

Rebuilding of Failed States

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Introduction, the Present International Order

The understanding of global complexity has become greater since the changing of the bipolar world system. The simultaneous terrorist attacks of 2001 forced the recognition that even strong states cannot feel themselves being secure from weak states. The problem of the failed states is emerging on the global policy agenda. Failed states are born in a conflict situation and the international community has the responsibility to help avoid the failure. Due to the global effects of state failure it is a very important security issue of the international community to find an effective tool in managing post-conflict situations.

International interventions are not new phenomena¹ but they won a new meaning after the Cold War. The new world order, or disorder², has had hard experiences, like Somalia, Rwanda and Bosnia, Afghanistan or Iraq. In the first few years some theorists even overemphasized the peace and stability that ruled the bipolar system. (Mearsheimer 1990:5)

What have changed? The intensity and the goals of international intervention altered: the humanitarian causes dominate the cruel logic of geopolitics and growing interest is experienced in (re-)building the post-conflict states and societies. The United Nation's practice of peacekeeping is manifested under Chapter VII of the UN Charter and laid between forcible intervention and absolute respect for sovereignty. But the classical peacekeeping techniques did not work among the new threats of the post-Cold War world.

The most threatening phenomenon in the recent times is the emergence of new security threats, such as international terrorism, proliferation of WMDs, international

¹ The external intervention in Congo in 1960 was the first example of engaging a failed state. This date shows that 're-builder interventions' were not absent in the Cold War era. (Dobbins et al 2005)

² Joseph Nye used the phrase: New World Disorder to refer on the changed conditions of world policy after the Cold War. (Nye 1992)

organized crime, proliferation of infectious diseases. It is obvious that these threats are not new but they intensified in the last two decades. Weak states mean potential substrate for each of the threats. It makes obvious that dealing with failed states is one of the most important task of the international community.

The aim of this paper is to contribute to the discussion on failed states, fragile states or weak, failing states. Actually, all words label the same problem. In the last years the debate on the question, how to deal with failed states, is very vivid, however, it seems to me a little bit misleading. The rebuilding of failed states means a complex process, I used the “rebuilding” word purposely. The usually used idiom “nation-building” refers only to one part of the whole process. On the other hand, when we label the process as state-building it seems to go to far from the real focus. Despite of the fact that in the rebuilding process there is a need to build up institutional state structures we must not forget that the main goal is, or should be, to maintain peace for the people. The complexity of rebuilding appears in the different steps that I would like to present and explain through the “BIEN-model”. “BIEN” is an acronym that stands up from the first letters of the different dimensions that a rebuilding process contains: Basic human needs; Institutional needs; Economic development; Need of sustainability. BIEN means in French “good”, that is the “BIEN model” is according to my opinion the good model for rebuilding a failed state.

Identifying Failed States, Why Is Important to Deal with the Problem?

During the Cold War the use of force served maintaining of territorial status quo which led to recognition of incapable states (Türk 1996: 627) The custom of state-recognition is primarily based on Article 1 of the ‘Montevideo Convention on Rights and Duties of States’. “The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.” Today the definition needs further amendments. States that continually violate human rights must not be recognized as equal person of international law. However, the definition of ‘state failure’ is very vague in social sciences and it does not exist in international law at all. (Gordon 1997: 905) Furthermore, it is difficult to implement any change in the existing international legal order because the real

success of the UN system was the fixing state boundaries by the means of rigid international rules. The principles of non-intervention and prohibition of use of force, which are mentioned in Article 2(4) and 2(7) of the UN Charter, are the cornerstones of the contemporary system's stability.

Although there is not an exact definition of failed states and these states can be very different, the common features of the failure are the following: the existence of internal war and insurgency; ethnic, religious or lingual hostility; the state cannot use a direct control over the whole territory and the borders; the provision of public goods, like health care or education is declining; weak central institutions, not independent courts, the lack of democracy; the military coercion is the only tool in the hand of the executive authority; collapsed infrastructure; corruption; the gap between the rich and the poor is growing drastically. (Rotberg 2002: 85-89; Krasner 2004:85-86; de Mesquita 2005: 515; Dorff 2005; Ignatieff 2003: 302-303; Sung 2004:125; Zartman 1995a:5) The word 'failed state' refers the situation where the structure, authority, law, and political order have fallen apart, i.e. the government lost the identity acting in the name of the people, its control over the territory, its legitimacy, and the capability to produce common goods. In one word: the government lost the right to rule. The notion, 'failed state' is used to describe a static internal character of a state, whereas 'rogue states' are labelled as such because of their foreign policy behaviour. (Bilgin 2002: 56)

The most important question emerges from the lack of effective tools to respond state failure. The traditional counter-policy of the international community has been sanctions against states which are labelled 'rouges'. But it is the time to look for other alternatives. Coercive diplomacy will predictably fail due to the principle it is based on, i.e. rational behaviour, since the problem of failed states could not so far be characterised by any rational signs. (Tarzi 2005: 21-41) Furthermore economic sanctions are inappropriate as well because they induce sharp deterioration of socio-economic welfare of society.

On the other hand new interventionism, the war on terror has appeared as an alternative solution. (Sulmasy 2005: 311-312) International law and the UN system have to follow this change; a new law of armed conflict needs to be developed, since traditional law governs war between two, or more states, however, the main feature of 'failed state' is the lack of ability to act as a nation state. Legal recognition of intervention into internal affairs would frame the political reality. Although non-intervention and sovereignty has been the basic norm of international law and they have provided order in the anarchic international system, the new threats in the 21st century upset this stability. The neglected internal anarchy

of weak states turns to be a threat for the international peace and security. Thus external intervention seems to be more and more received by the UN as well: “state sovereignty is being redefined by the forces of globalisation and international cooperation.”³ Along the principles of the ‘Brahimi Report’ the ‘post-Westphalian’ peace operations give the chance to spread and protect liberal democratic governance through constructing liberal democracies.⁴

The relevancy of engaging failed states can not be doubt anymore. The European Commission is preparing a strategy towards fragile states that will aim to find the possible solutions of prevention. The donor community also had to rethink its aid policy. It had to taken into account the whole absence of governments in failed states. Considering the mainstream aid policy this is a new way of thinking since the “donor-fatigue” was caused especially because of the low level of experience in “not functioning states”. The attitude of the donor community have based principally on conditionality so far. And it is hard to believe that a government in a failed state would be able to meet the expectations of any donor.⁵ As a proof of this changed agenda in the international aid policy let me list some institutional initiative: the OECD set up the Fragile States Group; Africa Union’s Africa Peer Review Mechanism; or the UN’s Peace Building Commission.

What to Do? Partners or Targets?

Today’s most important question in international law is: how to use force legally to respond state failure? “The responsibility to protect” demands to go beyond neutrality. Being neutral and impartial is not enough if the international community wants to avoid humanitarian catastrophes like Rwanda. Furthermore, proliferation of intrastate conflicts is a threat for the stability of the international system. (Lumsden 2003: 796) On the other hand with humanitarian intervention has to be dealt with very carefully as well because the temptation to use humanitarian assistance to achieve political goals always means a danger. Although the view that human rights triumphs state sovereignty is ever popular, the voice of

³It is the most important sentence of Kofi Annan at UN General Assembly on September 20, 1999. (Bellamy et al 2004: 1)

⁴ The new face of UN role in peace operation was shaped by the ‘Agenda for Peace’, and was operational supported by ‘Report of the Panel on United Nations Peace Operations’ that is well known as ‘Brahimi Report’. Available: http://www.un.org/peace/reports/peace_operations/ [Accessed: 21 October 2005]

⁵ Just think about the impossible condition: „good governance”.

protest that big powers will manipulate the rhetoric of humanitarianism is ever louder as well. (Lumsden 2003: 834)

One of the main purposes of the UN is to protect human rights⁶ to the same extent as state sovereignty, which is also a cornerstone of the UN system. This is the hardest obstacle of humanitarian measures. Whilst the ‘bad governments’ killed 170 million of their own citizens (Bagaric 2005: 425), that is more than the casualties in wars between states including both World Wars, the use of force against them can be a permissible response, despite the command of Article 2(4). But on the other hand it is questionable that how can a military intervention ever be humanitarian.

The historical state practice demonstrates that states believe the right of unilateral humanitarian intervention is available to them as an option grounded in either the UN Charter or customary international law.⁷ The cause of intervention altered from *opinio iuris* to *opinio necessitatis* (Nakhjavani 2004: 42), like in the case of Kosovo. In broader sense the use of force through collective self-defense under Article 51 can mean the right to protect the population of a ‘failed state’ since it is ‘attacked’ by its own government. In addition the new imperatives of security expand the right of self-defense to pre-emptive just war. (Falk 2004) Six conditions appeared in the international law literature that authorise armed intervention in the absence of SC authorisation: gross breaches of human rights caused by collapse of central government; inability or unwillingness of government to prevent breaches; inability or unwillingness of SC to take action; exhaustion of practicable peaceful options; involvement of a group of states in the intervention with General Assembly approval; rapid termination of military action once abuses have been terminated. Sovereignty means not only a right to act autonomous but an obligation. Human rights also limit the authority of the states. Sovereignty is a social contract, which view is a dogma among political theorists, and international law is beginning to incorporate this recognition: “increasingly, international law acknowledges that governments derive their power from the consent of those they govern.” (Eckert 2001: 50) The humanitarian intervention is use of force in support of the purposes of the UN. Furthermore, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights make the protection of human rights a universal imperative.

Due to the poor legal basis of post-conflict development the answers to state failure have been only ad hoc measures so far. However, Kofi Annan described very clearly the

⁶ Article 1(3) of UN Charter; Preamble of UN Charter

⁷ E.g.: India intervened in the Pakistan-East Pakistan War in 1971; Vietnam in Cambodia in 1979; Tanzania in Uganda in 1979. However these states did not seek legitimacy by labelling the intervention humanitarian. They all claimed the operations just self-defense.

nature of and rationale for post-conflict reconstruction and mentioned in details what is needed to respond state failure in his 1998 report on 'The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa.' (Eckert 2001: 50) "Societies which have emerged from conflict have special needs. To avoid a return to conflict while laying a solid foundation for development, emphasis must be placed on critical priorities such as encouraging reconciliation and demonstrating respect for human rights; fostering political inclusiveness and promoting national unity; ensuring the safe, smooth and early repatriation and resettlement of refugees and displaced persons; reintegrating ex-combatants and others into productive society; curtailing the availability of small arms; and mobilizing the domestic and international resources for reconstruction and economic recovery. Each priority is linked to every other, and success will require a concerted and coordinated effort on all fronts."⁸ This speech shows as well that the international community recognised that international peace and security can be reached only through adequate post-conflict engineering. Policy responses to intrastate conflicts mean stopping the fighting, fixing state failure and relieving human suffering. (Dorff 2005) Post-conflict engineering appears as a strategic imperative in the 2002 National Security Strategy of the United States of America.⁹ Nevertheless, the Strategy calls it nation-building. (White House 2002:12) It can be seen from the present cases that the international community does not leave the post-conflict societies alone, contrarily, there are more bad experiences that arise from the reluctant behaviour of great powers, like Rwanda, or from the bad and overemphasized tools, like preventive diplomacy in Bosnia. The importance of post-conflict reconstruction is also proven by the UN's behaviour in contemporary conflicts. The Security Council passed several resolutions that aimed to legitimize the external rebuilding of post-conflict states and war-torn societies. The most conspicuous cases are Kosovo and Iraq because the interventions were not authorised by the SC. Despite this fact the SC passed the S/Res/1244 in the Kosovo case in 1999 and the S/Res/1483 in the Iraqi case in 2003, which authorised the external presence to help rebuild economic, political and societal processes to relieve human suffering and promote future development.

⁸ Report on the Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa. 1998.

⁹ The National Security Strategy 2006 does not mention either failed states, or nation-building.

The “BIEN model”

Basic Human Needs: Security First

Security is a prerequisite for development as a most important pillar of future development. If the most basic human needs such as security, food and safety place for living are not met any democratization effort is waste of time and money. Freedom from fear is a basic human right that guarantees the life without violence for the people. (Salomons 2005:19) A government in a failed state does not possess the capabilities to secure the framework of safe development. Furthermore, in certain cases the government is the source of violence. (Zartman 1995a) A failed state generate a security vacuum: without minimal stability nobody will invest in development. The intervening power has to fill this gap. Creating stability means not only to stop the armed conflict but also to prevent humanitarian crisis. Securing the humanitarian aids is a basic goal. Somalia proved in 1992 that the aid supply also can be the aim of fighting. (Dorff 2005) That is why it is becoming obvious that in a failed state the only possibility for development is the presence of a foreign power. The first task of the intervening actor after stopping the armed violence is disarming and demobilizing the combatants and help them to reintegrate into the society. Minimal requisite is to collect at least the heavy arms and break up the armed units by offering alternative livelihoods for former combatants. The combatants need job opportunities more than other groups of the society. It seems to be a contradiction but in case we consider that ex-combatants are socialized to violence it becomes obvious that they will find the way “how to earn money”. Liberia, Sierra Leone, Guinea or Ivory Coast have showed very clearly that black economy, drug trafficking, terrorist groups or criminal gangs can provide “alternatives” for them.

Despite of the fact that there is broad cooperation in the international community considering the task of building up security in a war torn state and society securing stability is never an “easy run”. For instance, the secure environment attribute characterized in Afghanistan until 2003 only Kabul and its very surrounding.

Building up the basic infrastructure, demining, rebuilding the roads, bridges, hospitals, or the basic public services are also the part of the first step that aim to secure the basic human needs. Since the local government is incapable to guarantee these services the intervening power has the duty to substitute the state. (Caplan 2005: 137) To maintain the basic duties of the state there is a need of establishing of an interim authority. The UN proved to share this logic by several Security Council resolutions. The 1244 SC resolution in 1999 authorized the

UN Mission in Kosovo to organize the rebuilding and to set up the interim authority. Considering the fact that the NATO intervention in 1999 was labeled illegitimate¹⁰ the resolution showed clearly the changed attitude towards post-conflict settlements.

The interim authority has to set up police to secure public security in the long term. International military forces are able to stop armed struggles but incapable to gain the confidence of the society. Local police forces are best suited for this task. The RAND recently published a very considerable study on nation-building. And let alone the fact that personally I am not convinced that a “guidebook for nation-building” is really matters since each of the rebuilding processes is context dependent, it mentioned that a post-conflict society requires at least two local police officers for every 1000 inhabitants. (Dobbins et al 2007)

Institutional Needs: Building of Democratic Institutions

Creating self-sustaining institutions is a crucial point of the wholesale rebuilding since the institutions mean the framework for the economic development and for the societal recovery. (Starr 2004) The institutional needs of the rebuilding are more than peace-building. Apart from the set up of basic administration institution building signify also shaping the legal frames of the polity, rule of law, the market, or the civil society. (Caplan 2005:43-60) Surprisingly, the international community – thanks to the spread of neoliberal philosophy in the international economy – visioned the state as the biggest enemy of global free trade and “helped” the weak states – through deregulation, decentralization and liberalization – become weaker. But the last two decades have experienced growing gap between the rich and poor. Now it is obvious that a failed state with none-existing economy is more dangerous for the free trade than a functioning but less liberalized and less open one.

After satisfying the basic human needs it can be differentiated at least three phases of institution building. Firstly, beyond the basic administration the mechanism of political consultation has to be built up. It means that there is a need of party formation and political participation of the society on the local and national level. In the second phase it has to create – via local political consultations – the frame of polity, i.e. government, parliament, jurisdiction and constitution. Finally, the local society has to “use” the institutions to make them self-sustaining. (Herrero 2005) The intervening powers can help in this phase with

¹⁰ According to the operative international law the NATO bombing hurt basically the sovereignty of Yugoslavia, however, the intervention’s moral goal, i.e. stopping genocide, can be politically dealt as a necessary step towards securing international peace and security.

strengthening the society through different programs. International NGOs are very active on this area. The promotion of “good governance”, anti-corruption programs, training of civil servants, security sector reform, election observation are the most relevant tasks in that these NGOs and international organizations such as the EU, the World Bank or the IMF can help effectively. (Krasner 2004: 103)

The intervening power can influence the institution-building from the supply side. On the supply side of the institution-formation are the setting up the interim authority, creating the government, reshaping the polity or the constitution. It is very important to the sustainable development to gain loyalty towards the institutions inside of the society that can be managed through the enforcement of democratic values like the US tried in Germany and Japan after the World War II. The loyalty mentioned above, the norms, the cultural heritage of the society, the accumulated societal knowledge influence the developing of the institutions from the demand side. It has to be kept in mind that this demand side is different country by country, ie. transplanting the Western institutions is misleading and usually contraproductive. (Fukuyama 2004c: 23-29)

The process of institution-building is traditionally an up to down development but the demand side is also very important since there is a claim in every society that is articulating towards certain forms of institution. This claim depends on the factors listed above. The institutions can not develop conversely to this claim. There is no need to mention that the institutions can influence, shape, and change the demand side as well. But on the other side, sometimes the “good institutions” are not able to develop the claim towards sustainability or they even lead to growing undemocratic phenomena inside of the society. In a failed state it is easy to find groups that are interested in maintaining the “bad institutions”. The warlords’ or the corrupt civil servants’ main goal is to sustain the chaotic state. (Sorensen 2001b)

Democracy has appeared not as an antonym for the Soviet ideology in the Western world after the Cold War. Democracy is now rather a tool for moderating ethnic conflicts, social tension and enhancing economic development. Or at least it is thought to be a panacea for weak and failing states. Forcing the change of local institutions is always contradictory but there is a need of common institutional orientation in deeply divided society. It would be easy and tautological to say that a democracy can not work without democrats. Nevertheless, it seems to be true that the society needs some kind of common identity that is manifested towards the institutions. Without the “democratic loyalty” the institutions will not be sustainable. Lack of local tradition of democratic institutions posts the question how viable is

the idea of democracy promotion in the premodern states of the international community. (Ottaway 1995)

Economic Development

Securing the economic sources is maybe the most important part of rebuilding a state. Every result that has been realized in the economic sector mean the material basis of sustainable development. A weak state does not possess these sources. It is obvious since that is one reason why it had failed. Reconstruction of a sound economy needs the help of the international community. (Zartman 1995b: 270) The Marshall Plan proved that it is possible to reach spectacular success through helping the economy to recover. On the other hand it has to be kept in mind that economic development is only one step during the rebuilding process. The economy can not work without the sound democratic institutions that protect the market from state intervention but also protect the state from market failures.

One of the main symptoms of state failure is that the country does not have a coherent national economy. Unequal development, widespread corruption, or criminalized economy all contribute to failing. From the citizens' point of view state failure means in the economy that they are not able to plan for the future. It realizes in the very small level of savings. The state is asymmetrically dependent on international trade, the donor community, technology etc. Furthermore, the roots of failing are to be found not only in the international economy and globalization. These economies can be described with poor domestic performance, dual economy (there are no input-output linkages), nepotism, and poor quality of the workforce.

The main task of development policy is to rebuild the physical infrastructure – that is important not only for the economic development, but this is a basic human need. The economic development is determined by several factors that can ease or hinder the rebuilding of the economy. The problem is that generally the aid policy has not considered the fact that every rebuilding process is context dependent. The tough conditionality of international aids led to contraproduktive solutions. The weak countries are usually not mature enough for economic openness, liberal economic reforms since the institutional basis and legal framework for market economy does not exist. It has to be kept in mind that it is not statutory – even in theory – that a poor country implicitly develops faster than a richer one. And it is also false that a failed state only needs a “big push” and the donor community only has to wait until it has converged to the developed world. In our era the globalization made

the economic development to complex to believe only in internal or external factors that can solve the problem of all the weak states. Furthermore, if we consider the multidimensionality of the rebuilding process it becomes clear economic development needs parallel institution building and democratization as well. (Killick 2004)

The logic outlined above does not mean that the donor community has to keep off from the rebuilding process. It only has to find the sound balance not to make the target country more aid dependent. The help of the donors is necessary that the target government's revenue and expenditure meet. The donors have to facilitate development of the internal economy. This development needs growing internal trade, consumption, which presumes a reasonably stable medium of exchange. Too high inflation would paralyze the sustainability of growth. Satisfying all the needs it is very important to create (or/and strengthen) the central bank and the ministry of finance in the early stages of the rebuilding process. (Dobbins et al 2007)

Need of Sustainability: Democratization and Nation-Building

Sustainable development or sustainable democracy can not be reached without the cohesion of the society. Even the biggest obstacle towards further development is the torn society. But what to do? How has to build up the nation? The term nation-building is not clear. The confused employ of words nation and state-building roots in the Westphalian logic of the state system. The western states are nation states, therefore building a nation meant building the state at the same time. The nations of Europe were forged through blood and iron, whilst the new projects attempt to shape an approximation of nations through conflict resolution. But the recent examples and rhetoric of nation-building, as I argued above, are not only about building a nation. (Ottaway 2002:16) The difficulty is obvious, the states with colonial heritage are deeply divided along ethnic, religious or cultural ruptures. Thus they cannot be characterised by a common national identity in the European sense.

In the simple Westphalian logic nation is a group of people who share common identity and aim to have their own state. Nations were continually formed on the basis of pre-existing ethnic ties. (Smith 1996:446) The negligent use of nation-building leans only on the Westphalian definition and fails to understand the importance of ethnic ties. Nor can it explain why in some cases we witness fierce xenophobic ethnic nationalism, like the Hutu-Tutsi catastrophic hostility (Barnett 1997:551-578), and in others a more tolerant, multicultural national identity, like South Africa after 1994. (Comaroff et al 2001:627-651) Smith defines

ethnic community as “a named human population of alleged common ancestry, shared memories and elements of common culture with a link of specific territory and a measure of solidarity.” (Smith 1996:447) Furthermore he differentiates the nation from ethnic community because the members of a nation share “*historic* territory, public culture, a common economy and common legal rights”, and the belief in the necessity of maintenance of autonomy, unity and common identity. (Smith 1996:447) If we accept the ‘post-modern’ theory of nation and ethnicity, that nations and ethnicities are only cultural artefact, constructs of cultural engineers who tailor pre-existing ties (Smith 1996:447), then the implementation of external and artificial nation-building does not seem impossible. Furthermore, it should not be forgotten that the idea of nation comes from the 19th century, and should therefore be looked at only for ties which allow the different groups to live together despite their differences, and not by all means for common language or culture. But the external engineers always have to keep in mind what differentiates building a nation from overrating the major ethnic identity. (Ignatieff 2003:300)

The newly forged nations would be very fragile; one need only recall the pre-existing cleavages to deepen again the ethnic or religious hostility. Effective nation-building supports the purification of culture, the universalization of chosenness and the territorialization of memory. (Smith 1996:449) On the other hand to build a nation is a kind of ‘chicken-egg’ problem since a functioning government that provides sustainable order and stability emerges from the nation. But national unity is hard to achieve without successful elections and a functioning government. (Jeon 2005:83-103) So enduring nation-building process requires parallel creation of both state, that is a territorial entity that provides goods and services, and nation, that is a legal and sociological idea. While state-building focuses on institutions despite the interchangeably used in the literature. The exact definition of state building is: institutional support, capacity enhancement, logistical assistance, a strengthening of the administrative exercise, and above all providing security for the territory of the state. (Bali 2005:437) I.e. state-building signifies institution-building, democratization and economic development. Being a member of a nation has two characteristics: a legal and a psychological one. The legal feature means legal and political participation in processes that represent common goals or produce common goods. The psychological one means an emotive mechanism: pledging allegiance. (Townley 2005:358-361)

Nation-building is not a recent idea. It has its first roots in the 19th century nationalism: the building of Italian and German nation through violent wars. The second wave was colonialism at the end of the 19th century, however, even the malign colonial logic produced

the 'neither nation nor state countries' i.e. the contemporary failed states. But external nation-builders have good experiences as well: post-WWII Germany and Japan. (Ottaway 2002:17)

Some scholars insist that external actors are not able to shape a nation—Germany and Japan being exceptions that prove this rule. (Etzioni 2004:12) But in considering the strict definition of nation-building it is obvious that German and Japanese nations existed far before the US occupation. Both seven-year-long nation-building projects attempted to make these societies more democratic and more modern, but they did not have to look for common ties on the domestic level. Germany and Japan had strong ethnic and cultural communities as well. So the nation-building in these two countries were victorious, because they did not need to build a nation (!). Furthermore the related tasks as democratization and economic reconstruction had a great success that overshadowed this detail. On the other hand, these related tasks are essential to maintain national unity. The defeated German and Japanese societies were ideal fields to achieve the goals of all of these interlocking processes. The key elements were: the pre-existing national unity, serious defeat in war, long occupation, no danger of civil war, and the external actor had moral legitimacy in the eyes of the people. (Etzioni 2004:15) Other lessons to the contemporary attempts are that the state of the pre-conflict society is the most important indicator in the post-conflict settlement. Law, order and pacification support to shape a state level unity. Literacy, education and economic development also developed and middle class and civil society helped to sustain this unity. Contrarily the present cases show that sociological and psychological factors, like religion and prejudices can hinder the external actors as well. (Etzioni 2004:11) Such as in Afghanistan and Iraq the different values among the different religious and ethnic groups. These experiences slowly force the recognition that the nation-builders are not able to fix the whole society, only a few key elements that can support the construction of common ties in time.

The unsound pre-conflict economic development or the democratic traditions of the society are not the only answers as to why other attempts failed, e.g. Somalia, because the homogeneity of the German and Japanese society as also a determinative factor. (Dobbins et al 2004:18) But homogeneity is not enough by itself, either. The common nationhood in Haiti did not protect the state from collapse and did not lead directly to the nation's formation. (Ottaway 2002:17)

The recent cases do not promise an easy job. The German and Japanese way is impossible to repeat. For instance in Iraq there is no tradition of pluralist democracy. Though a sense of Iraqi national identity exists, it does not override communal forms of identity along ethnic, geographic, tribal or religious grounds. (Dobbins et al 2004:25) Germany and Japan

were ready markets for American political products: the pre-war ideology of the German and Japanese elite was totally discredited in the eyes of their own people, whilst radical Islam will remain dominant in the Afghan and the Iraqi society. The Afghan unity in the fight against the Soviet Union seems to be a proof of a possibility to build a nation there. But the real cause of this unity was not to reach democracy or independence. The people's main motive was to avoid modernization and secularization i.e. they fought against the soviet nation-building project that attempted to override the local tribal and religious identities. (Dempsey 2001) It cannot be denied that the roots of Afghan nationhood exist because despite the rich heritage of inter-ethnic hatred, now most people in Afghanistan feel that they are Afghans first and Uzbeks, Hazaras, Tajiks or Pashtuns second. (Ignatieff 2003a:83) Furthermore Afghan enthusiasm is peculiar in participating in defining their future.¹¹ (Jennings 2003:17) In other cases it can be seen that the necessary financial means would be available to finance the maintenance of domestic unity. Angola, Sudan, Sierra Leone or Iraq etc. have oil, diamond, or other natural resources which ought to be the base of nation-building but instead these resources provide interminable civil wars. (Ignatieff 2003b:304)

Earlier official documents proved that the nation-builders also have to ignore their constraints. There was a widespread perception by State Department experts that the German and Japanese people are incapable of democracy. (Jennings 2003:12-15) So to achieve success in the contemporary cases the external parties have to strive in gaining their knowledge about nation-building. The most conspicuous example is Iraq. The United States' goal is to build a liberal state and a nation from the top down through all the institutions. But because of the Iraqi ethnic and sectarian fissures, large-scale nation-building requires new institutions, but first of all the unification of the national identity. Nevertheless, it is not a project that an external power, with the recent state of knowledge, can undertake. According to the historical experiences nation-building is a long-term, incremental, indigenous, socio-political process that has to be carried out autonomously by Iraqis.

In deeply divided societies is almost impossible to find common ties. But if the external powers keep in mind the importance of pre-existing hard ethnic identities they have the opportunity to support nation-building through 'ethnic strategies'. There are at least three forms of this functional nation building strategy: consociationalism, federalism/territorial autonomy, ethnic democracy. (Kolsto 2000:23) The consociational solution is very rare in nation-building projects but it does not mean that it will not emerge later. The recent

¹¹ E.g. The enthusiasm for participating in Loya Jirga, or the civic participating in elections can be witnessed.

examples show that the emphasized national still overcasts the consociational-functional nation concept. Furthermore the bad power-sharing experiences deter the external powers to choose this strategy. Bosnia is obvious example. The forced cohabitation of three ethnic communities is not viable. It rather deepened the hatred than created common ties. (Talentino 2002:33-43) Due to the fear of secession the federal solution is even more unpopular. It can be understood since the history experienced large scale secessionism in multiethnic states. The Austrian-Hungarian Monarchy, the Soviet Union and Yugoslavia are well known examples. Federalism with strong territorial autonomy would lead in Iraq to emerging secessionist voices, especially in the Kurd communities. (Phillips 2005) Ethnic democracy seems to be the only one viable way to converge the different identities. It is similar to consociationalism since it means power-sharing to and deals very carefully with the minorities. On the other hand the stability is based on strong and concentrated executive power of the government. This idea is reflected also in the 2004 constitution of Afghanistan and in the 2005 constitution of Iraq. According to the constitution the government plays the main role in legislative and executive processes. Unfortunately, as it can be witnessed in Afghanistan¹², the power of the government is still theoretically. The Afghan government cannot expand its authority over several territories, like the Southern and Eastern part of the country, that is still civil war area and where the Operation Enduring Freedom is still being in process. Although the executive power is centralised the Afghan government cannot carry one its point without the support of the NATO-led International Security Assistance Forces. So the Afghan government cannot stand for the Afghan unity, either. (Selchuk 2005)

The most important basis for some kind of unity is a developed civil society. The civil society, *per definitionem*, is the linking agent between the democratic political institutions, i.e. the state, and the whole society. There are many examples that a vivid civil society can manage societal conflicts. In Latin America, especially on the southern continent, the civil society groups are very strong and are able to moderate the ethnic tensions. Despite of that Latin America still faces several problems that shows the weakness of self developed civil society. The vulnerable groups and under-represented groups of the society, here especially indigenous people, are out of the society and the civil society as well. Finally, we have to keep in mind that sustainable democratization can be achieved only if the rights of all who are affected by the transition are ensured in the long term.

¹² Iraq has not had government that would be elected after the new constitution. The elections were held in december 2005, after that the constitution was finally recognised in October.

The success of the whole rebuilding process is in danger if the divided society can not live together. But the question emerges: how to build up democracy in a deeply divided society. Arend Lijphart proposed a solution in his essay (1969) that caused a fierce debate in the stagnant water of the international political theory. Lijphart's consociationalism would mean real power sharing that materialize through mutual veto of the different societal groups. Lijphart really believes that the elites are able to moderate the tension between and inside of the groups. The basis of this belief is the power. It means that elites are interested in maintaining the democratic consociational structure since it signifies the basis of their power.

Conclusion

The international community cannot let weak states fail, because the consequences are uncontrollable. Threats that lie by 'failed states' are consequences of the local government's weakness or the collapsed domestic authority. Accordingly it is naive strategy to wait for a self-implemented domestic solution. Securitizing internal problems, which has been, according to the Article 2(7) of UN Charter, taboo in the world of sovereign states, means passing the strict sovereignty notion and legitimatizing the external action. Intervention not necessarily signifies large-scale military action, but joint military and civil actions that become more and more the relevant way of modern warfare. State failure is a political notion and lacks a definition in international law. The existing tools that are recognised by international law to respond the challenges of state failure are very poor and ineffective. The existing international legal order does not leave too much space for external measures. However, supremacy of human rights over state sovereignty is an emerging norm in the international law. Humanitarianism means not only the responsibility to protect human rights and prevent large-scale abuses of it but it demands responsibility to rebuild. Rebuilding, or building for the first time, of domestic institutions and processes is necessary to reach sustainable development and stable peace.

The new tradition of scholarly literature employs the phrase 'nation-building' to refer to post-conflict reconstruction, which is far from a benign process as it is very misleading. Nation-building only signifies building a nation, i.e. supporting the birth of common ties as language, culture and loyalty to common symbols. It is obvious that common ties are essential

to shape successfully sustainable political, economic and societal structures, but these structures are equally important in the maintenance of national unity. It is a vicious circle that is impossible to be solved by external powers if the essential favourable factors are absent. The German and Japanese examples show that pre-existing traditional ties and some level of national unity are the only formulas to achieve success. It seems to be impossible to force national unity on the societies that are deeply divided along ethnic, religious, or tribal lines. The process needs an appropriate environment to be able override ethnic ties. The experienced attempts show that “nation-builders” often neglect the importance of ethnic identity that is a pre-modern pattern of social differentiation. It is clear that nation-building in the Western sense is impossible in these post-conflict societies, but a functional one seems to be possible; e.g. through consociational arrangements, supporting of federal structure or ethnic democracy. However, functional nation-building has more negative examples as well. Furthermore democracy building does not always mean nation building. Unfortunately the international community has yet to gain either the will or the knowledge to build nations.

The international community is responsible for relieving human suffering and has to help weak states avoid failing. If necessary it has to intervene to stop large scale abuse of human rights. However, the responsibility does not terminate with the intervention to carry out this protection. The international community is responsible for rebuilding the post-conflict society. This rebuilding cannot be described exactly by either nation-building or state-building. Despite the fact that the two processes are interlocked and inseparable it has to be kept in mind that the rebuilding process is more complex, it has at least four dimensions that I tried to describe using the “BIEN model”.

The “BIEN model” is only an experiment for describing the complex process of rebuilding a failed state. I am aware that the model can serve only as a background for a vivid discussion but it is worth to continue the research with the help of the “theoretical crunch” that this model can provide.

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