoring of existing intermediary institutions which have proven their ability to deal peacefully with conflicting interests of different stakeholders. Beyond all of this, democratic decision-making of governments can provide the means and mechanisms for power-sharing, for control of decision-making, for the proper balancing of political and economic power and for the establishment or consolidation of democratic institutions such as political parties or a court system. Finally, legitimate and strong institutions must be efficient in installing transparent and just procedures, in resisting corruption and in the performance of their core functions to the benefit of all citizens.

Box 1: Democracy Support as offered by the International Institute for Democracy and Electoral Assistance (IDEA)

A good example of professional assistance in the promotion of democracy is the Stockholm-based International Institute for Democracy and Electoral Assistance (IDEA).

This international organisation, with members from both the North and the South, was created after the collapse of the former Soviet Union, as the wave of democracy swept over Eastern Europe. It has a global mandate to promote and advance sustainable democracy worldwide. While other international organisations have concentrated their efforts on helping to organize and monitor elections, IDEA focuses on providing a long-term strategy of democratic support beyond the first election. The Institute:

- helps countries to build the capacity to develop democratic institutions;
- develops and promotes norms, rules and guidelines that will apply to multi-party pluralism and democratic processes;
- promotes transparency, accountability, professionalism and efficiency in elections in the context of democratic development;
- provides a meeting-place for, and facilitates dialogue between, democracy practitioners around the world;
- increases knowledge about elections and election observation.

Source: IDEA Handbook (for further information see <http://www.idea.int>)

3.4 Dialogue-oriented and intermediary institutions

Political changes in former war-torn societies can be varied and far reaching, ranging from the decentralization of highly centralized or even authoritarian regimes to the fundamental rebuilding of weak or failed states with little or no central authority. What is common to all of these situations is that the civil society, because of the lack or breakdown of more established institutions, is forced to build on its own capacities.

Conflict resolution in this context must first of all deal adequately with dynamic changes of structures, also termed ‚process-structures‘. Within the framework of the transformation philosophy, conflicts are not to be regarded as isolated events to be addressed from a narrow managerial approach. Rather, they are a necessary and integral part of the transformation of the whole range of societal relationships. It is for this reason that the transformation of such process-structures is seen as the most appropriate method for intervention.

In short, a dialogue oriented approach is needed. A good way to achieve this might be found in the adoption of an *interactive problem-solving workshop* (IPSW), a specific type of third-party intervention which is particularly useful in situations of inter-group conflict. IPSW is an unofficial, academically derived third-party approach to the analysis and resolution of both international and domestic (inter-group) conflicts. It is anchored in social-psychological principles, and follows a scholar/practitioner model, focusing especially on the interaction between the parties. Such an approach aims to bring together politically influential members of conflicting parties in a private, confidential setting for direct, noncommittal communication. In the words of Herbert Kelman (2002, 62):

Workshops are designed to enable the parties to explore each other's perspective and, through a joint process of creative problem solving, to generate new ideas for mutually satisfactory solutions to their conflict. The ultimate goal is to transfer the insights and ideas gained from these interactions into the political debate and decision-making processes.

As applied to the question of state reform, IPSW might well take the form of an interactive institution building workshop. Such a modified interactive institution building workshop geared towards state reform in crisis prone areas would be aimed first of all at changing perceptions and

attitudes, at discovering shared interests underneath apparently contradictory positions, and at producing common ideas for the successful resolution of the problems of state reform and of the transformation of power structures.

A further challenge is the need to transfer these changes and ideas back into the political debate and decision-making processes within each constituency. This feeds into an adapted strategy, which aims to enhance both the vertical and horizontal legitimacy. The goal is to create an institutionalised 'culture of dispute' in the context of a generalized 'civic spirit', as expressed, for instance, in the following passage from the OECD/DAC report (1997, 37) report:

Broad acceptance throughout society of the legitimacy of the state and the credibility of the institutions of governance is a key aspect of forging such a civic spirit. When all people's human rights are respected, when society is governed by the rule of law, and when ordinary men and women are involved in the political process, resort to violence to effect political change is obviously less likely. Efforts to support participation, democratisation, and peacebuilding, through strengthened institutions of governance, are clearly interlinked.

The workshop, or a series of them, can be linked with different approaches and expert dialogues at the local as well as the national level, including, in particular, constitutional dialogue among all stakeholders, human rights monitoring and reporting, discussions about the rule of law and its implementation at all levels of the state, suggestions for the development and establishment of new institutions (organisational development), redesign of the state's administration and market-oriented reforms to alleviate poverty and achieve social justice.

While I have so far dealt primarily with state reform from the perspective of societal approaches necessary in order to induce the transformation of conflict-prone structures, the following sections will be addressed to the question of the reform of state constitutions and institutions in a more technical sense.

4. Institutional Reform

Institutional reform is critical for the reconstruction and democratic development of failed states. If we are to solve the problems caused by the breakdown of government and ensuing civil strife, structures must be established in order to re-legitimise state power and make the peaceful management of conflicts possible.

Institutional reform should ideally address at least the following areas: constitutional reform; power-sharing arrangements; devolution of power and decentralization; protection of minorities; rule of law, and human rights. All of these objectives are, of course, closely interrelated. Constitutional reform in particular addresses many of them immediately: the question of whether to establish federal structures goes, for example, hand in hand with the design of the constitution of a state. But power-sharing arrangements, devolution of power via federalism or autonomy and decentralization should be looked at individually and in greater detail, as the nature of their design can be of utmost importance for the success or failure of any post-conflict arrangement.

4.1 Constitutional reform

In many post-war societies, the reform of a pre-war constitution is usually one big step forward towards national reconciliation, inter-group rehabilitation and the avoidance of the mistakes of the past. In post-apartheid South Africa, for instance, the all-inclusive process of developing the

constitution proved to be of great value for confidence-building efforts between the black, white and other racial communities. The constitution is the cornerstone of the general rule of law. It determines the overall system for the living together of a people. It is thus also the starting point either for future turmoil or for societal stability and integration. It is possible to indicate guidelines which may be of help to donors as they seek to support the constitution-building process from outside, without intervening in such a way that the new constitution becomes a (new) bone of contention. The constitution-making process:

- must be *sensitive to the past*, to historic and cultural values, and to national and group identities;
- must also *break with the past*, in the sense that it does not incorporate principles that have hindered national reconciliation and democratic development;
- should be *all-inclusive* and the product of commissions made up of representatives of all the major stakeholders;
- should be the *result of a national dialogue*, linked with the widest possible public consultation process, such as civic education seminars, public debates, town and village meetings (as in Eritrea after 1993);
- should *address all the sensitive issues* that have led and could therefore once again lead to further grievances, instability and conflict.

Nevertheless, even the best-written new constitutions will not solve all problems; this is a fact which is all too often underestimated both by the international community and by national authorities. If group grievances and historic traumas are not taken seriously, then even a well-meant process of drafting a constitution can, unfortunately, lead to the further deterioration of a political situation (as in the case of Ethiopia and the Oromo population). If the interim period between the designing of a constitution and its implementation lasts too long, the transition will get stuck automatically. If the implementation of the constitution is not embedded in socio-economic and institutional transformation at the local level (as well as in political transformation at the medium and the top levels), it will probably not be worth the paper it is written on.

A democratic and transparent constitution-making process, however, can always be of great help in efforts to foster national education, develop a civil society, and promote citizens' responsibility and tolerance for and among different societal and identity groups.

Some of these sensitive issues which must be clarified and directly addressed include: power-sharing agreements; the political control of security forces; the integration of ex-combatants; democratic control of the security sector; dealing properly with past crimes against humanity; the discrimination of societal groups; access to resources and corruption. This list must include tasks that are directly related to security sector reform, which will be discussed in section V below.

Constitutional commissions must carefully delineate the boundaries of the state to be created. Is it to be a federal system with some delegation of power to the regions, or rather an arrangement that provides greater autonomy for certain groups in specific areas of the country (*see* section IV.3)? Is it to have a unitary (presidential) system, or a parliamentary system with multiple parties? In any case, former colonial powers – which quite often provide expert input for these discussions – should refrain from exerting undue influence, or, at the very least, always be aware of the fact that their own constitution may not always be readily adaptable to the situation in a war-torn country of the South. Attitudes characterised by the phrases „Winner takes all“ or „l'état c'est moi!“ have contributed more to maintaining protracted violence than to mitigating it, as in the cases of Rwanda and of the Democratic Republic of Congo. (For a discussion of the relative advantages of power-sharing arrangements in contrast to majoritarian democracy, *see* section IV.2).

Constitution drafters must consider a number of factors as they move to choose an

appropriate system of executive government. Both presidential and parliamentary systems have their advantages and disadvantages, and the important question is not which type is better but rather which is the most appropriate for a particular society with its particular social structure, political culture and history.

The principal difference between the presidential system and the parliamentary systems is the degree of relative independence that the executive branch of government enjoys. The former is characterized by a clear separation of the legislature and the executive, so that the latter is, by and large, independent. In parliamentary systems, in contrast, the legislative and executive branches are mutually dependent and inter-twined.

In the context of conflict transformation, however, another distinction is probably more important. Whereas in presidential systems authority is vested in a single person – the president – under a parliamentary system a broad range of parties and opinions can be represented within the executive. The obvious advantage of the latter is that it enables the inclusion of all groups within both the legislature and the executive. It is also true, however, that the inclusion of many groups and opinions also significantly increases the risk of deadlocks, as the different groups will find it increasingly difficult to agree on a coherent position on a variety of issues.

A presidential system can be quite favourable for conflict resolution, at least as long as the post of the president is held by a unifying national figure, who enjoys broad public support and thus becomes a „symbol of moderation of the ‚middle ground‘ between rival political groupings“ (Harris & Reilly 1998, 184). Such a unifying national figure might easily even be a monarch. On the other hand, the office of the president, with its single locus of authority, can also prove to be a disadvantage. This is especially the case when the presidency is in the hands of one political or ethnic group, ensuring them almost complete political power with only a limited proportion of the total vote. In these situations the president can become a symbol of ethnic domination, leading to an even deeper division in the society (see Harris & Reilly 1998, 179-190).

4.2 Integration of minorities through power-sharing

Many analysts have come to the conclusion that pure majoritarian democracy, under which the candidate with the highest number of votes is elected even if he or she does not have an overall majority, is ill-suited to deeply divided societies with ethnic tensions; they argue that specific arrangements which encourage power-sharing seem to be a more promising way to manage ethnic conflicts (see Sisk 1996). The reason for this is the very real danger of „majority dictatorship“ that can evolve from majoritarian democracy (see Lijphart 1985, 102). In such an institutional setting, minorities can come to fear a permanent exclusion from power, and will equate democracy „not with freedom or participation, but with structured dominance of adversarial majority groups“ (Sisk 1996, 31). Power-sharing, on the other hand, will ideally include in government all major ethnic groups, and assure them influence in policy on sensitive issues of legitimate concern to them, such as language use and education.

Practitioners distinguish between two fundamental approaches to power-sharing in a democracy: the *group building* approach and the *integrative* approach (see Harris & Reilly 1998, 140-146; also Sisk 1996, 34-45). The group-building approach (also referred to as *consociationalism*) views groups (usually ethnically homogenous political parties) as the basic building blocks of a common society, and therefore works first to secure the cooperation of ethnic group leaders. Elites form multiethnic coalitions after elections, with groups regarded as autonomous and minority rights guaranteed. Other key characteristics of this approach to power sharing are federalism and devolution

of power to ethnic groups in the territories that they control, minority vetoes on sensitive issues and proportionality in all spheres of public life.

For several reasons, the group-building approach to power-sharing can also be criticized. First, it is dangerous because of its assumption that elites can effectively regulate conflict in divided societies; second, it brings with it a real further danger of reinforcing and entrenching ethnicity in the political system; and third, its design remains fundamentally anti-democratic (e.g. a grand coalition and the absence of an opposition).

The integrative approach is characterized first of all by its declared purpose of promoting social integration across group boundaries in order to overcome the ethnic divisions of a society. Parties are therefore encouraged, for example, to form coalitions across ethnic lines before standing for elections. Other characteristics of this approach are non-ethnic federalism that aims to diffuse points of power, promotion of intra-ethnic competition, electoral benefits as inducements for inter-ethnic cooperation and policies designed to encourage alternative social alignments. Potential weaknesses of this approach are the, perhaps, unchecked assumptions that politicians will always respond to incentives and that citizens will readily vote for parties from outside their own ethnic group.

There is, in the end, no single model for power-sharing democracy that is guaranteed to secure stability and peace. Different kinds of society require different types of institutional design. In addition to making use of the two ideal types of power-sharing discussed above (the group-building and the integrative approaches) practitioners should explore the whole range of power-sharing options, piecing them together in a way that best fits the conditions of a given conflict.

Unfortunately, even the best institutional design can fail when conditions are unfavourable: „For power-sharing democracy to work, there must be a sufficiently strong core of moderates – including both political elites and the broader civil society – that seeks pragmatic coexistence in a multi-ethnic society“ (Harris & Reilly 1998, 143).

4.3 Territorial divisions of power: federalism, devolution and autonomy

Since many conflicts centre on the competition for state control, adjustments to the structure of the state can help to de-escalate these conflicts, especially those involving devolution of power. Federalism, devolution and the introduction of local and regional autonomy are all appropriate ways to devolve power. Federalism is an arrangement under which power is devolved equally to all regions, and in which each region maintains an identical relationship to the central government. An alternative construction is asymmetrical federalism. Here, one or more states of the federation are vested with special powers not granted to other provinces, to allow for preservation of the culture and language of its inhabitants. Autonomy is characterized by self-rule and administration by a regional entity, with some degree of independence granted by the central government in areas that do not question the status of the state as a whole (Harris & Reilly 1998, 156; Elazar 1994, xvi). Both federalism and autonomy grant to minorities at least some degree of state power and thus enhance their prospects for preserving their own culture. These arrangements are therefore well suited for the defusing of tension in conflicts involving minorities (*see* Harris & Reilly 1998, 161).

Federalism can serve consociational as well as integrative purposes. The distinctive question here is whether the territorial units also coincide with communal boundaries (*see* section IV.2). Despite the obvious advantages of federal structures and of allowances for autonomy, there is some resistance to these kinds of arrangements in states with ethnic conflict. This is primarily due to difficulties around the redistribution of resources. Majority leaders are first of all afraid of losing power and electoral support within their own community. Apart from that, they fear that autonomy

might well lead to secession, or that other communities might feel encouraged to mobilize for autonomy as well (*see* Harris & Reilly 1998, 163).

As is the case with any political and social institution, federalism can easily degenerate: the case of Nigeria is perhaps the best example of this. Federalism has all too often been misinterpreted by leading political elites as some sort of order established from above – the central power – that everyone, at all levels and in all regions, is obliged to accept. For this reason, federalism now carries some fairly strong negative connotations for many of those subjected to it, and is described by them in terms of power struggle, asymmetric power distribution and the reinforcement of the significance of ethnic divisions.

To be instituted properly, federalism therefore needs of guidelines. The Charter of Basel, a document drawn up as a result of the international conference on *Federalism Against Ethnicity* held in 1995 (on the occasion of the 50th anniversary of the United Nations (UN) suggests, inter alia, two guiding principles (Baechler 1997, 319):

- Federations should guarantee the cooperation and independent self-determination of territorial groups in the framework of a pluralistic structure which functions from the bottom up, on the principle of subsidiarity (para 14).
- The members of a federation should have at their disposal the maximum amount of autonomy in the greatest variety of sectors. Furthermore, federal structures should distinguish themselves by allowing the greatest possible scope for the side by side existence of differing social values (para 15).

4.4 Accountability through decentralization

Decentralization is neither a panacea to achieve conflict transformation nor a guarantee for the protection of minority rights. If it is perceived by rigid elites as a threat to their central power (and especially to the allocation of resources), decentralization can well lead both to the mobilization of war-constituencies and to the rise of separatist movements. Thus, decentralization can provoke new conflicts at local levels, degrading social services and state performance, and opening the gap for the widespread corruption of local elites.

If this is not to occur, decentralization will need to be driven by a power-sensitive, process-oriented and balanced strategy, one thoroughly informed by national and local circumstances. That strategy must first of all generate a commitment to decentralization on the part of all the major actors, thereby stimulating broader participation in political decision-making. To the extent that it can improve the responsiveness of the central administration and effectively introduce the principle of subsidiarity, decentralization can then indeed enhance the accountability and legitimacy of a government, while at the same time strengthening local self-help capacities.

The OECD/DAC (1998, 58) lists four different channels for donor support for decentralization:

- provide specialized technical assistance in the field of planning, administration, resource allocation, etc.;
- clarify functional responsibility between central and local levels of government (including fiscal revenues and tax systems);
- strengthen organisational capacities of representative intermediary bodies such as regional Parliaments, local councils, etc.;
- enhance the representation of marginalized groups in civil service posts at all levels of the administration (including affirmative action).

In terms of peace promotion, decentralization only makes sense in the context of an overall qualitative change of structures and institutions. In many developing and transitional states, it is in fact less a process of decentralization (as evident, at least in part, in France during the last ten years) that can make a difference but rather a kind of reconstruction of state functions from below, one designed to prevent an autocratic re-centralization of power.

4.5 Protection of minorities

Since the end of the Cold War, we have increasingly come to question the common assumption that state territory must at least *prima facie* be preserved as it exists now. Consequently, we have, in many places, recognised a reassertion of alternative identities to national ones. The Minorities at Risk Project has, for instance, now identified 273 politically organized non-state identity groups that claim they have been subjected to discriminatory treatment by other (dominant) groups or stake-holders, or that have been mobilized for political action in order to defend their identity and to establish a platform for the expression of their group-interests (*see* Gurr 1997, 5). Certainly the protection of minorities – whether on the national or the international level – is essential if we are to prevent violent conflicts arising from the creation of separatist movements.

On the international level, international law unfortunately fails to provide comprehensive and adequate mechanisms for dealing properly with violations of minority rights. The UN Charter did not adopt the minority regime of the League of Nations and therefore it must now chiefly rely on a list of individual human rights, to which persons belonging to a violated or oppressed minority can appeal (*see* Heintze 1997, 444). The Organisation for Security and Cooperation in Europe (OSCE), on the other hand, has made more progress on this issue. This regional organisation has developed more detailed norms than those put forward by the UN, although these also only cover individual rights and are not legally binding. In particular, the Copenhagen Document: *The Human Dimension* of the Conference for Security and Cooperation in Europe (1990), emphasizes the need to protect ethnic, cultural and religious minorities, and proposes a comprehensive set of rights from the free use of the mother tongue language to the right to form cultural organisations and the right of organisational freedom (*see* Dicke 1995, 246).

A further milestone in the fight for the protection of minorities is the 1991 *Moscow Document*. Here, the signatories affirm that commitments entered into under the rubric of the „Human Dimension of the OSCE“ remain matters of direct and legitimate concern to all participating states, and may therefore not be regarded as the exclusive internal affairs of individual states (*see* www.osce.org).

The OSCE has also established mechanisms for the review of the implementation of commitments (the mechanism on the human dimension), as well as practical instruments that allow for better protection of minorities. Especially the institution of the High Commissioner on National Minorities (HCNM) has evolved into a flexible and effective tool for early warning and preventative action in cases where minority conflicts could pose a threat to regional security. Max van der Stoep, who held the post of the HCNM from 1992 to 2001, engaged effectively in a number of potentially violent situations, working to facilitate talks between representatives of conflicting parties, and giving useful advice for the proper handling of minority-related problems (such as the promotion of native languages). Long-term missions are the other operational instrument of the OSCE. These are aimed, among other things, at the protection of minorities, and have often helped to de-escalate ethnopolitical conflicts.

On the national level, the protection of minorities should be examined in three areas of jurisdiction: first, the legal status of minorities; second the degree to which there are institutional

arrangements such as the establishment of an office for minority questions or special participatory rights and, third, the extent of state sponsored activities designed to promote minorities (mainly in the field of education and culture) (*see* Dicke 1995, 243).

4.6 The rule of law

Ineffective justice systems unfortunately encourage people to take the law into their own hands. If this is to be prevented, justice systems must effectively protect, support and promote the rights of individuals within their societies, and be accessible to all. They must be impartial and politically independent. Governments have unfortunately all too often failed to acknowledge the value of the rule of law; neither have they been open to dialogue with external intervenors on this issue. In the course of socio-economic development, the advantages of the rule of law should become quite clear, at least to the liberal and globally oriented political and business elite that is thereby created in the society. The justice system is a basic responsibility of the state, and its proper functioning is crucial to the country's sovereignty.

A number of international standards have recently evolved to define the precise meaning of the rule of law (*see* Box 2). These offer an excellent road map for those involved in conflict transformation. Moreover, a growing body of UN Conventions and Reports has further elaborated these standards, dealing mainly with the questions of criminal procedures, free elections, the independence of judges and lawyers and compensation for victims of abuse.

Box 2: OSCE Catalogue of Political Standards

The OSCE has produced the most comprehensive catalogue of political standards to date, that provides useful guidance to its 53 member states. These criteria could easily be applied to other regions as well. They include:

- a representative government in which the executive is fully accountable to the elected legislature or to the electorate;
- the duty of the government to act in compliance with the constitution and the law;
- a clear separation between the state and the political parties;
- accountability of the military, the police, and other forces to political authorities;
- consideration and adoption of legislation by public procedure;
- publication of administrative regulations as a condition for their validity;
- effective means of redress administrative decisions, and provision of transparent information to the person(s) affected on the remedies available;
- an independent and easily accessible judiciary;
- protection of the independence of legal practitioners.

Abridged from Conference for Security and Cooperation in Europe (CSCE) 1990

Development cooperation can be effective in helping to develop and establish mechanisms that foster human rights, improve non-discriminatory access to legal and judicial services and promote civil conflict resolution. In many countries of the South, weak legal systems can be supported by still robust traditional codes of social conduct, upheld by village courts and councils of elders.

The OECD/DAC (1998, 61) has recommended that practitioners focus international assistance on four principal aspects of the rule of law:

- Formal law and justice institutions (courts, ombudsmen, law reform commissions, prison services);
- Communal and traditional law enforcement and dispute resolution;
- Other agencies which operate in areas of communal conflict (especially resource management);
- Facilitation of access to legal systems for individuals and groups.

There is a need for both great flexibility and great sensitivity when it comes to proposing and executing changes in a country's legal system. Project design, support for monitoring mechanisms and professional training must all be linked in ways that are appropriate to the context.

4.7 Human rights

At the core of both state reform and the rule of law must be the protection and further development of human rights. Experience has shown that in times of war and acute conflict within states, this is the area most affected and the least protected. It was the endemic abuse of human rights in many countries that led to the World Conference on Human Rights, held in Vienna in 1993. There, the participants emphasized the crucial role that national institutions could and should play in the promotion and protection of human rights. They defined these as also including the promotion and protection of minority rights (the individual rights of persons belonging to a group).

The responsibilities of these institutions are primarily to submit recommendations, proposals and reports on any matter relating to human rights (and their violation) to the government, parliament, and any other competent bodies including NGOs. They should urge conformity of national laws and practices with international human rights standards. They might further encourage parliamentary ratification and political implementation of these international standards. They should help to implement the reporting procedures required under international instruments. They might assist in formulating and executing human rights teaching and research programmes, working to increase public awareness of human rights through information and education. Finally, they will need to cooperate with the UN, regional institutions such as the African Union, and with the national institutions of the country (Center for Human Rights 1995).

These principles must be faithfully implemented if they are to be effective. The Vienna Conference therefore also proposed some specific functions and procedures which any national human rights system should have and follow:

- seeking amicable redress of alleged rights violations through conciliation, binding decision or other means;
- informing the complainant of his or her rights and of available means of redress and promoting access to such redress;
- hearing complaints or referring them to a competent authority;
- making recommendations to the competent authorities, including proposals for amending laws and regulations that obstruct the free exercise of human rights.

Box 3: Country-related Means and International Mechanisms for the Protection of Human Right

Country-related means (a selection):

- high national standards for human rights legislation and practice (minorities);
- open bilateral political dialogue (standards, evaluations);
- specific (behind the scene) dialogue with difficult countries;
- political intervention (conditionality, sanctions, public declarations, reporting);
- specific mandates (human dimension in the Middle East peace process);

- experts for monitoring, fact-finding and truth missions;
- strengthening civil society & human rights activists;
- International mechanisms (a selection):
- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Covenant on Civil and Political Rights;
- Optional Protocol to the International Covenant on Civil and Political Rights;
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention on the Prevention and Punishment of the Crime of Genocide;
- Geneva Convention relative to the Protection of Civilian Persons in Time of War.

(Additional Protocols I and II)

The principles and suggestions put forward by the Vienna Conference further include detailed guidelines on the proposed composition of national institutions, on guarantees of independence and on methods of operation – also in conjunction with ombudsmen and NGOs. Development agencies and donors can draw from this catalogue, but without ever losing sight of specific local and cultural conditions (especially with regard to both major constraints and windows of opportunities).

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5. Security Sector Reform

The security sector plays an especially crucial role in the future development of post-war societies. In particular, the active support of the police and the military is crucial for the implementation of cease-fires and peace agreements, and hence for the consolidation of peace.

Nevertheless, the security sector can also pose a threat to a peace process. This is especially the case when security institutions (military and paramilitary forces, police forces and intelligence services) do not view themselves as subject to the rule of law, or when they are used by conflicting parties as instruments to advance their particular interests. It is security forces that are often responsible for the grossest violations of human rights, including torture, political crimes and the general oppression of the population.

Equally damaging to peace efforts can be a security sector that is simply ineffective. If the security of communities and individuals cannot be guaranteed by those charged with that task, both individuals and groups will increasingly take their protection into their own hands. The consequences are an increase of criminal violence, a proliferation of small arms and the emergence of private armies.

The reform of the security sector is thus often an indispensable task. While the main issue at stake is the (re-)establishment of the state's monopoly on power, supported by appropriate political and democratic controls, a number of further steps are also necessary. All together, the reform of the security sector should encompass activities on four levels (*see* GTZ 2000, 30-31):

- Reform activities on the *political level* aim to enhance the accountability of the security sector. Parliament and government must work together to control and monitor the armed forces. Civil society needs to be strengthened, with particular support for NGOs and the media in an effort at increasing overall transparency.
- The *economic level* of security sector reform includes measures such as disarmament, conversion and the reintegration of former soldiers.
- The *societal level* of the reform endeavour seeks to increase public security by controlling the spread of small arms and by combating the illegal trading of weapons.
- On the *institutional level*, security sector reform must work to 'professionalise' the security forces, redefining doctrine and missions and encouraging respect for the rule of law and for human rights within security sector organisations.

Obstacles to security sector reform in fragile democracies and weak states are many. Often, there is a tendency to view security in an authoritarian and militarist fashion, and there may well be resistance to reform from politicians and/or military officers. Military elites are sometimes subject to manipulation by foreign powers and neighbouring states. Quite often, there is a generalized culture of violence in countries vulnerable to endemic civil wars. 'Markets of violence' can emerge from war economies in countries with a history of civil wars, criminal violence, mercenaries and demobilized soldiers without income or land.

Other problems that can affect the success of security sector reform are the complexity of the reform, a lack of expertise and a lack of capacity. These factors mutually reinforce each other: the problem of complexity is compounded by a lack of organisational, managerial and financial expertise within a government. This is particularly the case if decision-makers are not familiar with international debates on security and defence and with the range of policy options from which they can choose. Even the best reform endeavour can fail if a state lacks the institutional capacity to implement it (*see* Nathan 1999, 7).

It goes without saying that international intervention in the security sector reform is a highly delicate endeavour. It needs to be combined with a general policy dialogue, with efforts at conflict transformation at all levels of the society, as well as with economic development aid. In addition to support for disarmament, demobilization and the reintegration of former combatants, security sector reform efforts must also include operational training of civilian security analysts in order to staff government posts and to fulfil monitoring functions.

A further necessary element of this reform centres on military and police education systems, with an emphasis on the goals of democratic education and societal organisation. Adherence to international security standards should also be furthered through the international exchange of security personnel (exchanges, courses and trainings with international academies such as the International Geneva Centre for Security Policy). A fourth element is the necessity to stop any extra-legal or criminal forms of recruitment to the security forces. Finally, the security sector management and budgeting must be made transparent.

6. Summary and Outlook

This chapter has offered an overview of the most important facets of state reform. There is, of course, still considerable scientific as well as political uncertainty about just what type of state structures and institutions are most likely to protect a society against violence and the outbreak of open conflict. More in-depth as well as comparative analyses of this question are certainly necessary.

There is widespread agreement among scholars that democracy is a necessary condition for stable peace. The debate centres on whether it is also a sufficient condition, and which factors must be combined in order to prepare the ground for a constitution that will insulate the society

BOX 4: A Model of State Reform and Conflict Transformation				
		Aspects of Crisis-Resistant and Less Violent-Prone Transition Processes		
		Strategic Approaches		
Vertical Legitimacy	Credible Institutions	Participation & Democratisation	Institutional Reform & Human Integrity	Security Sector Reform
		Participation of rural population	Inter- and trans-national protection of minorities	(Re)establishment of monopoly of power
		Strengthening civil society	Accountability through decentralisation	Objective & subjective civilian control
		Democratisation as participatory process	Integration of minorities through devolution & federal structures	Minimal resource use by the societal sector & professionalisation
		Dialogue oriented intermediary institutions	Constitutional & justice reform (human rights)	Physical security (for the population)
		Good Balance and Distribution of Social & Economic Resources		
		Membership to a Community of People & of Citizens		
		Horizontal Legitimacy		

against violence.

Box 4 can only therefore serve as a summary, and cannot pretend to be the last word on this question. The table seeks to synthesize some of the measures addressed above, and thus to serve as a general model to guide practitioners seeking to set priorities as they move to make interventions in this important area.

Let us conclude on three open areas that involve the relationship between state reform, democracy and a stable peace that certainly merit further scientific and empirical work. In the author's view, future theoretical and applied research should pursue three tracks:

- Basic research on the indicators of a culture of dispute. This requires stocktaking of, and comparative research into, conflict transformation mechanisms and institutions in apparently

- peaceful societies, as contrasted with those in war-torn or war-prone societies;
- Evaluation of participatory approaches to dispute settlement which are specifically designed to mitigate poor state performance, to complement the rule of law and to overcome structural societal shortcomings that may induce conflict;
 - Implementation of a culture of dispute as an element of a reformulated and enriched concept of good governance, one that could then be implemented by OECD/DAC and other (multilateral and bilateral) actors.

Some of the questions which still remain in this context are:

- Is there such thing as ‚democratic peace‘; if so, which factors are important to it?
- How can a culture of dispute be established or preserved in times of radical societal transition and/or rapid change?
- Which specific institutions, structures, or channels can be activated in order to strengthen a culture of dispute in multiethnic societies?
- In our quest for the right structure and dynamics of a peaceful dialogue in pluralistic societies, how can capacities for consensus be built up within the framework of an enriched concept of good governance?
- What are some adapted ways and means to strengthen anticipatory governance in the sense of crisis prevention and violence mitigation?

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