From War to the Rule of Law
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From War to the Rule of Law

Peacebuilding after Violent Conflicts

Joris Voorhoeve

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Front cover illustration: US Army Soldier helps an Iraqi policeman to adjust his armband in Falluja, June 2003. © Reuters / Radu Sigheti

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“The long-term goal of relatively well-ordered societies should be to bring burdened societies and outlaw states into the Society of well-ordered Peoples.”

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PREFACE

The vocation of the Dutch Scientific Council for Government Policy is to make sure that the results of important scholarly work find their way into the realm of political decision-making. Democracy is as much about power as it is about learning. In order to pursue future-oriented policy-learning, the council favours research-informed dialogues between those who have the time to do research and those that have accepted the responsibility to design policies and to make decisions. In this book, the subject matter of these policies and decisions is as important as it is complex and challenging: the domain of international peace-building operations. These operations, many of which are systematically explored and evaluated in this study, most of the time follow many years of violent conflicts and civil wars, atrocious assaults on human dignity and international military intervention. Many countries and policymakers have experienced the dilemmas and uncertainties that accompanied these operations, that have often not been much of a success.

The author of this book, professor Joris Voorhoeve, serving as a member of the Dutch Council of State, is especially qualified and motivated to contribute to this important field of study. Having served not only in politics (notably as minister of Defence during the tragic failure of UN peace-keeping efforts in Bosnia), but also as a professor of international relations at Leyden University, he whole-heartedly accepted the invitation to contribute to the body of knowledge that might help us to improve our efforts to make future peacekeeping and building missions more successful. Such an effort demands an interdisciplinary and future-oriented approach, one that dares to transcend and challenge the usual divisions of policymaking routines and responsibilities.

The Scientific Council is proud to be able to publish the results of the research that Voorhoeve was carrying out as a special guest of the Council. Indeed, the most vexing questions of political and other social sciences are how political violence can be avoided, how conflicts can be settled peacefully and how the safety of human beings and their basic rights can be ensured. Voorhoeve explores these urgent and difficult questions which need to be solved after a country has been ravaged by war. Most war-torn societies return to political violence within a few years. Wars, civil wars and other forms of contemporary political violence tend to repeat and multiply themselves. To make the 21st century more peaceful than the 20th, it will be essential to better diagnose the pathology of different types of wars, and develop more effective therapies for building sustainable peace.

The most rewarding approach is, of course, prevention of armed conflict. Where prevention failed, a curative approach is needed to prevent a relapse of war. This study focuses on the curative approach: how to rebuild a war-torn country in such a way that the causes of the violence are reduced or removed.
As many decision makers and scholars already found out, this is a vast and complex area. The present study explores the many questions with the aim to suggest policy improvements. Peacebuilding can be most effective as a joint effort of the population concerned with the aid of many members of the international community. Also today, the Netherlands participates in several peace operations in the world and is also engaged in civilian peacebuilding. The author has suggested, on the basis of his research, a series of recommendations that will help to improve decision making. As a center of international law, the Netherlands can especially focus on assisting war-torn countries to (re-) build the rule of law which is essential for sustainable conditions for human dignity, good governance and peaceful conflict settlement. The council hopes that this study will be of great use for all those involved in this important responsibility.

Prof. dr. W.B.H.J. van de Donk
Chairman of the council
“Currently, half the countries emerging from violent conflict revert to conflict within five years”.

Kofi Annan, *In Larger Freedom*, UN Doc. 59/2005

War, civil war and other political violence often revisit countries after brief periods of ‘peace’ or armistice. Some countries are ravaged by multifarious violent conflict during two to four decades. Many cease-fires and peace agreements do not cure the underlying social pathology which led to the bloodshed in the first place. I started this study to explore how a country which has gone through civil war might be helped to avoid the next war.

The journey which this explorative study maps out begins at the cease-fire line. It proceeds through the rough and risky terrain of post-war looting, military rule, interim government, and ‘transitional’ justice. We will pass refugee camps and come across heinous war criminals. Our destination is the promise of a peaceful state in the distance, where stable and possibly good governance gives comfort to the traveller. Grave threats to basic human rights dominate the entire region. The grey zone between war and peace is a source of life-threatening problems, not only to its inhabitants, but also to people in distant countries, far away from the violence.

Around the turn of the twentieth to the twenty-first century, it became clearer than ever before that war, civil war and massive, violent political crimes in a state anywhere in the world can also pose risks to the well-being of other states, even on different continents. In the era of global communications, the news about political violence travels fast. Streams of refugees knock on the doors of other states. The effects of different forms of terrorism, violent and oppressive governments, failing or collapsing states, widespread, abject poverty and virulent, endemic diseases, as well as other sources of instability, can hardly ever be contained to the areas of origin.

National stability and legal order, including human rights, suffer from lawlessness and instability of states elsewhere, as well as from the volatility of the world’s political system. The serious deficiencies which exist in the maintenance of human rights in many regions have a troublesome impact on stable states which are trying to uphold those rights. Anarchy, violence and the absence of the rule of law in several states undermine the maintenance of the global legal order.

The imperative of human solidarity prompts us to help avoid violence. It is not only in the enlightened interest, but also in the narrower self-interest of well-developed societies that try to respect all human rights, to foster the rule of law in other societies. There can be no solid international peace without legal order.
There is no effective legal world order when its foundations, the legal order of stable states, are holes or crumbling stones. Encouraging effective states, based on the rule of law, is a major task of foreign policy and civil society.

Fostering the rule of law in foreign societies is a daunting task, however. The efforts of the international community to help build up the rule of law in other states are not always successful. The assistance by the United Nations, the European Union, NATO and many other international bodies, as well as many donor countries and humanitarian or legal assistance organisations are often late, weak, short, divided or ill-designed. Three examples from the mid-1990s illustrate this point.

In 1994 the UN Security Council decided not to provide additional peacekeepers for Rwanda, after a multilateral peace operation in Somalia had become a fiasco. While the UN turned a blind eye to Rwanda, about 800,000 people were killed in a genocidal wave of politically mobilised group hatred. 1

In 1995, when the UN’s peacekeeping effort in Bosnia collapsed, two enclaves, Srebrenica and Zepa, full of Bosnian refugees, were overrun. UN blue helmets from the Netherlands were unable to prevent this. The Serb attackers deported the women, elderly and children to Central Bosnia, but massacred about 7500 men. At the time of writing, the man who ordered the executions, Gen. Mladic, was still to be tried for war crimes.

In 1994-5, the UN decided to intervene in a small and extremely poor Caribbean peninsula, Haiti, to end an illegitimate, suppressive regime and install a democratically elected president, Aristide. While the UN’s peacekeeping operation in Haiti was carried out successfully from a military point of view, the further development of the country and its political, legal and economic system was a failure.

Twelve years later (at the time of writing), Haiti was in as bad a state as before. Bosnia appeared to be a relatively successful post-conflict peacebuilding operation, but if foreign peacekeeping forces would leave, local war might break out again. In Rwanda, the future was still heavily mortgaged by inadequate provision of justice vis-à-vis the genocidaires and, understandably, no real reconciliation among Tutsi’s and Hutu protagonists.

These three examples show how mixed the experience is of countries which have suffered massive violent political crimes. One can easily add other mixed examples: the UN operations in Sierra Leone, Liberia and Ivory Coast are seen (at the time of writing) as successful. In recent years, Iraq, Afghanistan and Sudan dominate the news. The US, Great Britain and a small group of supporting states took it upon themselves, without approval of the UN Security Council, to remove a very oppressive regime in Iraq and encourage this country to become a democracy. The huge human and economic costs appear to make this intervention very
unwise, and the outcome seems very unsettling to large segments of the population and the Persian Gulf region, to say the least.⁴

A coalition of NATO members has been attempting since 2001 to build up Afghanistan after decades of war and civil war, in the hope of a better future for the population. In Sudan the UN and the African Union seem powerless to stop genocidal campaigns encouraged by the government. In many other African states, the African Union and the UN have tried to end murderous political violence, in some cases with success.

As the words of UN Secretary-General Kofi Annan, quoted at the start, indicate, about half of the countries which have gone through civil war fall back into violence in only a few years. In 2006, a World Bank study concluded that 1/3 of countries returns to civil war within 5 years and 1/3 within 10 years, meaning only one in three can avoid a new war for 10 years or longer.⁵ This shows that national and international efforts to maintain, re-establish, and develop peaceful structures are often not yet successful. How can it be done better?

**Purpose, Method and Limitations**

In the light of past failures and limited successes, it is necessary to get an overview of the most relevant issues encountered by assistance programmes for post-conflict peacebuilding, in particular in establishing the rule of law, and to suggest ways to improve international action. The purpose of this brief explorative study is to gain such an overview.

The literature on various peacebuilding operations has grown rapidly over the last fifteen years, and this exploration is not a complete summary of all issues. Its purpose is more modest: to make a practical, provisional attempt to point out the main questions which often arise across very different cases. It is based on various case studies and a number of general works published between 2000 and the middle of 2007. It was inspired by many visits to countries in South Eastern Europe, the Middle East, the Caribbean, Asia and Africa between 1984 and 2005. Involvement of the author in decisions about peace operations in Haiti, Bosnia, Cyprus, West Sahara, Eastern Congo, Albania and other cases motivated this study, particularly the disastrous fall of Srebrenica (Bosnia) and subsequent massacre of Bosnian men and boys.

A chronological overview of main peacebuilding operations is presented in Table 1.1. Cases which received special attention for the purpose of the present study are marked. Operations mentioned in this table were selected by three criteria:

- The post-conflict solution was sought in a unitary or federal political entity.
- The peacebuilding process was strongly influenced by external actors.
- Part of the peacebuilding process was focussed on reform of the rule of law.
### Table 1.1 Peace Operations since 1960

<table>
<thead>
<tr>
<th>Geographical location</th>
<th>Period of operations</th>
<th>Executing agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congo *</td>
<td>1960-1964</td>
<td>United Nations (MONUC)</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>1965-1966</td>
<td>United Nations (DOMREP)</td>
</tr>
<tr>
<td>Lebanon *</td>
<td>1978-present</td>
<td>United Nations (UNIFIL)</td>
</tr>
<tr>
<td>Angola *</td>
<td>1988-1999</td>
<td>United Nations (several missions)</td>
</tr>
<tr>
<td>Namibia</td>
<td>1989-1990</td>
<td>United Nations (UNTAG)</td>
</tr>
<tr>
<td>Cambodia</td>
<td>1991-1993</td>
<td>United Nations (various missions)</td>
</tr>
<tr>
<td>Bosnia Herzegovina *</td>
<td>1992-present</td>
<td>United Nations (UNPROFOR), later NATO (IFOR/SFOR) and EU in concordance with OSCE and the Council of Europe</td>
</tr>
<tr>
<td>Haiti *</td>
<td>1993-present</td>
<td>United Nations (various missions) and OAS, USA and France</td>
</tr>
<tr>
<td>Liberia *</td>
<td>1993-1997</td>
<td>United Nations (UNOMIL) and ECOWAS (ECOMOG)</td>
</tr>
<tr>
<td>Liberia *</td>
<td>2003-present</td>
<td>Initially ECOWAS (ECOMIL), followed by United Nations (UNMIL)</td>
</tr>
<tr>
<td>Tajikistan (ceasefire monitoring)</td>
<td>1994-2000</td>
<td>United Nations (UNMOT), OSCE, CIS</td>
</tr>
<tr>
<td>Croatia</td>
<td>1994-1998</td>
<td>United Nations (various missions), EU, NATO</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>1987-1990</td>
<td>India unilateral</td>
</tr>
<tr>
<td>FRY Macedonia *</td>
<td>1995-present</td>
<td>UN (UNPREDEP), NATO (Amber Fox and Essential Harvest)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>EU (Proxima) with OSCE and the Council of Europe</td>
</tr>
<tr>
<td>Croatia (Eastern Slavonia)</td>
<td>1996-1998</td>
<td>UN (UNTAES)</td>
</tr>
<tr>
<td>Guatemala</td>
<td>1997</td>
<td>United Nations (MINUGUA)</td>
</tr>
<tr>
<td>Sierra Leone *</td>
<td>1998-present</td>
<td>UN (UNOMISIL/UNAMSIL), ECOWAS &amp; British forces</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>1998-2000</td>
<td>United Nations (MINURCA and BONUCA) regional states joint in MISAB</td>
</tr>
<tr>
<td>East Timor *</td>
<td>1999-2005</td>
<td>UN (various missions), initially under Australian lead</td>
</tr>
<tr>
<td>Kosovo *</td>
<td>1999-present</td>
<td>UN (UNMIK), NATO (KFOR) and EU, supported by OSCE and COE</td>
</tr>
<tr>
<td>Dem. Rep. of the Congo</td>
<td>1999-present</td>
<td>UN (MONUC)</td>
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<tr>
<td>Albania *</td>
<td>1997-2002</td>
<td>Italian-led multinational force with EU and OSCE</td>
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<tr>
<td>Lesotho</td>
<td>1998-1999</td>
<td>South African (lead nation) and Botswana forces</td>
</tr>
<tr>
<td>Afghanistan *</td>
<td>2001-present</td>
<td>NATO and UN</td>
</tr>
<tr>
<td>Iraq</td>
<td>2003-present</td>
<td>Mainly American, British and other coalition forces</td>
</tr>
<tr>
<td>Solomon Islands</td>
<td>2003-present</td>
<td>Regional Assistance Mission, under Australian lead</td>
</tr>
<tr>
<td>Burundi *</td>
<td>2003-present</td>
<td>Initially African Union (AMIB), as of June 2004 UN (ONUB)</td>
</tr>
<tr>
<td>Ivory Coast*</td>
<td>2004-present</td>
<td>ECOWAS (ECOMICI), UN (UNOCI), AU</td>
</tr>
<tr>
<td>Sudan (North-South)</td>
<td>2005-present</td>
<td>UN (UNMIS), AU</td>
</tr>
<tr>
<td>Sudan (Darfur)</td>
<td>2004-present</td>
<td>AU (AMIS), expansion of role UN under discussion</td>
</tr>
</tbody>
</table>
Many of these cases have been analyzed in studies mentioned in the annex. For illustrative purposes, several cases are summarized in textboxes throughout this book. These boxes of just one page do not claim to be complete, of course. They only serve to remind the reader of various crises which received world-wide attention since the Congo crisis of 1960, which can be seen as the first major peacebuilding operation of the UN in an (immediately) failing state. For analysis of these country cases, we refer to Further Reading at the end of this book.

The line of thought in this explorative study is guided by practical considerations concerning priorities and their interrelationships. Chapter 2 starts with a general overview. In chapter 3 a tentative, simple theory of peacebuilding is formulated. It also presents lists of states whose people are most in danger of political violence.

Chapters 4 and 5 provide an overview of the vexing questions encountered in the first phase after a violent conflict has ended. They focus on how to improve personal security for the population and lay the foundations for a future legal order. Chapter 6 discusses what criteria might be used when deciding which countries to support with peacebuilding programs. It also gives preliminary cost estimates of such programs. Chapter 7 takes a look at the possibilities for a larger role of the EU in support of peacebuilding. Chapter 8 makes recommendations for improvement of international assistance and further studies.

The subject of this exploration is constantly changing due to new cases, new research, and unfolding events. I acknowledge the valuable contributions which many authors have made and are still being added to the field. It is my intention to add to this book in the coming years, as time allows, to close some gaps in this exploration and add other subjects, such as experiences with conflict prevention programmes in a number of countries. An important limitation of this exploration is that the recent, sobering experiences with post-conflict peacebuilding in Iraq and Afghanistan have not been fully included. These subjects require extensive additional study. For all these reasons, this exploration has to remain unfinished and is of a provisional nature. It should be seen as a ‘growth document’ that may, notwithstanding its shortcomings, still be of some help to others who also are working in the unpredictable ‘post-war zone’. I welcome criticism and suggestions at j.voorhoeve@raadvanstate.nl

July 16, 2007
The UN Security Council had refused to expand the peacekeeping force and strengthen its mandate, as had been urged by the head of mission, Gen. Dallaire, to deal with the escalating violence. See further: Roméo Dallaire, *Shake Hands with the Devil; the Failure of Humanity in Ruanda*, Toronto, Random House of Canada, 2003.

Preliminary cost estimates are: at least 70,000 Iraqis killed by internecine, terrorist and economic violence, combat operations and other causes related to the war; 4 million Iraqi refugees and internally displaced persons; 25,000 wounded US and UK soldiers; about 3500 US soldiers killed, and a total US expenditure since the beginning of combat operations till mid 2007 of $ 500 billion, including economic reconstruction costs. Sources: CNN, July 1, 2007; UNHCR; Iraq Body Count; and the government of Iraq. Note that a cross-sectional cluster sample survey of the medical journal *The Lancet* puts the total number of deaths at about 650,000 in 2007. This is disputed by the governments of Iraq, the US and UK.

Congo – The first large peacebuilding mission of the UN

This large Central African country was a colony of Belgium until June 30, 1960. Without any preparation, it was suddenly granted independence, which resulted in political and social instability because of mutiny and the secession of the mineral-rich province of Katanga. A UN-led mission, ONUC, was quickly authorized on July 14, 1960 to restore order and help establish a government.

Within days after the independence, Congolese members of the Force Republique mutinied, and attacked white civilians. As a result, Belgium sent forces to protect its nationals. In the midst of chaos, Tshombe, the leader of Katanga, declared Katanga independent and hired Belgian military and Western mercenaries to prevent government troops from retaking the province. Prime Minister Lumumba of the Congolese government requested that the UN dispatch troops to restore order and oust the Belgian ‘aggressors’. In total, 20,000 personnel were contributed to ONUC by approximately 30 countries. Large-scale civil conflict was averted for more than a decade following the UN departure.

Over the next three years, UN troops forced the removal of foreign mercenaries and suppressed the Katanga secession, while civil elements of the mission provided a wide range of humanitarian, economic, and civil assistance to the new Congolese regime. Given the unprecedented nature of ONUC and the lack of prior experience, doctrine, expert staff or administrative structure for this operation, the United Nations performed remarkably well. Democratic objectives were subordinated by the Security Council to establishing stability and territorial integrity.

Large-scale civil conflict was averted for more then a decade following the UN departure.

These achievements came at considerable cost in lives, money and controversy. The costs associated with the UN operation to end the Katanga secession were huge. The Secretary-General of the UN was killed in what seemed to be a plane crash. The corrupt and bloody nature of the following Mobutu dictatorship cast a pall over UN achievements in the Congo.

For the next 25 years the UN restricted its military interventions to interpositional blue-helmet peacekeeping, where all the parties to a conflict agreed with UN intervention and where the use of armed force by UN troops was limited to self-defence. The UN learned that peace enforcement is costly and controversial, even when done well. It was a massive operation, improvised by a very conscientious UN Secretary General, Dag Hammarskjöld.

See also text box on Congo since Mobutu
2 AN OVERVIEW OF PEACEBUILDING

“If civilization is to survive, we must cultivate the science of human relationships — the ability of all peoples, of all kinds, to live together and work together in the same world, at peace.”

Franklin D. Roosevelt, in a draft speech before he died in 1945

2.1 WHAT IS PEACEBUILDING?

Everything necessary for normal human life starts with the absence of violence. The core tasks of any government are to provide physical peace, public security and basic freedoms to its citizens. The common purpose of various forms of democratic government is to create conditions which enable its population to satisfy their needs and desires and enjoy human rights, to the extent that this does not harm others.

Of course, no country is Utopia. Thomas More’s Utopia was a fantasy island without international relations. There were no external security concerns. In the real world, the core tasks of maintaining peace, security and freedom require international action. In the intertwined world of the 21st century, it is in the national interest of democratic states to help end war, civil war, terrorism and gross and persistent human rights violations outside their own states, to the extent possible. (The degree to which this is feasible is discussed in the following chapters.) Rapid global communications quickly spread unrest beyond state borders. Territories which are plagued by political violence, large scale crime, pandemic diseases and absolute poverty upset and ‘infect’ distant nations.

In this study, post-conflict peacebuilding means building or reconstructing a country after its government, institutions, population and economy have been ravaged by large-scale armed conflict. Experience shows that after an internal or international war, and after a successful foreign military intervention, a peace enforcement action or peacekeeping operation, there are serious reconstruction problems which take a long time to resolve. Military intervention is usually difficult and controversial in itself; but it is also the beginning of new, tough challenges. At the end of a conflict there is often no consolidated central power, no functioning legal order, no good governance, no democracy, and no protection of human rights. In many cases most of the population lives in poverty – already endemic or worsened by the war. Hatred between groups exacerbated by wartime violence and abuses often increases the risk of a return to war. Most wars sow the seeds of new violence.

Post-conflict reconstruction faces the same challenges and requires the same efforts as state-building in places where the state collapsed for reasons other than war. In both instances, the lack of a functioning government and a collapse of the