

**Role of the United Nations in State Building: A Case Study of  
Afghanistan, 2002 – 08**

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Date: July 27, 2019.

**DECLARATION**

I declare that the dissertation entitled “**Role of the United Nations in State Building: A Case Study of Afghanistan, 2002 - 08**” submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

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## List of Abbreviations

ADB	Asian Development Bank
AIA	Afghan Interim Authority
AMF	Afghan Military Force
ANA	Afghan National Army
ANP	Afghan National Police
ASEAN	Association of South-East Asian Nations
ATA	Afghan Transitional Authority
BiH	Bosnia-Herzegovina
CERF	Central Emergency Response Fund
CNE	Counter-Narcotic Efforts
DDR	Disarmament, Demobilization and Reintegration
DEA	Drug Enforcement Agency
DPA	Department of Political Affairs
ECOSOC	UN Economic and Social Council
EMCD	European Monitoring Centre for Drug
EU	European Union
EUFOR	European Union Force
FAO	Food and Agriculture Organization of the United Nations
FRY	Federal Republic of Yugoslavia
GA	UN General Assembly
HR	High Representative
IAC	Interim Administrative Council
IAEA	International Atomic Energy Agency
IARCSC	Independent Administrative Reform and Civil Service Commission
IDB	Islamic Development Bank
IDLO	International Development Law Organization

IECA	Independent Election Commission of Afghanistan
IFOR	International Force
INGOs	International Non-Governmental Organizations
INTEFET	International Force in East Timor
IPTF	Implementation Police Task Force
ISAF	International Security Assistance Force
JEMB	Joint Electoral Management Body
JIAS	Joint Interim Administrative Structure
JR	Judicial Reform
JRC	Judicial Reform Commission
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
MDGs	Millennium Development Goals
NATO	North Atlantic Treaty Organization
NCC	National Consultative Council
OCHA	UN Office for the Coordination of Humanitarian Affairs
OEF	Operation Enduring Freedom
OHR	Office of the High Representative
OIC	Organization of the Islamic Conference
OSCE	Organization for Security and Cooperation in Europe
OSG	Office of the Secretary-General
PIC	Peace Implementation Council
PMC	Permanent Mandate Commission
PR	Police Reform
PRTs	Provincial Reconstruction Teams
SC	UN Security Council
SCR	Security Council Resolution

SFOR	Stabilization Force
SG	UN Secretary-General
SIC	Special Independent Commission
SRSG	Special Representative of Secretary-General
ST	UN Secretariat
UK	United Kingdom
UN	United Nations
UNACA	United Nations Mine Action Centre for Afghanistan
UNAMA	United Nations Assistance Mission in Afghanistan
UNAMET	United Nations Assistance Mission in East Timor
UNAMIC	United Nations Advance Mission in Cambodia
UNDP	United Nations Development Programme
UNDPKO	UN Department of Peacekeeping Operations
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNIPTF	United Nations International Police Task Force
UNMCP	United Nations Mine Clearance Programme
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNMIK	United Nations Mission in Kosovo

UNMISSET	United Nations Mission of Support in East Timor
UNMIT	United Nations Integrated Mission in Timor Leste
UNMOP	United Nations Mission of Observers in Prevlaka
UNODC	United Nations Office on Drugs and Crime
UNODA	Office for Disarmament Affairs
UNOPS	United Nations Office for Project Services
UNOTIL	United Nations Office in Timor Leste
UNPAs	United Nations Protected Areas
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
UNTAC	United Nations Transitional Authority in Cambodia
UNTAES	United Nations Transitional Administration for Eastern Slavania, Baranja and Western Sirmium
UNTAET	United Nations Transitional Administration in East Timor
US	United States
WB	World Bank
WFP	World Food Programme
WHO	World Health Organization



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# Chapter I

## Introduction

Since the Treaty of Westphalia (1648) states have been identified as key actors in international relations. The role played by states is assumed to be principal in ordering peace and security not only at the domestic level, but also at the international level. This is based on the assumption that such a role can only be played by states that are stable and durable. Therefore, *weak, collapsed or failed* states are supposed to be incapable of playing such a role and hence identified as potential threats to peace and security at both level. The obligations assigned to states is also a matter of concern because as basic units, states retain sovereign rights over all their affairs; and according to new international law and norms, the exercise of sovereignty imposes obligations on states with respect to the rights of its citizens as well as peoples living in other states. Therefore, in the community of states, the capacity of states to undertake such obligations becomes important; and only capable states are able to fulfill their obligations. The task of state-building is closely related therefore to make states capable of fulfilling such obligations.

The present study focuses on the preoccupation that states have historically had with the task of state-building through explicit support by way of external intervention. Historically the issue of external intervention has been a controversial subject. It is argued that weak or failed states do not have sufficient infrastructural capacity to fulfill their obligations towards their citizens, and the purpose of external intervention is to make the state capable to the extent that it can rise to fulfill its obligations: both national as well as international in the world community.

However, the problem with external intervention is that it violates a country's sovereign rights, because it has traditionally been understood that a country has sovereign rights over all its activities, and it is the native peoples of that state who have the primary responsibility of making their states capable by involving themselves in the

process of state-building. External intervention in the process of state-building is seen in developing particularly in third world countries, as a direct assault on the sovereignty of a country and the sovereign rights of native peoples.

At the introductory segment to the larger study, chapter one focuses on the theoretical debates in international politics literature that have emerged over time on the subject. The Chapter is divided into three main sections: the first section focuses upon the theoretical precepts that underlie the 'international society approach', the second section focuses upon the debate over the issue of external intervention, and the third section examines the issue of legitimacy surrounding the conduct of such operations. These sections on the whole provide the theoretical base for examining the larger issue of the involvement of international organizations in the task of state-building.

### 1.1: The International Society Approach

Hedley Bull, Terry Nardin, R. J. Vincent, Michael Walzer and Martin Wight are the main proponents of the International Society approach. Scholars of this approach make a common point about this approach that it is a middle way in classical IR scholarship: it carves out a place between classical realism and classical liberalism and builds that place into a separate and distinctive IR approach. It regards international relations as a 'society' of states in which the principal actors are states. (Jackson and Sorenson 2003: 141).

At the heart of the International Society approach states are conceived as human organizations, and there are three different ways of looking at the relations of states. The first concept views states as power agencies that pursue their own interests. It thus conceives of international relations as instrumental relations. That is the realist view of Machiavelli. The second concept views states as legal organizations that operate in accordance with international law and diplomatic practice. It thus conceives of international relations as rule-governed activities based on the mutually recognized authority of sovereign states. That is the rationalist view of Grotius. The third concept downplays the importance of states and places emphasis on human beings. Humans are

seen to compose a primordial 'world community' or 'community of humankind' that is more fundamental than the society of states. That is the revolutionist view of Kant (Jackson and Sorenson 2003: 143).

All three voices broadcast the fact that international relations is basically a human activity concerned with fundamental values. Two of the most fundamental values which are given special attention by Hedley Bull (1995) are: international order and international justice; and two international values that are closely related to order and justice that are given special emphasis by John Vincent (1986) are state sovereignty and human rights. On the one hand, states are supposed to respect each other's independence; that is the value of state sovereignty and non-intervention. On the other hand, international relations involve not only states but also human beings, who possess human rights regardless of the state of which they happen to be a citizen. There can be and sometimes there is a conflict between the right of non-intervention and human rights. When that happens, which of these values should have priority? If human rights are being massively violated from within a state, does the government retain its right of non-intervention? In such circumstances, is there a right of humanitarian intervention to rescue people? How should the two rights be balanced? That is one of the basic value conflicts of international relations at the present time (Jackson and Sorenson 2003: 144).

The International Society approach represents two main answers to these questions. The first answer is *pluralist*, stressing the importance of state sovereignty. According to this view, rights and duties in international society are conferred upon sovereign states; individuals have only the rights given to them by their own states. Therefore, the principle of respect for sovereignty and non-intervention always come first. States have no right to intervene in other states for humanitarian reasons. The second answer given by the International Society approach to above question is *solidarist*, stressing the importance of individuals as the ultimate members of international society. On this view, there is both a right and duty for states to conduct intervention in order to mitigate extreme cases of human suffering (Jackson and Sorenson 2003: 144-145).

According to the International Society approach, problem of intervention and human rights can be studied normatively, i.e. philosophically, historically, and legally. But they cannot be studied scientifically because they are essentially human issues and are thus value-laden. There can be no value-neutral scientific answer either. Every answer will be affected by the situation and will thus be essentially historical in character (Jackson and Sorenson 2003: 145).

As far as concerns about this topic, the main point is that states and people face difficult dilemmas because of the different kind of responsibility that are leveled by the scholars of this approach that states and people have to consider. There are three distinctive *dimensions* of responsibility: *national, international, and humanitarian*. These three responsibilities correspond to Martin Wight's three traditions: devotion to one's own nation and the well-being of its citizens, respect for the legitimate interests and rights of other states and for international law, and respect for human rights.

According to the *first dimension*, the task of state-building is essentially a domestic process. States in such a framework have no international obligations that come before their national interests. After all, human beings have rights only by virtue of being citizens of states, and each statesman is responsible for defending their own citizens, but not the citizens of other states. The task of state-building is essentially a domestic responsibility with national interests. The guiding principle is understood in terms of Machiavellian perceptions or realist standards., this translate to always put your nation and its citizens first, avoid taking unnecessary risks with their security and welfare, collaborate with other countries when it is advantageous and necessary but avoid needless foreign entanglements, do not subject your citizens to war unless it is absolutely necessary. These normative considerations are characteristic of a system of autonomous states, i.e. realism (Jackson and Sorenson 2003: 158).

President de Gaulle comes into this category. Here is a case of him on national responsibility (1961), "It is intolerable for a great State [France] to leave its destiny up

to the decisions and action of another State [the United States], however friendly it may be...the integrated country loses interest in its national defense, since it is not responsible for it” (Jackson and Sorenson 2003: 158).

According to the *second dimension*, states are not isolated autonomous political entities, responsible only to themselves for the task of the state-building. Contrary to the first dimension, states are related to each-other, and constitute the external sovereignty of each-other by the practices of recognition, diplomacy, commerce etc. Therefore, states have foreign obligations to other states and to international society as a whole from which they derive important rights and benefits. These foreign obligations are additional to the domestic obligations of native peoples. Native peoples have foreign obligations deriving from their state’s membership of international society, which involves rights and duties according to international law. This inter-state standard is understood in the terms of Grotian perceptions such as: be good citizens of international society, recognize that other states have international rights and legitimate interests which deserve respect, act in good faith, observe international law, and comply with the laws of war. These normative considerations are characteristic of a pluralist society of states based on international law, i.e. rationalism (Jackson and Sorenson 2003: 159).

President Franklin Roosevelt comes into this category. Here is a case of him on international responsibility (1945), “Nothing is more essential to the future peace of the world than continued cooperation of the nations which and to muster the force necessary to defeat the conspiracy of the Axis power to dominate the world. While the great states have a special responsibility to enforce the peace, these responsibility is based upon the obligations resting upon all states, large and small, not to use force in international relations except in defense of law” (Jackson and Sorenson 2003: 159).

According to the *third dimension*, native peoples first and foremost are human beings and as such they have a fundamental obligation to respect human rights not only in their own country but in all other countries around the world. This cosmopolitan

standard is understood in terms of Kantian perceptions such as: always remember that people in other countries are human beings just like yourself, respect human rights, give sanctuary to those who are fleeing from persecution, assist those who are in need of material aid which you can supply at no sacrifice to yourself, in waging war spare non-combatants. These normative considerations are characteristic of a solidarist world society based on the community of humankind, i.e. revolutionism (Jackson and Sorenson 2003: 160). This is clear that this cosmopolitan dimension of responsible statehood obviously goes well beyond international responsibility. Human obligation stipulates that before one can be a citizen of a state, one must be human being.

Russian Foreign Minister Andrei Kozyrev comes into this category. Here is a case of him on humanitarian responsibility, “wherever threats to democracy and human rights occur, let alone violations thereof, the international community can and must contribute to their removal...such measures are regarded today not as interference in internal affairs but as assistance and cooperation ensuring everywhere a ‘most favoured regime’ for the life of the peoples- one consistent with each state’s human rights commitments under the U.N Charter, international covenants and other relevant instrument” (Jackson and Sorenson 2003: 160).

After all, there are several criticism too leveled against the International Society approach by realism, liberalism and international political economy (IPE). Realists may point out that the evidence of international norms as determinants of state policy and behaviour is weak or non-existent. It is less possible to accept for realists that there is an alternative to anarchy, and there is an ‘international society’s approach. Liberalists may point out that International Society approach ignores domestic society, democracy and progress. IPE scholars may point out that, International Society approach ignores economics and the social-class aspect of international relations, and the third world.

## 1.2: The Debate over Intervention

However before going any further it would be suitable at this point to look into the question of intervention and clarify the meaning of the term in question. The term 'intervention' was only introduced into the international law lexicon in 1758 by the Swiss Jurist Emerich de Vattel (Damrosch 1989: 3) though it was supposed to describe was much older, and according to Adam Watson, intervention was in fact seldom an significant characteristic of 'world' politics; it was already practised widely in the ancient system (1992: 53) and became particularly prevalent during the sixteenth and seventeenth centuries and the Napoleonic era (Young 1968: 179). The practice has continued virtually unabated throughout the twentieth century. In 1969, James N. Rosenau illustrated intervention as a 'central problem of world politics' (1969: 160). In 1986, Hedley Bull observed that intervention 'is a ubiquitous feature of modern international relations, perhaps even an inherent feature of it (1986: 2). In post-cold war era, the term 'intervention' is frequently being used to show a shift in world politics. Besides, having its all pros and cons, it is perceived as 'presumptively wrong' by community of states.

### Meaning and Nature of Intervention

Intervention tends to have one of the two types of meaning. On the one hand, there is action undertaken in the name of international peace and security. This now has a long history, involving a spectrum of activities from offering the services of mediators, providing monitors and peacekeepers to ensure that agreements are being honoured, supporting directly those offering humanitarian aid to the victims of warfare, interposing forces between the belligerent, and, at the extreme, entering a conflict on behalf of the most aggrieved party. On the other hand, intervention can mean interference in another country's internal affairs. This too can take a variety of forms, from providing its leaders in the directions to certain politics and deterring them from others, encouraging and sponsoring particular political tendencies and, at this extreme attempting to take direct control of its affairs (Freedman 1994: 1).



There is a difference between intervention and 'dictatorial interference', as L. Oppenheim termed it in the context of late 19<sup>th</sup> century, which was usually associated with the threat or the actual use of force. The purpose of such interference by a state in the affairs of another was to maintain or alter the actual condition of things (Lauterpacht 1947: 272). While according to Thomas and Thomas, whether it took place by right or not, intervention 'always concern[ed] the external independence or the territorial or personal supremacy of the State concerned'. In this sense, intervention involved an attempt by a state (or a group of states) to impose its will on another, thus acting without the latter's consent (Jacobini 1968: 261-262).

Intervention has been defined as an activity undertaken by a state, a group within a state or an international organization which interferes coercively in the domestic affairs of another state. It is a discrete event having a beginning and an end, and it is aimed at the authority structure of the target state. It is not necessarily lawful or unlawful, but it does break a conventional pattern of international relations (Vincent 1974: 13).

On the basis of numerous definitions found in international law and international relations scholarship, a fairly representative traditional definition of intervention would read as follows:

it is the calculated action of a state, a group of states, an international organization or some other international actor(s) to influence the political system of another state (including its structure of authority, its domestic policies and its political leaders) against its will by using various means of coercion (forcible or non-forcible) in pursuit of particular political objectiveness (Geldenhuis 1998: 6).

The act of intervention is therefore by nature, convention breaking, a coercive act carried out intentionally in the domain of another state in order to alter or influence the authority structure of the target state. In contemporary literature despite all the justifications offered, intervention remains to be a contested subject.

As far as humanitarian intervention is concerned, its invocation requires special circumstances. Humanitarian intervention is only operative whenever a state is guilty of violating the minimum standards of humanity which are recognized amongst civilized nations. According to L. Oppenheim, “when a state renders itself guilty of cruelties against and persecution of its nationals, in such a way as to deny their fundamental human rights and to shock the conscience of mankind” (Lauterpacht 1955: 312).

Lawrence Freedman argues that, humanitarian intervention may start with request by civilian organizations charged with bringing relief needing protection, but many such organizations worry that any link with the military will undermine their reputation for impartiality and that they are still better off negotiating their way through trouble (1994: 8), and the use of force swings the local balance of power in one direction. Any external interference, whether it is in setting rules for the conduct of the conflict, easing suffering, brokering a settlement, or intervening on one side, will influence the balance of power. When it ceases there will always be a tendency for the local factors to dominate once again. Thus intervention has to be recognized, not as being directed against a specific end, but as being part of a process (1994: 9).

Humanitarian intervention can, according to Rudiger Wolfrum, be defined, as intervention in a country without the consent of the respective national government with the intention to protect either parts of the populations (e.g. creating ‘safe havens’) or humanitarian assistance personnel (Karen and Sylvan 2002: 96). Others perceive the right of humanitarian intervention as only operative when a state exceeds the limits of its authority. Humanitarian intervention thus is only relied upon to prevent or stop gross violation of human rights in a state. It differs totally from other kinds of illegal intervention. Humanitarian intervention is neither performed willfully, nor to alter the other structure of the target state. Although in case of humanitarian intervention recognizable force must be kept to a minimum seldom take place. According to Stanley Hoffman, the use of force- and hence armed intervention- is legitimate in case

of genocide, mass slavery, and gross violation of physical security in another country (1981: 129- 130).

According to Moses Mockouritz, humanitarian intervention is only directed to rescue those who are suffering from abuse of their basic rights, i.e. right to life, at the hands of their state or a foreign state. Intervention must be carried out for only that purpose; otherwise it will become an abuse of state sovereignty (1959: 16). Mohammad Ayub looks upon humanitarian intervention as a contemporary version of colonial Britain's "white man's burden" or the French equivalent, *mission civilisatrice*. At the same time, even as one of the concept's harshest opponents, Ayub admits the "considerable moral force" of sovereignty as responsibility (Weiss and Korn 2006: 72).

The emerging norm of sovereignty as responsibility represents a sea change in mainstream normative views over a few decades. Three interventions with very substantial humanitarian pay offs in the 1970s were not even partially framed or justified by the interveners in such terms. At that time, the notion of humanitarian intervention when a sovereign state acted irresponsibly was simply too far from the mainstream of acceptable international relations. International order was firmly grounded in the inviolability of sovereignty, and therefore states were more attuned to their own unique political interests than to humanitarian concerns. Specifically, we can point to India's invasion of East Pakistan in 1971 as well as Tanzania's in Uganda and Vietnam's in Kampuchea later in the decade. All three were unilateral efforts geared to regime change and explicitly justified as self-defense. In retrospect, all three are frequently cited as evidence of an emerging right to humanitarian intervention. Yet, none was approved by the Security Council- and Vietnam's was actually condemned (Weiss and Korn 2006: 100).

It is clear therefore that humanitarian intervention is a short term use of force to exclusive re-establishes respect for human rights, without affecting the political independence or the territorial integrity of the state in whose territory the abuse of basic human rights is carried out on such a massive scale or to an extent which shocks

the conscience of mankind. In the absence of consensus over intervention as an international norm, the debate essentially revolves around the course of action open to states through non-coercive measures or coercive measures, qualifying as intervention. What would be non-coercive measures have been implied in the Chapter VI of the UN Charter; and coercive measures in the Chapter VII of the UN Charter. The Charter's provision allows states to adopt coercive measures including military in the name of self-defense. This however is more of an exception than the rule.

The practice of intervention whereby states have claimed to have the right to intervene in the domestic affairs of other states has its roots dating back to events in early 19<sup>th</sup> century. In 1827, European countries: Great Britain, Russia and France intervened in Greece to protect the Christian minorities being tortured and discriminated by the Turkish authority; and the outcome of this intervention came as Greek independence in the international scenario. In 1860, France intervened in Syria to protect the Marinate Christians being slaughtered by the Syrian authority.

Non-intervention as a norm was relatively underdeveloped under the framework adopted by the League of Nations. The norm of non-intervention came into existence with the establishment of the United Nations with the purpose of maintaining order in international society. Therefore, sovereignty of nations, i.e. states are equal with regard to international law, non-interference within internal affairs of a state, non-use of military force in solving international disputes were principles that were readily adopted in the Charter provisions of the UN.

### The Debate over the Legality of Intervention

According to Rudiger Wolfrum, international law prohibits interventions. Its prohibition is the corollary of the right of states to sovereignty, territorial integrity and political independence (Karen and Sylvan 2002: 95). The Charter of the United Nations does not explicitly express support for intervention within targeted states. The Article provisions: 2(7) and 2(4) are important provisions supporting the case for non-intervention. Only exception for intervention that exists is in the provision of Article 51

of the Charter, the right to self-defense that too in extreme cases. Intervention, in traditional sense, was contrary to the principle of non-intervention that was forged to maintain order in international society, yet it could only be tolerated as an exception to the rule.

The Statute of the International Court establishes two grounds for intervention. Under Article 63 a state need show no more than that it is a party to a relevant international convention in order to intervene in a case...but in the second phase of the South West Africa cases, the International Court distinguished between conduct and special interests and ruled that parties to an international convention might seek an international instance only if they could demonstrate a special interest. The *Mavrommatis* dictum of sufficient interest in the integrity and proper application of the convention has been considerably attenuated. This innovation of the I.C.J has tended to equalize intervention under Article 63 with that of Article 62, which requires showing of "legal interest" (Reisman 1971: 332).

According to Michael Reisman, the merger of two grounds for intervention has both positive and negative aspects. Any arbitrary limitation of participation seems to be poor policy. In international Law, the ultimate viability of international agreements depends on the concern of other parties and their willingness to initiate supervisory or corrective actions... Article 63 permitted intervention on a mere showing of adherence to the relevant convention. This may have opened the door too far. Not every intervention is justifiable or in the public interest. Moreover, since there is no investigation of good faith, a party itself in breach could exploit the recourse provided by Article 63 for its own ends (1971: 333).

From the legal point of view, it is also worth considering the question of, should international law permit states to intervene militarily to stop a genocide or comparable atrocity without Security Council authorization? According to Ryan Goodman, a key obstacle to legalizing unilateral humanitarian intervention (UHI) is the overriding

concern that states would use the pretext of humanitarian intervention to wage wars for ulterior motives (2006: 107).

Dating back to Grotius, proponents of legalizing humanitarian intervention have struggled with the objection that their proposals would be abused as a pretext for war. The proponents were most influential in the late nineteenth century- admittedly a period in which international law permitted states to use force on many and varied grounds (and imperialism reigned). In the contemporary era, however, the proponents have shifted at various points, and NATO's intervention in Kosovo has, in particular, spurred one of the most nuanced discussions about the propriety of UHI and the ability to regulate in the post-cold war period. Nevertheless, the consensus of opinion among governments and jurists favors requiring Security Council approval for humanitarian intervention (Goodman 2006: 107-108).

The overriding concern about pretext wars turns on assumptions about state opportunism and the power of both law and perceived legitimacy in regulating state behaviour (Goodman 2006: 109). Assessing the legality of interventions by UN organs or under a UN mandate three different aspects have to be addressed: the objective pursued; whether the entity actually undertaking the intervention has the power to do so; and the means used. Although each aspect has to be dealt with separately there is a distinct interrelationship among them...and coercive UN interventions, to be justified, must be authorized by the Security Council under Chapter VII of the UN Charter after a finding that, pursuant to Article 39 of the UN Charter, there exists a 'threat to the peace, breach of the peace, or act of aggression...' (Karen and Sylvan 2002: 96).

However after the end of cold-war, the demand of intervention especially armed intervention increased in number. Therefore, in the post-cold war period, intervention especially military intervention was operationalized either by authorization, or without authorization of the UN Security Council. Somalia (1994) and Kosovo (1999) have been recognized as significant watershed with respect to armed intervention with or without authorization of the UN Security Council in this regard.

In the post-cold war period, the UN Charter is being interpreted in new manner that the Charter does not assert merely the rights of states, but also the rights of peoples. Therefore, sovereignty is being compromised with the responsibility to respect the rights of peoples of other states. Therefore, the Articles provisions are being interpreted in a new manner on humanitarian ground, so that intervention by the international community may be justified. In a resolution passed by the UN, the General Assembly explicitly stated that humanitarian assistance should be provided with the consent by the affected country and in principle on the basis of an appeal by the affected country (A/RES/46/182, 1991). This implied some relaxation of this principle that “the sovereignty, territorial integrity and national unity of states must be fully respected in accordance with the Charter of the UN. The use of the phrase ‘in principle’ and the term ‘should’ implied that there could be occasions where intervention was necessary even when consent in the target state was not possible (Baylis et al. 2008: 322).

The intervention in Iraq and Afghanistan provide relevant examples of the intervention by the U.S. In both Afghanistan (2001) and Iraq (2003) intervention has been justified largely in the name of self-defense, i.e. right to self-defense of a country. Both cases reveal the fact that right of sovereignty of the country is explicitly violated. But there are also other cases like Iraq (1991) and Somalia (1994) that reveal the fact that intervention by the international community does not explicitly violate the country’ sovereign rights. An increasing readiness by the UN to intervene within states in order to promote internal justice for individuals would indicate a movement towards global governance and away from unconditional sovereignty (Baylis et al. 2008: 323).

It is important to note that while non-intervention as an international norm or intervention by peaceful means is being recognized as the international norm in extreme cases, military intervention as an international norm has, still, not been recognized by international community. Though there has been a case made for military intervention as the international norm by the humanitarian international non-governmental organizations (INGOs) in the post-cold war era. Point is that, should

military intervention as a norm be recognized by international community as a ground for intervention in the domestic affairs of another country for purpose of establishing a democratic setup within countries in the name of state-building, so that they may fulfill their national and international obligations as member of a world community.

While principles of state-sovereignty and non-intervention remain important in order to maintain order in international society; on the other hand, a growing trend of advocacy or intervention to protect human rights in other states at the expense of sovereignty in order to promote and strengthen international peace and security, challenges the traditional pattern of international order. Intervention without authorization of the UN Security Council remains hotly controversial. In developing countries especially in weak and smaller one, intervention on humanitarian ground is seen as a 'Trojan horse' that was rhetorically designed to legitimate the interference of the strong in the internal or domestic affairs of the weak state. These above mentioned issues are basically the subject matter of immense debate that includes basically two groups. The group that does not favour intervention is commonly known as 'restrictionist', and the group that favours intervention generally on the humanitarian ground is commonly known as 'counter-restrictionist' or 'solidarist'.

### The Restrictionist Perception

The term *restrictionist* denotes those international lawyers who argue that humanitarian intervention violates Article 2(4) of the UN Charter and is illegal under both UN Charter and customary international law (Baylis et al. 2008: 586).

Most restrictionists refer to the Article provisions of the UN Charter such as: Article 2(7), i.e. 'rule of non-intervention', Article 2(4), i.e. 'prohibition of use of force for the settlement of international disputes' to argue against intervention. Advocates of this school however provide for an exception, i.e. Article 51, 'a country right to self-defense'. However Article 2(7) and 2(4) of the UN Charter form the mainstay of their argument against intervention. The objections made are oppositions that are not mutually exclusive and can be found in the writings and workings of Realists and



Liberalists; however most of these objections have been put forth in the writings of the Realists.

Realists assert that states do not intervene for primarily humanitarian reasons because they are always guided by their national interest. That is why, states only intervene when it suits them to do so. Point is that states intervene within other states for the sake of their national interest, not for the sake of that state, where intervention is ostensibly being carried out. States are not allowed to risk the lives of their soldiers for creating safe haven for intervened states' people; and involving their soldiers in long term state-building process, because states are for protection of their citizens' lives that can not be sacrificed to save the lives of strangers. Therefore, statesmen do not have moral right to shed the blood of their soldiers in the expense of strangers. Statist paradigm states that citizens are the exclusive responsibility of their state. Therefore, other states or international organizations do not take responsibility to involve in state-building process of other states.

Some scholars have expressed a view that, nor is there any mechanism for making a definitive separation between sheep and goat cases, nor even of establishing the facts beyond reasonable doubt...the selective way humanitarian intervention has been applied in the past, when its legality was merely alleged, is a guide to how the right would be applied if it were recognized: recognition would presumably expand, not alter, existing practice... the study of when the "right" to intervene for humanitarian purpose was and was not asserted confirms that if such a right were to receive the sanction of international law and international lawyers, it is likely to remain, in the future as in the past, the prerogative of a few powerful states. It will also probably continue to be exercised by them against weak neighbours whose civilizations are held in contempt and under circumstances that have more to do with the self-interest of the "liberators" than of the "liberated" (Franck and Rodley 1973: 290). Therefore, in the absence of an impartial mechanism for deciding when humanitarian intervention is permissible, states might espouse humanitarian motives as a pretext to cover the pursuit of national self-interest. And intervention on humanitarian ground is referred as

the problem of abuse, because this may be an instrument by which the strong country may be exercised it over the weak states in order to fulfill their own interest.

The problem with relying on motive according to some scholars 'is that it takes the intervening state as the referent object for analysis rather than the victims who are rescued as a consequence of the use of force' (Wheeler 2000: 38). States often intervene selectively within states, resulting in an inconsistency in policy, because states' behaviour are motivated and governed by what government judge to be in their interest. There is doubt because of the problem of selectivity in our responses, it is so because, wherever or within a state or within more than one state, if infringement of human rights is going on, then response of a country for all places may be differ or vary because government policy is governed by its own national interest. The problem of selectivity arises when states or international organizations treat like cases alike. For instance, North Atlantic Treaty Organization (NATO) and the UN did intervene in Kosovo, but did not intervene in Chechnya or East Timor. The UN intervened in Somalia (1994) but did not intervene in Sudan and Liberia.

There is also disagreement among pluralists that intervention on humanitarian ground should be exercised on certain moral principles. Should intervention on humanitarian ground be based on the cultural preferences of powerful states? From the Liberal point of view, it is argued that states are established by the informed consent of their citizens. According to John Stuart Mill, democracy could only be established by a domestic struggle for liberty. Human rights cannot take root if they are imposed or enforced by outsiders (Himmelfarb 1973: 377-378). Point is that, oppressed peoples should themselves overthrow tyrannical government. This liberal view is important because, it is often seen that involvement of western powerful states or the UN in the process of state-building within a targeted state has been to create a sovereign functioning nation state that could uphold liberal democratic norms and values.

There is also a problem of the responsibility to rebuild because if the international community assumes this responsibility inside a country, how and when should it leave?

The creation of international administration in former zones of conflict has become one of the hottest issues in contemporary international relations. In the wake of rebuilding efforts in Bosnia, Kosovo, East Timor, and now Afghanistan, doubts are being raised about the ability and willingness of states to sustain long-term reconstruction (Welsh 2000: 505). Moreover, thorny question about accountability and democracy have arisen alarm bells about the erosion of their right of self-determination and a new generation of imperialism (Welsh 2000: 505).

### The Counter-restrictionist Perception

The term *counter-restrictionist* denotes those international lawyers who argue that there is a legal right of humanitarian intervention in both UN Charter and customary international law (Baylis et al. 2008: 579). M. McDougal, Michael Reisman, F. Teson, L. F. Damrosch, S. Caney and B. Lepard are main counter-restrictionist scholars in the contemporary world politics. On the other hand, counter-restrictionists or solidarists assert that international community has right to intervene within a targeted country in order to create capable state in order to maintain international peace and security. Therefore legal right of intervention by international community rests on two claims: first, the UN Charter commits international community to protecting basic or fundamental human rights, and second, there is a right of intervention on humanitarian ground in customary international law.

Solidarists argue that human rights are just as important as peace and security in the UN Charter; the purpose of outside intervention within a targeted state is to enable the state that can fulfill its international obligation in order to maintain international peace and security. Even, the authority of the UN Security Council to address human rights derives from its central role in maintaining international peace and security (Mertus 2005: 116). The UN Charter endows the Security Council with primary responsibility for the maintenance of international peace and security. The Charter's Preamble and Articles 1(3), 55, and 56 all highlight the importance of human rights. Indeed, Article 1(3) identifies the protection of human as one of the principal purposes of the UN

system. This has led counter-restrictionists to read a humanitarian exception to the ban on the use of force in the UN Charter (Baylis et al. 2008: 524-25).

Michael Reisman argues that given the human rights principles in the Charter, the UN Security Council should have taken armed action during the cold-war against states that committed genocide and mass murder (1985: 279-280). The ongoing failure of the UN Security Council to fulfill this legal responsibility leads him to argue that a legal exception to the ban on the use of force in Article 2(4) of the Charter should be created that would permit individual states to use force on humanitarian ground (Baylis et al. 2008: 525). It is also argued that intervention on humanitarian ground does not breach Article 2(4), because the Article only forbids the use of force against the 'political independence' and 'territorial integrity' of states and intervention on humanitarian ground does neither of these things. Provision of Article 2(7) reads:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Therefore, it is argued that the Security Council has the responsibility to weigh the evidence in the individual circumstances and identify threats to the peace, breaches of the peace, and acts of aggression. Upon finding a threat to the peace, the Security Council is authorized to consider what kind of response is warranted under the circumstances. Under what is known as its "Chapter VI power", the Security Council may recommend non-coercive measures to maintain peace. Alternatively, under its "Chapter VII power", the Council may make recommendation for the maintenance of international peace and security or to take direct action under Article 41 and 42, involving economic and military forces (Mertus 2005: 116 – 117). Article 41 authorizes the Security Council to impose economic sanctions against targeted states, while Article 42 permits it to impose military action including "demonstrations,

blockades, and other operations by air, sea, or land forces of Members of the United Nations. Both are recognized as coercive measures of intervention on humanitarian ground by Member states.

In addition, the Security Council may react to gross human rights abuses through a number of non-coercive measures. Security Council may issue non-binding resolutions under Chapter VI of the Charter expressing its opinion on the abuse and their resolution. As for as non-coercive measures concern, Security Council may authorize peacekeeping operations. While many forms of peacekeeping today involve military force, traditional Chapter VI peacekeeping is not coercive in the sense that the Council predicates these actions based on the consent of the state subject operation (Mertus 2005: 121).

It is also admitted that, there is no legal basis for unilateral intervention on humanitarian ground in the UN Charter, but it is permitted by customary international law. For a rule to count as customary international law, states must actually engage in the practice that is claimed to have the status of law, and they must do so, because they believe that the law permits for this. International lawyers describe this as *opinio juris* (Baylis et al. 2008: 526). Solidarists contend that the customary right for intervention on humanitarian ground preceded the UN Charter, evidence by the legal arguments offered to justify the British, France, and Russian intervention in Greece (1827), and the US intervention in Cuba (1898). Point is that, intervention in Iraq (1991) for the creation of safe havens for the Iraqi Kurds was justified by Britain and France on the basis on international customary law; and Kofi Annan's insistence that even unilateral intervention to halt the 1994 genocide in Rwanda would as per this reasoning have been legitimate.

There is also moral justification for it. For instance, it is argued that sovereignty derives from a state's responsibility to protect its citizens, and when a state fails in its duty, it loses its sovereign rights. This argument is supported on the basis of the idea of 'common humanity' and 'globalization'. For instance, S. Caney argues that all

individuals have basic human rights and duties to uphold the rights of others (1997: 34), and Tony Blair argued that, today's globalized world is so integrated that massive human rights violations in one part of the world have an effect on every other part, creating moral obligations (Baylis et al. 2008: 526) and P. Ramsey, advocator of *just war theory*, argues that the duty to offer charity to those in need is universal (2002: 35-36).

According to scholars, there is an emergent norm in the society of states that governments that commit crimes against humanity within their borders should forfeit the protection afforded them by the rules of sovereignty and non-intervention (Wheeler 2001: 127). If a new norm of humanitarian intervention emerges from the debate, then there is all the more need for early warning, for preventive actions where such crises can be anticipated, and for peace building once interventions have taken place. For the former, states, IGOs, and NGOs will need to collaborate in expanding their collective intelligence gathering and analytic capabilities (Karns and Mingst 2004: 326).

However, the problem with counter-restrictionists argument to intervene within a targeted state on the basis of international customary law is that whether this law would have been legitimate in the 19<sup>th</sup> century before the establishment of an international organization, but this law can not be justified in the 21<sup>st</sup> century especially after the establishment of the United Nations. Problem also arises because if this law would be legitimate, then there is problem of abuse of this law because a individual state on the basis of this law would justify its intervention within a targeted state on such grounds. The Iraq war (2003) was justified by the US on the basis of international customary law that individual state has right to intervene. This intervention took place beyond the realm of the UN; and this intervention resulted in the form of acute tension between the UN and the US authorities.

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In the contemporary period, especially in post 9/11 era, there is a new trend that the UN is less likely to be the intervener than are coalitions of willing states; and according to Nicholas J. Wheeler, the reasons have to do with the absence of standby the UN



forces...and the reality that “it is only states [and only a handful] that have the capabilities to fly thousands of troops halfway round the world to prevent or stop genocide or mass murder’ (Karns and Mingst 2004: 327).

In such circumstances while the legality and the legitimacy of the outside intervention remains hotly contested, intervention authorized by the UN Security Council is slowly emerging as the more accepted norm. There is also another part of this whole debate, what would happen when , there would have been abuse of human rights on large scale in the form of massacre and genocide, as this was happened in Kosovo, and now is happening in Darfur; or what would happen when a state is not capable of fulfilling her obligations: national as a well as international due to certain grave reasons; or what would happen when the UN Security Council would not be able to authorize intervention, whether or not military intervention, in the matter of grave concerns due to ‘veto politics’ within the Security Council; then in all these cases, will the international community be remain silent?

After all, the question for the future is whether it will prove possible to arrive at procedures for deciding when it is permissible for intervening states to override the power of the veto. Since arguments over these procedural rules are likely to be the most fiercely contested in any future dialogue over the legitimacy of humanitarian intervention in international society, disagreement here could easily undermine the whole process of achieving a new framework agreement. But if this obstacle could be overcome by the negotiators, intervention that was deemed to satisfy these principles could be seen as an expression of ‘the collective will of the society of states’ rather than a threat to its fundamental ordering principles (Wheeler 2001: 128).

According to one scholar, a better approach to evaluating the pros and cons of military action is to concentrate on the prospects for a humanitarian *outcome*. As long as the motives and means do not undermine that result, then a military intervention may be consistent with the responsibility to protect even if it is accompanied by more strategic rationale (Welsh et al. 2002: 502). Ramesh Thakur and Albrecht Schnabel (2001) for

example has argued that if the national interests of the major powers are not at stake, then it correspondingly more difficult to secure their substantial involvement on purely humanitarian considerations as it happened in Somalia (1994). In the post 9/11 period, there is a growing tendency of taking action without securing the consent of the targeted country. The case of Afghanistan (2001) and Iraq (2003) are stark examples of the above.

### 1.3: International Organizations and the Issue of Legitimacy

Why do states care about international legitimacy? Why do states seek legitimacy of their actions from an international organization in order to launch peace enforcement operations? According to some scholars, states launch peace enforcement operations through international organizations because they recognize that these organizations act as gatekeepers to legitimacy in the contemporary international system (Coleman 2007: 19). Three main rules are relevant for judging international legitimacy: respect for state sovereignty, the prohibition on aggressive war, and the endorsement of military action to promote international peace and security...the rule of state sovereignty and its logical corollary, the principle of non-intervention into the internal affairs of other states remain relevant in framing legitimacy judgments in the current international system (Coleman 2007: 42).

Legitimacy judgments of international organizations reflect not an individual opinion of prevailing rules but the aggregated perceptions of at least a section of the international community. Their approval of a particular state action is thus the most potent signal of that action's correspondence to commonly acknowledged rules (i.e. international legitimacy) available in the contemporary international system...the 'stamp of approval' of an international organization for a peace enforcement operation indicates a collective judgment that the intervention both corresponds to the international community's interests and accords with its acknowledged rules. Individual states have only their particular judgments to set against this collective verdict. Unless motivated by significant national interests, few will be inclined to take up such an unequal contest (Coleman 2007: 49).



While an international organization (e.g. the United Nations) is recognized as such a legitimate actor because of its primary responsibility to maintain the international peace and security. According to Jean-Marc Coicaud, the ability to fulfill the responsibility in a reasonable manner is a test of their ability to achieve legitimacy to implement and embody a sense of political justice and of justice *per se*, to express and convey this idea, and to act for the public good (Coicaud and Heiskanen 2001: 259). According to Rudiger Wolfrum, as far as interventions of the United Nations are concerned, the possibilities for intervention are identified already in Article 2, paragraph 7 of the UN Charter, since it only prohibits interventions in matters ‘...which are essentially within the domestic jurisdiction of any state...’ Accordingly, the principle of non-intervention shall not prejudice the application of enforcement measures under Chapter VII of the UN Charter (Karen and Sylvan 2002: 95).

Assessing the legality of interventions by the UN organs or under a UN mandate three different aspects have to be addressed: the objective pursued; whether the entity actually undertaking the intervention has the power to do so; and the means used. Although each aspect has to be dealt with separately there is a distinct interrelationship among them (Karen and Sylvan 2002: 96). Coercive UN interventions, to be justified, must be authorized by the Security Council under Chapter VII of the UN Charter after a finding that, pursuant to Article 39 of the UN Charter, there exist a ‘threat to the peace, breach of the peace, or act of aggression...’ (Karen and Sylvan 2002: 96).

Danesh Saroorshi for example distinguishes between a UN force and a UN authorized force. According to him, if the Council exercises operational command and control over the force, then it is a UN force. However, if this function is exercised by a Member State or regional organization, then it is a UN authorized force (Wheeler 2001: 116). Taking all these above mentioned issues as a backdrop into account, the study tries to seek the answer of following questions:

1. What does the process of state-building entail, and what are its essential elements?
2. Historically what has been the understanding regarding the specific role that international organizations can play in this process?
3. What is a difference between the Mandate System of the League of Nations and current programmes of the United Nations in state-building?
4. Is the U.N presence in state-building in Afghanistan providing legitimacy to the U.S intervention?

The study is spread across four main chapters:

**Chapter I: Introduction** – this chapter focuses on the important subject of intervention and correlates it with debate in world politics on intervention undertaken with the explicit goal of state-building.

**Chapter II: International Organizations and the Task of State Building** - focuses upon experiences of the League of Nations before dwelling on the role of the United Nations. It takes up the case of the Mandate system established by the League of Nations.

**Chapter III: Role and Practice of the United Nations** → focuses on the historical context of U.N efforts and activities in state-building, and its experiences too.

**Chapter IV: The United Nations in Afghanistan** – examines the specific case of Afghanistan, the U.N's plans and strategies with other multilateral donors in state-building, achievements and challenges in Afghanistan.

**Chapter V: Conclusion** – contains the main findings of the research.

## Chapter II

### International Organizations and the Task of State Building

The task of externally driven state building is not new to an international organization. Even before the establishment of the UN, this was practiced by the League of Nations with the purpose of creating a functioning sovereign nation-state. The task of 'administrative advice and assistance' was included in the agenda of state-building which was commonly known as the *Mandate System*. With the end of the League period, the task of externally driven state building was started in a fresh manner with the establishment of the UN. During the cold-war period, the UN involved itself in the form of peacekeeping operations to accomplish the task of ceasefire and withdrawal of forces for the purpose of observation and monitoring, and the task of establish buffer zones and deter onset or spread of war for the purpose of separation of combatant forces, and the task of maintain or restore civil law and order; and this last one task is, is still being done by the UN. During this period, the state building efforts were driven under the auspices of the US, or USSR primarily. Therefore limited but actual role was played by the UN in this regard. It is also important to point out that during this period the principle of non-intervention remained as an international norm.

However, in the post cold-war era, there has been a dramatic expansion of the UN-sponsored state building efforts in the respective states. The UN directly involved in the task of state-building, and during this period, externally driven state building project encompassed the task of rebuild and train police, repatriate refugees, provide interim civil administration and oversee transition to indigenous authority. In post 9/11 era, the term *state building* is being defined from a geopolitical perspective. State building is, according to a scholar, used more broadly to refer to the efforts by national elites to create a territorial state and mobilize the population around a shared sense of national identity ( Berger 2006: 21). During this period, it is being argued that state building is an externally driven, or facilitated, attempt to form or consolidate a stable, and sometimes democratic, government over an internationally recognizes national

territory against the backdrop of the establishment and consolidation of the UN and the universalization of a system of sovereign nation-states (Berger 2006: 6).

State building project can encompass formal military occupation, counter-insurgency, peacekeeping, national reconstruction, foreign aid and the use of stabilization forces under the auspices of states or the UN or another international or regional organization. Externally driven state-building project cannot be accomplished without standby force, because to accomplish above-mentioned task, there is need this type of military presence within a targeted country. This is also important to point out that the UN cannot provide this type of standby force alone, and therefore, there is need to collaboration with provided forces by individual states. This is important because the task of state-building is time taking process that stipulates military presence for a long time period.

The task of externally driven state building is not an easy task particularly in societies torn apart by civil war. Therefore, reconciliation and confidence-building are also referred as important ingredients for the task of state building, so that state institutions could represent society as large. It is also important to note here that, while the presence of standby force is indispensable condition in the process of state-building especially in the post-conflict phase, the involvement of other actors such as: the World Bank, INGOs and the private sector are also important in putting a society's war ravaged economy back on its feet. It is so because, these actors may explicitly address the root causes of violence so that the outcome of such assistance may become long-lived. This is also important to point out that these actors must coordinate or integrate their policy with the national authority of the targeted state. Indeed, there can even be a tension between the liberal economic agenda embraced by international organizations and the social and welfare needs of post-conflict societies that can, if not managed sensitively, seriously obstruct post-conflict peace building (Newman 2002: 5).

In the 21<sup>st</sup> century the issue of post-conflict state building and attempts to prevent and manage the consequences of state failure has become acute concerns for the

international community. The international engagement in Afghanistan for the purpose of state building has become a central issue for the international community and to the United Nations International intervention and regulation in, and of states' behaviour are more or less subject matters of international concern. As far as this chapter is concerned, it takes a look at the historical involvement of international organizations in the task of state building. During the League years, the idea of state-building received a new impetus. This is important because Mandate System itself was a radical innovation introduced by colonial states in the strenuous condition of the beginning of the 20<sup>th</sup> century. However, the idea of mandate system in the form of trusteeship is regarded as the all-inclusive symbol of the movement to utilize international organization as an instrument, transformation, or elimination of colonialism (Claude 1964: 318).

This chapter goes into the exploration of the theory of trusteeship and details of the League's experiment of supervising and administering Mandates with the aim of creating sovereign function states. There were categories of mandate territories, and various rules were offered to regulate the colonial administration and to draw attention of the experiences of the League in the state building process, the chapter takes up the case studies of Iraq, Syria and Palestine in "A" category, examining the practical aspects of Mandate System. The chapter also seeks to study the institutionalization of a Permanent Mandates Commission and the role played by it in maintaining the system of control.

## 2.1: The Theory of Trusteeship

There is a growing sentiment that international intervention to promote the amelioration of colonial evils and the opening up of a full range of opportunities for dependent peoples is a good thing in itself, to be justified by its intrinsic values rather than its efficacy as a means to peace. Basically, the concept of trusteeship involves denial of the right of sovereign irresponsibility and the legitimacy of unmitigated self-interest as the guiding principle of the policy of possessor states in their dealings with dependent peoples. It is an assertion of the claim of the international community to determine relations between imperial powers and their colonies in accordance with

collective judgment as to what is best for the peoples of non-self-governing areas and for the world at large. Trusteeship represents an attempt to transform colonies from bits of private property subject to exploitation by their owners to parts of the public domain subject to development in the general interest. It aims at making dependents peoples temporary wards and their rulers responsible agents of world society (Claude 1964: 320-321).

According to Inis. L. Claude, both in theory and practice, trusteeship reflects a fundamental dualism of origin and motivation. It is...a culmination of liberal humanitarian trends which extend far back into the era of European colonialism (1964: 321). Trusteeship is, therefore, regarded as a scheme for protecting the world's interest in peace by padding the points of potential conflict among the great powers and also regarded as a project for compromising the old claims of the European world-rulers and the new demands of young states and emergent peoples, eager and impatient to undo the Europeanization of world politics. In its essential nature, trusteeship is a concept of political adjustment quite as much as an ideal of humanitarian advance (Claude 1964: 322).

### Origins of the Mandate System

The Mandate system consisted of an arrangement devised at the end of World War I of transferring those colonies and territories belonging to Germany and Turkey to the Allied powers for their upkeep, the 'well-being and development'. There was a common agreement among the Allied and Associated powers that the colonies and territories taken from Germany and Turkey in the course of the war would not be returned to those powers. The Allied and associated powers it has been held had already concluded secret treaties and agreements during the war, designed to divide the colonies and territories of defeated powers.

Thus, at the time of the Paris Peace Conference (1919), the Mandate System was not in any concrete form. It was General Smuts of Union of South Africa, who came up with a plan entitled "The League of Nations: A Practical Suggestion" and after lengthy

discussion, the final text of the Covenant came into existence in April of 1919, in the form of Article-XXII. Article-XXII of the Covenant read as follows:

1. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well being and development of such peoples formed a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.
2. The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that tutelage should be exercised by them as Mandatory on behalf of the League.
3. The character of the mandate must differ according to the stage of the development of the people the geographical situation of the territory, its economic conditions, and other similar circumstances.
4. Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal condition in the selection of the Mandatory.
5. Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guaranty freedom of conscience and religion, subject only

to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic, and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defense of territory, and will also secure equal opportunities for the trade and commerce of other members of the League.

6. There are territories, such as South-West Africa and certain of the South Pacific Islands, which owing to the sparseness of their population, or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.
7. In every case of Mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.
8. The degree of authority, control or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.
9. A Permanent Commission shall be constituted to receive and examine the Annual reports of the Mandatory and to advise the Council on all matters relating to the observance of the mandates.

Before going further, it will be useful to analyze the provisions of Article-XXII of the Covenant in order to discover just what specific principles were included in the Mandate System. These were:

1. Colonies and territories taken from the defeated powers were not to be annexed by



- the conqueror powers;
2. These colonies and territories were to be put under the joint sovereignty of the allied and associated powers;
  3. These colonies and territories were to be entrusted to the tutelage of the certain individual advanced colonial nations;
  4. This tutelage was to be exercised by as 'mandatory' under the supervision of the League;
  5. The 'open door' policy was to be maintained in colonies and territories so far as the mandatory has any power over them as such;
  6. Natives were to be used in a military capacity only for local defense and police;
  7. The peoples of the mandated territories were to have a voice in the choice of the mandatories.

Curiously, the discussion came at an important juncture. According to Ernst B. Hass, the advent of Mandate System was a part of a general trend away from power politics. The mandate system was in effect the outgrowth of various antithetical colonial policy motivations which operated not only on the inter-Allied and inter-Commonwealth levels but primarily on the domestic political level in most of the key states. The advent of the Mandate System represented not the victory of any onset of motives, but merely the necessity of finding solutions to various policy motivations- ideological, strategic, economic and expediential-which demanded realization in 1918 and 1919 (1521-22).

Therefore it may be argued that Mandate System was an effort of reconciliation of conflicting colonial policy aims. According to Hass, the idea of substituting the supervision of some international agency for simple annexation seems to have been commonplace in the wartime ideology of British Liberals and Labourites. Mr. Lloyd George had assured the House that the U.K had no annexationist desire and would leave the fate of Africa to the Peace Conference. While the liberal ideology compelled the government to avoid annexations, the demands of the Labour Party were a good deal more outspoken. In April 1917 the Independent Labour Party had asserted that "annexation of territory and people by force of arms is robbery and oppression"

incompatible with international socialism. It was an ideological confluence which the coalition government could not very well ignore when it had to consider the future of its conquests.

Though, the conservative circles demanded for outright annexation, that the future security of the Empire demanded retention of all areas which had been conquered with so much outlay of British blood and treasure, and these circumstances, proved to be favourable to the creation of the Mandate System. Some compromise solution was essential since the conquered areas could not be returned to Germany or Turkey and *pro forma* internationalization envisaged in the Mandate System appeared as a satisfactory answer (Hass 1952: 524)

While the French socialist associated themselves openly with the anti-imperialist demands of their British colleagues and while an anonymously written article had urged as early 1915 that Syria and Palestine should be ruled by an international commission, the bulk of French opinion, in and out of Parliament, demanded annexations and nothing short of annexations, in Syria, in Palestine and in Africa (Hass 1952: 525). Consequently there was no immediate ideological reason why France should favour the Mandate System. When the Peace Conference met in January 1919, M. Simon opposed the idea of international supervision, and asked for “annexations pure and simple. M. Clemenceau, when urged by President Wilson and Lloyd George, retreated from this position ultimately, after having received assurances that France would raise troops in her mandates for purpose of “defense”.

The creation of Mandate System, in the view of the Anglo-Egyptian school, seemed an altogether acceptable method of squaring British pledges with strategic needs and the realities of Arab nationalism. Empire communications could be protected by establishing more or less independent Arab “states” and relying on their ties and sense of gratitude to the U.K. At the same time, the nature of the mandatory bond would reassure the Anglo-Indian school. The French government, as has been shown, did not favour the mandate system at all. It favoured simple annexation in Africa and saw

advantages in the Mandate System in the Middle East only after the Arab nationalist movement had succeeded in establishing a “government” under Feisal in Damascus. It was the principle of international supervision which annoyed the French nationalists.

In fact, France wanted to use the mandate principle in order to claim all of Syria, which was to be prepared for independence under the “A” Mandate terms, without appeasing the Arab nationalists. According to Hass the Syria mandate was merely a device whereby the French motivations for the Middle East Empire could be realized in the face of British and Arab Opposition. While the diversity in motivations within the U.K government was the major factor underlying the acceptance of the mandate principle, it is doubtful that scruples of the French government would have been overcome so readily if it had not been for the pressure exerted by Woodrow Wilson. And the position of the U.S at the Peace Conference provided the fourth and final force which dictated the acceptance of the mandate idea as a compromise solution to a difficult dilemma.

Hass summed up above factors in these words: From the analysis of the Franco-British motivations leading to the acceptance of the Mandate System, it is clear that the principle of international supervision served as a compromise device in four distinct motivational dilemmas faced by Allied statesmen:

- 1) the necessity of meeting those strands of opinion demanding “no annexations” and their opponents arguing for the retention of the areas in question; this implied the reconciliation of the liberal opinion pressing for native welfare and progress through international accountability with the conservative brand of humanitarianism which favoured the same program through unilateral action;
- 2) the need of meeting the promise for “independence” made to the Arabs while making possible continued Franco-British imperial control over certain vital aspects of middle east relations, i.e. reconciling two sets of opposed strategic demands, each based on assessment of “reality” ;

- 3) the imperious need for maintaining harmony in the Commonwealth and appeasing the Dominions, while outwardly not expanding the Empire; and
- 4) the unwelcome necessity of cooperating with the demands of the United States while not going as far toward internationalization as Wilson thought desirable, thus again reconciling liberal ideological demands with conservatism and annexationist based largely on demands for strategic and economic superiority (1952: 535- 36).

Quoting the words of Quincy Wright, Jacobson has pointed out that, “the Mandate System was a compromise among those groups which thought that the status of the non-European territories yielded by Germany and Turkey during the first World War should be settled (a) by giving them independence, (b) by fully internationalizing them, (c) by allowing them to be annexed by the victorious powers, or (d) by restoring them to their former owners” (1970: 500). European international law...characterizes the non-European world and non-European cultures as “particular” and backward. This characterization suggests the need to reform, civilize, and domesticate the backward and the need for the development of appropriate doctrines and technologies for the purposes of bridging the difference, of bringing the “particular” and the barbaric non-European within the sphere of the universal and normal. The civilizing mission was invariably justified as being in the best interests of the natives (Anghie 2000: 275-76). Thus the continued economic exploitation of the Mandates and their integration into the international economic system was one of the imperatives of the Mandate System.

The provisions of the Article-XXII established the thing that no state shall be eligible as mandatory of the League except one which were ‘advanced’ ; which has ‘resources’, and is, therefore, presumably able and willing to make needful advances of money and credit; which was ‘experienced’ and therefore, presumably able to succeed in its tutorial work; and which has an appropriate ‘geographical position’, so that it may presumably do the work most conveniently and may have an interest in making a success of it (Snow 1919: 71).

It is worth noting that the 'dual mandate' adopted flowed from the principle of *mandatum* in Roman Law, under which property or persons were entrusted to responsible individuals for safekeeping; and colonial dependencies were regarded as representing a dual mandate in a sense that the administering state had a responsibility both for the welfare the indigenous population and for ensuring equality of access to all nations to the territories in question.

## 2.2: Functional Characteristics of the Mandate System

Article-XXII of the Covenant categorized mandate territories into three different groups- 'A', 'B' and 'C' mandates, according to the stage of development that their population reached. The distribution of the mandates is shown in Table 1. "A" mandates, which had a wide range of different provisions. The Charter for Palestine, for example, included the requirement to put into practice the Balfour declaration, which had promised a Jewish national home there. The Iraq mandate stipulated that Iraq should be given its independence as soon as possible. It is also worth noting that there was no formal mandate framed for Iraq in the first instance; its place was taken by a treaty, signed in 1922, between British government and Iraq. And by this agreement Britain promised to afford Iraq "such advice and assistance as may be required... without prejudice to her national sovereignty" (Webster 1933: 284). "B" mandates, where several restrictions on the mandatory power were laid down; and "C" mandates, which the new mandatory powers, South Africa and Australia, were able to govern virtually without constraints.

Table 1: Distribution of Mandate Territories

**“A” Mandates**

<b>Mandatory Power</b>	<b>Territory</b>
United Kingdom	Iraq
United Kingdom	Palestine and Transjordan
France	Syria and Lebanon

**“B” Mandates**

United Kingdom	Tanganyika
Belgium	Ruanda-Urundi
France and United Kingdom	Cameroons
France and United Kingdom	Togo

**“C” Mandates**

South Africa	South-West Africa
Australia	New Guinea
New Zealand	Western Samoa
U.K, Australia and New Zealand	Nauru
Japan	North Pacific Islands

Source: (Webster 1933: 284; Northedge 1988: 195).

### 2.3: The Permanent Mandate Commission

The Mandate System was institutionalized in the form of Permanent Mandate Commission (PMC). A majority of its members were drawn from non-mandatory states, though non-mandatory states were advanced colonial states. The members of the Mandate Commission were nominated not by their governments but by the League Council, and no one who was in any way dependent on his government was eligible for nomination.

The Commission comprised of nine members, five members represented the non-mandatory states, and four members represented the mandatory states. Mandatory states were Great Britain, France, Belgium and Japan; and non-mandatory states represented in the Commission at various times were Germany, Holland, Italy, Norway, Portugal, Spain, Sweden and Switzerland. The Commission included also an assessor from the International Labor Office, who was directly interested in the conditions of labor in the mandated territories. All the members were men, except for Mrs. Bugge-Wicksell of Sweden, who was later succeeded by Mme Dannevig of the same country.

#### Power and functions of the PMC

The working method of the Mandate Commission was largely decided by its constitution. It was stipulated that each mandate-holding state must send to the Commission annually a report which, after examination, the Commission will submit together with its observation to the League Council. In other words, the mandatory powers will make to the Commission an annual report, which will be brought to it through duly authorized representatives of the governments, who are permitted to be present at the meeting of Commission at which the report is under discussion. After the discussion had taken place, with any explanations from the mandatory that may be necessary, the representative of the mandatory state was to retire while the Commission made up its opinion. That opinion, once drawn up, was to be shown to the representative of the mandatory state, who was entitled to reply to it; both the criticism and the reply are then send to the League Council, which would decide any matter at

issue. Moreover, the Council was empowered to make any changes in the mandatory territories that it saw fit, almost without limit.

The Permanent Mandate Commission was formally constituted in February 1921, and held its first session in October of that year at Geneva ( session had to meet twice a year) to receive annual reports from the mandatory-hold powers on the territories administered by them, to submit these to the Council with its comments and recommendations. The Council considered them and, if necessary, made recommendations on them, the mandatory power (whether a regular member of the Council or not) being represented on the Council for this purpose. A procedure of different character had been devised for the execution of the minorities' treaties. Petitions on behalf of minorities were submitted, together with the reply of the government whom the complaint was made, to a committee of three members of the Council. The committee discussed the matter with the government (but not with the minority, which had no right to be heard), generally concluded either by acquitting the government or by obtaining from it an undertaking to remedy the grievance complained of. If the Committee failed to obtain satisfaction, it could refer the petition to the Council, on which the defendant government was, of course, represented.

A point to note was that "both mandates and minorities procedures were based on the same principle as Article-II of the Covenant, i.e., that decisions were reached by methods of persuasion and with consent of the government concerned" (Carr 1961: 110). The Commission worked out a skilful method of publicity: its actual proceedings took place in private, but the full text of question and answer was immediately published. It is important to point out that the observations of the Commission on the Mandatories were framed in cautions and diplomatic language, though; there has been no shirking of responsibility. The Commission did not fail to use plain speech when necessary or to call attention to breaches of the mandates. The Commission also made positive suggestions to mandatories, as, for example, when it urged a rectification of the boundaries between Tonganyika and Ruanda-Urundi – a suggestion which was adopted, to the satisfaction and advantage of the populations concerned, but this not all.



The Mandate Commission had several functions assigned to it. Some of them would be useful to make note of such as the prohibition of slavery, specified in the Article-XXII of the League Covenant as a condition of mandate-holding powers responsible for administering “B” mandates. In the case of “C” mandates, a condition was assigned to the mandatory powers that they administer this territory “under that law. The maintenance of law and order in mandated territories was also a matter of acute concern to the Commission in regard to two other areas, both in the Middle East and both subject to “A” mandates. The transformation of mandate peoples and territories into the term of economic progress served a further, vital purpose, for economics was understood by the Permanent Mandate Commission (PMC) to be a universal discipline which transcended cultural particularities. This was vital to the PMC, which otherwise lacked the means of making sensible comparison between different mandates, for example, between Togoland in Africa and Western Samoa in the Pacific...the entire creation of the ‘science of colonial administration’ required such a supposedly universal discipline... for the ‘science of colonial administration’ to come into being, it was necessary not only to establish a centralized institution which could collect the most detailed and wide-ranging information from all parts of the world, but also to analyze and process this information by a discipline such as economics which appeared to enable meaningful comparisons between cultures that were otherwise entirely incommensurate. The whole contemporary ‘science of development’ with its claim to be universally valid, is based on these premises and characteristics (Anghie 2000: 282).

### Practical Aspects of Mandate System

The provision of Article-XXII of the Covenant states its role to be, “to receive and examine the annual reports of the Mandatory and to advise the Council on all matters relating to the observance of the mandates”. In its first years the mandatory powers regarded it as an unfriendly intruder. However the Mandate Commission was able to form an impartial opinion about allegation made in the petitions. In 1926, the PMC suggested that reports supplied by the mandatory powers every year should be on the basis of a more exhaustive questionnaire, but the British Premier, Chamberlain turn

down the suggestion on the ground the questionnaire proposed was “infinitely more detailed, infinitely more inquisitorial than that which was being used”. He asserted that the Commission was threatening to extend its authority to point where the governance of mandated territory would no longer vest in the mandatory power but in the PMC. However, as time went on its reputation for Competence and fairness continued to grow. The mandatory gradually discovered that on the one hand the reprimands of the Commission were painful and its commendations were a valuable encouragement to the administration in the field. In its last years the Commission was consulted and trusted by mandatory and non-mandatory powers alike (Walter 1952: 173).

The maintenance of law and order in mandated territories was a matter of acute concern to the Commission in regard to two other areas, both in the Middle East and both subject to “A” mandates. When the matter related to a ‘rebellion of the Druzes in April 1925’ came to discuss before the Commission in February-March 1926, the members of the Mandate Commission found themselves in a dilemma: although Arab agitation in Syria was plainly directed against the whole mandatory system and the fact that it was administered by France, the Mandate Commission could take no account of this. Why it was so, here it is suffice to remind that, the award of the mandate was an Allied affair and not within the competence of League body to express a view about this matter. It is also noticeable that the French government had not appointed any commission for inquiry of disorder which might have provided information about them to the Permanent Mandate Commission. Though, the Commission scolded French government for her mal-administration in Syria, and the latter then adopted some liberal attitude towards the Syrians.

The most important matter referred regarding “A” mandates was the subject of Palestine. The matter of Palestine is important because this matter could not be resolved, and even today, it is very crucial because in so-many times and on several occasion, it has been, and is the scene of bloody fighting and hostilities between the Arab people and Jewish people, by, among other things, facilitating Jewish immigration and the close settlement of the Jews on the land. The Mandate required

the establishment of self-governing institutions. Holding Palestine territory as Mandatory made it obligatory for Britain to promote the development of these institutions. However finally, these two needed obligations could not be reconciled. This was so, because “self-government would favour the Arabs since they were numerically dominant. Yet, if they achieved it, they would certainly use self-government to rule out all prospect of Palestine becoming a National Home for the Jews” (Northedge 1988: 209).

When, the Shaw Commission Report related to incidents of the fighting between the Jews and Arabs of 23 August 1929, came before the Mandate Commission on its special session of June 1930, the Commission blamed the British authorities for accepting without questioning the Shaw Report’s account of the origins of the disturbances. The Commission also disagreed with the Report’s finding that the Arab attacks were not directed against British authority. Further it pointed out that, “the PMC’s function was to advise the League Council concerning all matters connected with the execution of the Mandate, and it could hardly blame the British for attempting to put into effect a mandate which evidently drove the Arabs to revolt” (Northedge 1988: 211).

On its Thirty-second session that was held in July-August 1937, the matter related to notorious Peel Commission Report about the partition of Palestine, the Commission reported to the League Council that ‘without British effort, there would have been no Jewish National Home; but also there would have been, on the threshold of the 20<sup>th</sup> century, no independent Arab state’. After all, the Commission criticized Britain for not having taken more decisive action to suppress the disorder in 1936 at an earlier stage. The Commission took the view that whenever trouble occurred in Palestine, the British authorities did not use enough force, at the right time, to suppress it. It is important to note here that, the Commission accepted a supplementary recommendation, gave Britain authority to explore a practical scheme of partition. Ultimately partition occurred; and this was conversely the role assigned to the Britain that holding the territory for administrative support to prepare the native government

for self-autonomy that actually did not occur, and therefore Britain violated the obligation assigned to her by the League Covenant of creating the sovereign functioning state; and this was the failure of the supervisory of the League.

#### 2.4: Permanent Mandate Commission and Trusteeship Council

Despite having its limitations, the League's enterprise in this area did initiate the *internationalization* of the trusteeship idea. It accepted the concept of the Dual Mandate, whereby a colonial power is considered as a trustee of the interests of both the colonial peoples and the world at large in the exercise of its governing functions, and sought to give this concept decisive meaning by providing a world agency to which accountability should be rendered and through which responsibility should be made effective (Claude 1964: 326).

With the establishment of the United Nations, a formal Trusteeship System was projected as a rechristened and somewhat revised version of the Mandate System. The range of the system was to be restricted in much the same manner as that of its predecessor; it should, in principle, apply to territories previously held under mandate and yet not independent, territories wrested from the Axis powers as a result of the war, and such other territories as might be handed over to it by their possessors. The overriding principle, as in the case of the Mandate System, was that the operators of the international laboratory should be dependent upon the will of colonial powers, singly or jointly expressed, for the provision of materials upon which to perform their experimental work (Claude 1964: 326).

In practice, the map of the Trusteeship System became a new edition, revised but not drastically altered, of the Mandate map and the pattern of the Mandate System was also generally followed by the designers of the Trusteeship System in respect to provisions for the administration and the exercise of the supervisory function in areas subject to its operation.

However, to grasp the effectiveness of the Mandate System that to what extent the Mandate System has been effective, a comparison with Trusteeship Council of the United Nations seems to be useful here. According to Inis L. Claude, The principle that supervision of the management of mandated areas should be carried out by international organs, through techniques not involving the assertion of legal competence to command or coercive capacity to enforce, was transferred from the League to the United Nations. The League Council and its auxiliary Permanent Mandates Commission were replaced by the General Assembly and its subordinate Trusteeship Council (1964: 327).

Here is the striking contrast between the Mandates Commission and the Trusteeship Council of the United Nations. The Trusteeship Council was designed as a body of governmental representatives in contrast to the independent expert membership of the Mandates Commission. In other words, the members of the Council were selected on the basis of political characteristic; while all members of the Mandate Commission were selected on the basis of non-political characteristic. The Council was assigned a somewhat more elevated status in the organizational hierarchy than its prototype had enjoyed. In fact, the Council possessed in some aspects wider competence and more direct authority than the Commission. The Charter of the United Nations provided for the administration of trust territories by several states or the organization itself, while the Covenant of the League provided for the administration of mandated territories by one state only. In the case of the Trusteeship, the administering authority is permitted to provide in trusteeship agreements for the cooperation of trust territories in regional advisory commissions or technical organizations, in accordance with Article-73 of the Charter.

The Trusteeship System provided a condition upon the administering authority to see that whether the trust territory plays its role to further international peace and security. Article-87(c) of the Charter makes provision that the Trusteeship Council may provide for periodic visits to the trust territories, while, the Mandate Commission did not allow to visit the mandate territories. The purpose of the Mandate System was to

create sovereign functioning states, but other than, a much more comprehensive and constructive goal was assigned to the Trusteeship Council in accordance with the Article-76 of the Charter of the United Nations. The “open door” policy in the case of “B” mandates under the League Covenant was subordinated in the Charter of the U.N to the best interest of the inhabitants of the trusteeship territories, not for the interest of members of the U.N. The provisions for the use of trust territories in the furtherance of international peace and security are clearly a departure from the policy of the League Covenant (Leeper 1951: 1209).

### 2.5: The Question of Sovereignty and the Issue of Legitimacy

Article-XXII refers to the “colonies and territories which as a consequence of the late War have ceased to be under the sovereignty of the states which formally govern them ...” and therefore states clearly that Germany and Turkey have lost all sovereignty over their former possession. The point is that the whole business of Mandate System raises the question of who, in reality, was the actual sovereign in the mandated territories. The Mandate System provided machinery for continuous and systematic international supervision of colonial administration. This kind of arrangement by the Covenant of the League presented a new kind of problem – question of sovereignty, because advanced nations got those territories, though they were not ordinary sovereign over those territories. Here a point is offered that “the extent to which the Mandatory Powers could be said to act on behalf of the League was, indeed, doubtful” (Carr 1961: 16).

The question was not so relevant in the case of “A” mandates. They would shortly be independent sovereign states in their own right and international law makes no provision for a short-term kind of sovereignty, ... but sovereignty in the case of “B” and “C” mandates was a different matter: there had to a sovereign in those territories in order that issues like defense of the territory, the settlement of frontiers with other countries...and such matters, could be definitively resolved. The mandatory powers, especially those responsible for “C” mandates, tended to argue that they were the sovereign (Northedge 1988: 196-97). It is important to point out here that the exact

position of sovereignty was never precisely defined; and it was left in the 'gray' zone; and old categories of international law did not fit situation. Again, he firmly points out that, "Wherever sovereignty lay, it did not lie with the mandatory power. Those powers acted like sovereigns in the mandated territories, but on the understanding that their right to act would somehow lapse if they failed to observe the terms of the mandate" (Northedge 1988: 198).

There is a fundamental difference between possessing sovereignty and merely possessing the right to exercise over a territory most of the powers of sovereign, as in a colonial protectorate" (Hales 1937: 87). Like Northedge, quoting the words of Mr. Hymans, he pointed out that "the mandatory power will enjoy... a full exercise of sovereignty, in so far as such exercise is consistent with the carrying out of the obligations imposed by paragraph 5 and 6 (of Article-22)..., thus allowing the mandatory power more nearly to assimilate the Mandated territory to its own..." (Hales 1937: 87). There, actually, is suggestion that the mandatory possess the right to exercise the powers of sovereignty over a territory without having sovereignty itself. Taking the view from Lord Balfour, He further pointed out that, "the Allies had conquered the Mandated territories and acquired the power to exercise sovereignty over them, but that by treaty they had restricted in some ways the exercise of this sovereignty and had created the League as a court of Conscience to ensure that these restrictions would be observed" (Hales 1937: 88).

It seems that the mandatory only possess the right to exercise most of the powers of sovereignty. Sovereignty itself was not vested in anyone. In the case of "A" Mandates, Article-XXII of the Covenant makes provision that "tutelage should be exercise by them as Mandatory on behalf of the League". Therefore in this respect Mandatory Powers regarded merely as agent of the trustee, namely the League. Though the League did not possess the legal ownership of the territories and has never claimed it. According to F. P. Walter, "the League, though already morally responsible in the eyes of the world, had no legal right even to inquire as to what might be passing in

these lands whose government was declared by the Covenant to be a sacred trust of civilization” (1952: 121-22).

According to Alpheus Henry Snow, “... to eligible to accept a mandate of the League for additional regions tend to increase the opportunities of such a state for world-monopoly and world-dominion and would also tend to enable the state to control the League for its own benefit” (1919: 75). This is really a question whether the general safeguards of the League which are now provided by the Covenant, are adequate to prevent perversion; and whether, even if they are so on paper, the League is likely to be perverted in fact, and the Covenant made as instrument of world monopoly and world domination by one state or by a group of states (Snow 1919: 71). As pointed out earlier on in the chapter, as the old kind of international law was not fit in the strenuous situation, the need therefore for a “new international law” of pragmatism that sought to conceptualize sovereignty not merely in formalist legal terms, but in sociological terms arose. “The creation of sovereignty within mandate territories corresponded with a process which might be termed the economization of sovereignty... the phrase “development and well-being” was principally understood in terms of economic consideration. As a consequence, all the complexities of the mandate societies, their social relations, and their cultural practices were formulated in economic terms” (Anghie 2000: 281).

It is so because, bearing the fact in the mind that when Iraq claimed its independent, other certain preliminary conditions were assigned also. It was so, because the Article-XXII provision only states ‘a stage of development’, though it does not state that what other criteria could be in this concern. Therefore, economic criteria were regarded as ‘a stage of development’. In the case of Iraq, The Permanent Mandate Commission, at its 20<sup>th</sup> session, in June 1931, declared that the attainment of an ideal standard of administrative efficiency and stability was not the necessary condition of termination, as the state need not challenge comparison with the most highly civilized and developed nations. Advanced colonial nations gave to the League the shadow of supervisory authority over their administration of the newly-acquired colonies, while



retaining for themselves the substance of sovereign control; they ostensibly became agents of the League, albeit self-appointed agents, but in fact they created the League as an instrument of their purposes and, in particular, designed it to serve as an agency or bestowing ideological legitimacy upon their colonial conquests (Claude 1964: 323).

## Chapter III

### Role and Practice of the United Nations in State Building

The concept of *weak* or *collapsed* or *failed* state has seen resurgence since the post-cold war period. A weak state, according to J. Migdal, is a state that does not have ‘capacities’ to penetrate society, regulate social relationships, extract resources, and appropriate or use resources in determined ways (Hehir and Robinson 2007: 3). In this way a weak state is often taken to be the cause for intra-state conflict or civil war. It is assumed that weak states do not possess infrastructural powers to fulfill national and international obligations expected of them. Therefore, according to M. Mann, states that are strong and possess infrastructural power are...adaptive and ‘organic’ (Hehir and Robinson 2007: 4). Weak states that lack the infrastructural power are not adaptive. They are based on despotic power, that is, state officials centralize, or try to centralize, decision making rather than embed it in society. State policy and form are imposed by elites, rather than negotiated, and enforced through the state’s possession of coercive resources, rather than accepted and enacted by society generally. Whilst state officials may have a high degree of freedom from social pressure to set taxes and decide state expenditure, this freedom does not produce general social benefits (Hehir and Robinson 2007: 4).

In the period of cold-war, decolonization saw the emergence of what R. H. Jackson has called ‘quasi states’ and these states were supported as sovereign entities by external powers and international convention, rather than by their own qualities and institutions, and did not develop their infrastructures and institutions as a result (Hehir and Robinson 2007: 5). According to R. I. Rotberg, a collapsed state is a ‘rare and extreme version of a failed state’ where ‘the structure, authority (legitimate power), law and political order have fallen apart and must be reconstituted in some form, old or new’ (Hehir and Robinson 2007: 6). While, a failed state, according to him, is ‘tense, deeply conflicted, dangerous, and contested bitterly by warring factions’, it cannot control its borders and exhibits extreme patterns of predation by political authorities and elites, decaying infrastructures and regression rather than economic and civil development.

The task of externally-driven state-building is to make the state capable, so that state may become able to fulfill its national and international obligations.

It is noticeable point here that, the United Nations was established to maintain international peace and security through settlement of disputes between and among states. In the period of cold-war, mainly in inter-state conflicts , the UN avoided getting directly involved in the process of state-building, but peacekeeping operations were carried out taking the consent of conflicting parties; and wherever, there was need of military intervention, it was taken by the UN Security Council; but in the post-cold war period, mainly in the intra-state conflicts, the UN has directly involved itself in the process of state-building on the basis of humanitarian ground from Somalia to East Timor. Cambodia, former Yugoslavia and Bosnia, Kosovo and East Timor are the other key cases, where the UN has directly involved itself in the process of state-building.

The role performed by the UN in such circumstances is a subject matter of acute concern. It is so, not only for drawing the lessons learned from the previous cases by the UN, but also for the UN itself. That this international organization, assumed to be an impartial organization, raises certain questions. For example whether the organization has the right and capability to perform the task of state-building, or does the task of state-building fall within the purview of the UN Charter, or is the UN expanding its role in the post-cold war period in this regard that goes beyond its purview., The prestige of the UN is at stake. Addressing the above mentioned issues is important because the UN has been set up by sovereign nation-states primarily to deal with issues affecting peace and security between and among sovereign states. The Charter of the UN is structured for dealing with disputes and conflicts among states. Jasjit Singh makes an important point that, “by definition, internal civil wars cannot be intruded upon by the United Nations without violating its own Charter” (Rajan 1996: 148).

In recent times, however, there have been many arguments to justify such interventions on the ground that the concept of absolute sovereignty itself is flawed. This still leaves serious contradictions within the UN Charter. Intervention is also being justified on humanitarian ground in due regard of the violation of human rights at large scale or in the case of genocide, therefore it is argued that the international community cannot close its eye, or become silent spectator in order to protect human rights. Intervention is also being justified in order to enable a state that lacks infrastructural power to enable it to fulfil its obligations. The purpose of this Chapter is to exhibit the role and lessons learned from the UN involvement in the processes of state-building. The chapter examines UN intervention in Cambodia, former Yugoslavia and Bosnia, Kosovo, and East Timor, to illustrate the trends visible.

For the time being, it is suffice to point out e that, the frequency of the UN interventions, in civil wars in the name of “peace-keeping” have increased markedly since the end of cold-war. But this appears to be more a case of misplaced focus of the organization, unable to deal with inter-state conflicts (which are its primary role) over the years, but attempting to expand its role into an even more complex field of human conflict (Rajan 1996: 148). , “The United Nations simply can not become engaged in every one of the world’s conflicts. If the American people are to say yes to UN peacekeeping, the United Nations must know when to say no” (Rajan 1996: 149).

But, there are ample reasons that demands, according to current situation, refocusing of the purpose of the UN among others the responsibility of maintaining international peace and security; and preventing human rights violations in the case of intra-state conflicts. In 1999, former Secretary-General Kofi Annan came out firmly on the side of humanitarian intervention (Mertus 2005: 125). In October 1999, in his annual report on the work of the United Nations, he issued a challenge to skeptics:

“If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica to gross and systematic violations of human rights that offend every precept of our common humanity?”

Therefore, making a state capable is indispensable for international peace and security, and this task can not be carried out without involving in the process of state-building, and this is the logic being offered upon which the UN involved itself directly in the process of state-building in post-cold war period particularly in Cambodia and East Timor.

### 3.1 The UN Involvement in Cambodia

In the rule of Khmer Rouge (1975- 1979), Cambodia was in a state of great civil war and relative isolation, and due to lack of trust among political actors and warring factions, the civil war resulted in the form of mass murder and genocide. Reason behind this was Cambodia's emergence from French colonialism in the 1950s; the country had suffered the spillover of the Viet Nam war in the 1960s and 1970s, followed by devastating civil conflicts and the genocidal totalitarian rule of Pol Pot. Under his "Khmer Rouge" regime from 1975 through 1979, nearly 2 million people perished of murder, disease or starvation, many on Cambodia infamous "killing fields" (UN Today 2007: 123).

ASEAN played a key role by spearheading an international campaign to isolate Viet Nam for its 1978 invasion and occupation of Cambodia and leading the search for a diplomatic settlement. US and Soviet cooperation led China and Viet Nam to support a ceasefire among the rival forces of Vietnamese-backed Han Sen government, the Khmer Rouge, and former Prince Norodim Sihanouk, along with the demobilization of armies, repatriation of refugees, and organization of elections (Karns and Mingst 2004: 315).

Therefore, in October 1991, the Agreement on a Comprehensive Political Settlement of the Cambodia conflict was signed in Paris with strong UN support. The UN was given full authority, for the first time in its history, to supervise ceasefire, repatriation of the fled Khmer, disarm and demobilize the factional armies, engage in demining, oversee the government's performance and hold free and fair elections. These tasks were

marked high in rank and on the road to conflict reconciliation, and building trust among various political actors and warring factions in Cambodia. Edward Newman makes a point that, the various peace settlements that have taken place since the landmark 1991 Paris Accord have privileged peace and stability over justice (Newman and Schnabel 2002: 45).

March 1992 to September 1993 saw the deployment of the United Nations Transition Authority in Cambodia (UNTAC). The point is that, in this period the UN was the sovereign authority in Cambodia concerning matters of foreign affairs, defense, finance, and public security.

In the election of May 1993, approximately four million Cambodians (about 90 per cent of eligible voters) participated. According to Roger Moran, the parties represented in the 120-member Assembly proceeded to draft and approve a new Constitution, which was promulgated on September 24, 1993. It established a multiparty liberal democracy in the framework of a constitutional monarchy, with the former Prince Sihanouk elevated to king. The Constitution provided for a wide range of internationally recognized human rights (Uday Bhaskar 2004: 191). Since then, UN agencies and programmes have assisted the government in strengthening reconciliation and development, and the office of the UN High Commissioner for human rights and the Secretary-General's special representative have helped it promote and protect those rights. These are referred as cornerstones of the rule of the law and democratic development. But the election of 1993 was judged as faulty due to political violence, intimidation, and lack of media access. In fact, Cambodia's first commune elections were held in February 2002.

In August 2001 King Norodom Sihanouk signed the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea. This followed legislation passed in January 2001 to create such a tribunal, a resolution in the UN Human Rights Commission in April 2001 calling for the establishment of a tribunal, and a series of

negotiations on the composition and nature of the court. Following the King's assent a memorandum of understanding was supposed to be established between the government and the UN (Newman and Schnabel 2002: 46).

After all, the elections of February 2002 were held to select chiefs and members of 1,621 commune (municipality) councils also were marred by political violence and full sort of being free and fair by international standards. The elections results were largely acceptable to the major parties, though procedures for the new local council have not been fully implemented (Uday Bhaskar 2004: 191).

On 29 April 2005, a special court was established to prosecute crimes committed under the Khmer Rouge's regime. Its judges and prosecutors were affirmed in during July 2006. By 13 June 2007, they had agreed on its internal rules. On 31 July, the Extraordinary Chambers in the Courts of Cambodia issued its first charges for crimes against humanity, taking several persons charged into provisional detention. After all, this court is attached to the Cambodia's current judiciary system. Edward Newman makes a serious point that, if this process is seen to be unduly tainted by political factors- and in particular the compromises and pardons that have been awarded to former Khmer Rouge leaders- the credibility of the tribunal may be undermined. If it were over-zealous, it would not be in tune with the feelings of many Cambodians and the government to prioritize development and the consolidation of peace and democracy (Newman and Schnabel 2002: 47).

In terms of international intervention and governance, UNTAC is regarded as a paradigm, and in this respect provides a useful case study of the UN's capabilities. According to John Sanderson, "UNTAC was a peacekeeping mission which achieved its objectives but failed to leave the country in the progressive democratic state intended by those who set up the peace process" (Thakur and Schnabel 2001: 159). Further he pointed out that, this failure has been ascribed to many reasons, including:

1. the United Nations arrived too late to take advantage of dynamics created by consummation of the negotiations, namely the Paris agreements;

2. the mission did not have sufficient safeguards built to ensure that the countryside was disarmed;
3. too much reliance was placed on the ability of Prince Sihanouk to achieve a consensus in the Supreme National Council;
4. insufficient emphasis was given to the building of an effective rule of law and justice system;
5. the United Nations should have been prepared to play a stronger hand in the development of the constitution of Cambodia;
6. The United Nations should have stayed longer (Thakur and Schnabel 2001: 159-60).

UNTAC's presence helped end the civil war and bring peace of sorts to most of the country, but it could not fulfill all its mandated tasks. Karns and Mingst has leveled a charge upon it that, it was unable to achieve a complete ceasefire, demobilization of forces (with the Khmer Rouge, in particular, retaining a significant military capability), or its full civil mission. Cambodia, therefore, illustrates the difficulty of carrying out all aspects of a complex peacekeeping and peace building mission (Karns and Mingst 2004: 315-16). Some serious charge has also been leveled against the UNTAC that, the UN has no role in internal conflicts and civil wars, and hence the level of legitimacy remains very low or questionable (Rajan 1996: 147). Some other pointed out that, UNTAC, which cost the UN \$1.8 billion, was abruptly terminated after Cambodia's successful 1993 elections, but the military seized power in July 1997, erasing many of its gains (Karns and Mingst 2004: 316).

John Sanderson questions whether the United Nations is better prepared for governance and building institutions for long-term political stability in the twenty-first century than it was in 1991? He further points out that, the truth of the matter is that the Secretariat is no better placed to plan and control operations than it was in 1991, and remains dependent on outside help when complex missions are to be organized (Thakur and Schnabel 2001: 166). In fact, the case of Afghanistan (2001) reveals this fact that the UN is dependent on outside help, at least in the form of standby forces.



On the other hand, Yasushi Akashi points out that, the United Nations has been largely successful in attaining its ambitious objectives in Cambodia relating to the implementation of the 1991 Paris peace agreements to restore peace and democracy in the country, although the disarmament and demilitarization aspects of the accord were not attained due to the intransigence of the Khmer Rouge. The UN's success in Cambodia derived partly from the international situation, in which all major powers were ready to dissociate themselves from the cold-war entanglement, and partly from the prevailing desire for peace by the Cambodian parties, exhausted after the prolonged 20 years of war. They were ready to lay down their arms (with the exception of the Khmer Rouge, which dropped out of the peace process in the second part of 1992 and more decisively in 1993) (Thakur and Schnabel 2001: 151).

But it should not be forgotten that the UN Transitional Authority in Cambodia was a success in that it fulfilled its mandate in time and under budget. What lessons can be drawn out from the Cambodian case is also important to point out. According to Yasushi Akashi, it is vital to have ample financial resources to assure post-conflict reconstruction and recovery. The combatants should be informed of how the lives of the people could be improved after the war if they gave up arms. Post-conflict peacebuilding can thus be a big incentive for peace. It is also important that peacekeeping and diplomatic negotiations be well coordinated and synchronized at a time of diminishing resources, the United Nations should not embark on an open-ended large operation (Thakur and Schnabel 2001: 152-53).

Finally, on the point of finances, according to Roger Moran, governing Cambodia would prove an expansive and expensive undertaking for the UN: the final bill for the two UN Peacekeeping Missions in Cambodia was over \$ 1.6 billion. UNTAC, the UN Transitional Authority in Cambodia, grew into a 22,000-strong civilian and military peacekeeping force to conduct free and fair elections for a constituent assembly. Further he pointed out that despite outbreaks of election-related violence, Cambodia as a whole was far better off in terms of human rights observance and more stable

politically, than it was before the massive international intervention of the 1990s. Even the best stability operations or peacekeeping operations were unlikely to result in perfection. The international community can nonetheless in good conscience withdraw an international intervention in the face of circumstances less than perfect (Uday Bhaskar 2004: 191).

### 3.2: The UN Involvement in Former Yugoslavia and Bosnia

The Federal Republic of Yugoslavia was a founding member of the United Nations that played a unique role in the cold-war period; and was a country where fault lines of ethnic, religious, and political differences were buried for half a century. Its unraveling unleashed conflicts, the ferocity of which shocked those who imagined that Europe in the 1990s was immune to such horrors. It also raised issues central to international order and international law, such as self-determination, individual and group rights, and the use of force to serve humanitarian ends (Karns and Mingst 2004: 317). The collapse of communism in the erstwhile Soviet Union and Eastern Europe, and the emergence of the United Germany as an overwhelming influence in Western European politics and its economy are referred to as important factors in this regard. The potential threat posed by a strong, united Yugoslavia in the volatile backyard of Europe was possibly the catalyst for some of the moves that were initiated in the region in 1990-1991. Germany, Austria, and Hungary, with their historical links with the region, together with Italy, without doubt encouraged nationalistic and secessionist elements in Slovenia and Croatia; the development that followed were inevitable. Equally inevitable was the Serb view that what they were being subjected to was a German plot to subjugate them (Thakur and Schnabel 2001: 170).

The efforts of Serbian leader Slobodan Milosevic in the late 1980s to put Serbian nationalism yet maintain Yugoslavia's unity provoked strong separatist movement in Slovenic, Croatia and Bosnia-Herzegovina and, ultimately, war. Eventually in June 1991, two republics of the federation, Slovenia and Croatia, declared their independence, followed by Bosnia-Herzegovina and Mecedonia in 1992. The problem of Kosovo, according to Karns and Mingst, simmered untended until 1998-1999.

Because Slovenia was fairly homogeneous, independence proceeded relatively calmly there; but Croatia and Bosnia-Herzegovina were not. The large Serb populations were determined not to be a part of these new states. Bosnia's heterogeneous Muslim, Croat, and Serb populations made it the scene of the fiercest fighting. Nationalist leader of each group fuelled ancient suspicions and hostilities; each group's military and paramilitary forces attempted to enlarge and ethnically cleanse its territorial holdings. The resulting war killed over two hundred thousand people, produced million of refugees, and subjected thousands to concentration camps, rape, torture and genocide (Karns and Mingst 2004: 317-18).

The 'ethnic cleansing' which was carried out against Muslims in Bosnia-Herzegovina surely qualifies as genocide. Eventually, Croatian Serbs, supported by the national army, opposed the move, and war broke out between Serbia and Croatia. When the problems assumed an overt form in 1990-1991, the European Community initiated some tentative processes to contain the situation. The processes came in the form of Badinter Commission, whose task was to establish whether or not the newly emerging states fulfilled the primary requirements for negotiation by the community. These included, among others, provision for the protection of minority rights. Therefore, Slovenia was recognized as independent state, but Croatia and Bosnia-Herzegovina did not. According to Satish Nambiar, "It is a cruel irony therefore that, even so, under sustained and unrelenting German pressure the European Community and the USA recognized the latter two countries prematurely, thus setting alight the flames of conflict" (Thakur and Schnabel 2001: 170).

Further Nambiar points out that, "... responsibility for the carnage in the former Yugoslavia purely in terms of the immediate root cause, the onus [wa]s on the European Community and the USA. It is an even further irony that this possible guilt complex ha[d] led the governments of these countries to deflect total blame on the Serbs as the villains of the peace throughout the last seven years, including the recent development in Kosovo" (Thakur and Schnabel 2004: 170). The Serbs had a case in Croatia was recognized in the Security Council resolution setting up UNPROFOR,

which among other things stated that, “the United Nations troops and police would be deployed in certain areas of Croatia, designated as United Nations Protected Areas (UNPAs); the UNPAs would be areas in which the Secretary-General judged that special arrangements were required during an interim period... they would be areas in which Serbs constitute the majority or a substantial minority of the population...” (Thakur and Schnabel 2004: 170).

After all, responding, the Security Council imposed an arms embargo on Yugoslavia under the Chapter VII enforcement provisions, efforts to address human rights abuses, and members’ failure to provide adequate resources to carry out the Security Council mandates; and the Secretary-General appointed a personal envoy to support peace efforts by the European Community. But many ceasefires that were negotiated rapidly broke down as the fighting escalated. In September 1991, the Security Council appointed former US Secretary of State Cyrus Vance as the Secretary-General’s personal envoy to secure agreement from all the Yugoslav parties on a UN peacekeeping operation.

Therefore, to create conditions for a settlement, the Security Council in February 1992 authorized the United Nations Protection Force (UNPROFOR) for Yugoslavia, initially deployed in the heavily Serbian areas of Croatia, and subsequently in three UN protected areas of Croatia to maintain a ceasefire, disband and demilitarize armed forces (both regular and irregular) ensure protection of basic human rights, and assist humanitarian agencies in returning refugees to their homes. In the intervening period between the approval of the Vance Plan by the Security Council in December 1991 and Secretary-General’s report on the setting up of the mission in February 1992, many developments, according to Satish Nambiar, had taken place which had substantially altered certain basic features on which the plan was premised. However, the original plan was not modified to allow for the new realities... In the initial stages, therefore, the UNPROFOR hierarchy was unable to interpret and respond effectively to the positions taken by the parties to the conflict (Thakur and Schnabel 2001: 171). Further, he writes that, while peacekeeping commanders requested 35,000 troops, the Security

Council authorized only 7,600... “Civil war broke out in Bosnia-Herzegovina.... UNPROFOR was still in the process of setting up for the mission in Croatia. And even so, for at least the first couple of years UNPROFOR did not have a mandate for ‘peacekeeping’ in Bosnia-Herzegovina” (Thakur and Schnabel 2001: 173).

The war then extended to Bosnia-Herzegovina, which had also declared its independence- a move supported by Bosnian Croats and Muslims but opposed by Bosnian Serbs. The Serbs and Croatian armies intervened in the city of Sarajevo, and the Security Council imposed economic sanctions on the Federal Republic of Yugoslavia, consisting by then of Serbia and Montenegro. To deter continuing attacks against Sarajevo, the North Atlantic Treaty Organization (NATO) in 1994 authorized air strikes at the Secretary-General’s request. Bosnian Serb forces detained some 400 UNPROFOR observers, using some as “human shields”. As UNPROFOR operations progressed, it soon became evident that shared responsibility between the United Nations and the European Community (with NATO preparing to make its presence felt in due course in Bosnia-Herzegovina) was an unsatisfactory arrangement, to put it very mildly.

Fighting intensified in 1995. Croatia launched major offensive against its Serb populated areas, and NATO responded to Bosnian Serb positions shelling of Sarajevo with massive air strikes. Bosnian Serb forces took over the “safe areas” of Srebrenica and Zepa. They killed some 7,000 unarmed men and boys in Srebrenica, in the worst massacre in Europe since the Second World War. In a 1999 report, the Secretary-General acknowledged the errors of the UN and member states in their response to the ethnic cleansing campaign that culminated in Srebrenica. The tragedy, he said, “will haunt our history forever”.

The reaction of the Security Council concerning the violations of human rights prevailing in former Yugoslavia was also based upon the linking of human rights violations with a threat to international peace and security. With resolution 780 of 6 October 1992, the Security Council requested the Secretary-General to establish an

impartial Commission of Experts to examine and analyze the information concerning evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law. With resolution 827 of 25 May 1993, the Secretary-General, acting under Chapter VII, decided to establish the International Tribunal for the prosecution of persons, responsible for serious violations of international humanitarian law committed in the territory of former Yugoslavia since 1991.

In 1993, the International Criminal Tribunal for the Former Yugoslavia was established. And doing this, the UN Security Council determined that violations of international humanitarian law in the Former Yugoslavia constituted a threat to international peace and security.

At the talks in Dayton, Ohio, in 1995, agreement was reached between Bosnia-Herzegovina, Croatia and Yugoslavia, ending the 42-month war. To ensure compliance, the Security Council authorized a multinational, NATO-led, 60,000-strong Implementation Force. Point is that, in Bosnia and Croatia, UNPROFOR was replaced by the NATO Implementation Force (IFOR). After all, IFOR was NATO's first effort to do what UN peacekeepers have done in the past: separate forces, supervise withdrawals, interpose themselves between parties, and provide a safe environment in which peace may take root (Karns and Mingst 2004: 320). In late 1996, IFOR was replaced by a smaller NATO Stabilization Force (SFOR), which had an indefinite mandate, acknowledging the scale of the peacekeeping and peace building tasks.

The Council also established a UN International Police Task Force. It latter became part of a larger UN Mission in Bosnia-Herzegovina (UNMIBH) which facilitated the return of refugees and displaced persons, fostered peace and security, and helped build up state institutions. When UNMIBH ended operations in December 2002, the most extensive police reform and restructuring project ever undertaken by the UN had been completed. UNMIBH had trained and accredited a 17,000 strong national police force. In addition to maintaining international security, this force has made progress in curbing smuggling, the narcotics trade and human trafficking.

Before this, in 1996, the Security Council had established the UN Mission of Observers in Prevlaka (UNMOP), to monitor the demilitarization of the Prevlaka peninsula, a strategic area in Croatia contested by Yugoslavia. UNMOP completed its task at the end of 2002.

In January 1996, having passed a resolution, the Security Council authorized United Nations Transitional Administration for Eastern Slovenia, Baranja and Western Sirmium (UNTAES) under the provision of Chapter VII of the UN Charter to deal with the aftermath of the Croatian army attacks on Serbs in UN Protected Areas within Croatia in 1995. An agreement was reached between the Croatian government and the local Serb authorities, supported by the Federal Republic of Yugoslavia to facilitate peaceful reintegration of Eastern Slovenia into Croatian territory.

The basic agreement of November 1995 referred to the right of return and security for refugees and displaced persons, and right to recover and receive compensation for property. The new administration's component was mandate to monitor the voluntary and safe return of refugees and displaced persons to their homes of origin in cooperation with the UN High Commission for Refugees (UNHCR), and to contribute to the maintenance of peace and security in the region. The civilian component was to establish and train a temporary police force, undertake civil administration and police service tasks, facilitate refugees returns, organize elections and certify results (Newman and Schnabel 2002: 145).

After all, Dayton Peace Agreement was in essence a US managed process, and was initiated on 21 November 1995. David Chandler (2006) has pointed out that, the European powers resented being sidelined by the US and lobbied Washington for the UN involvement in overseeing the implementation of the peace agreement. The US refused and the Europeans responded with the idea of establishing a Peace Implementation Council. This could, firstly, helped to provide some sense of international legitimacy in the absence of the UN involvement and, secondly, and more

importantly from the European perspective, ensure that Washington included the Europeans and others in the policy process. In fact, the PIC was a legal figment, designed to cohere the international management of the Dayton process. And it was finally signed on 14 December 1995 in Paris.

The Dayton peace was based on the arbitrary and ad hoc use of international power to establish a unique regime of post-conflict external regulation, one without previous historical precedent. The lack of international legal accountability explains the ad hoc and flexible nature of the powers of the High Representative (Chandler 2006: 129). Carl Bildt makes a point that UN authorization was avoided because of United States reservations about UN involvement (Newman and Schnabel 2002: 147). After all, the UN was given responsibility for the new International Police Task Force (IPTF), which was given a stronger mandate than previous UNCIVPOL operations.

There is also a noticeable point that, the Office of the High Representative (OHR) was authorized through Dayton and not through the UN, although the UN has become steadily more engaged with it. Regular OHR reports to the UN Security Council, since March 1996, were specifically requested in a unanimous Chapter VII resolution in December. Point is that, the OHR was established to achieve reconciliation within Bosnia, but due to lack of political will to carry out the Dayton agreement, the OHR could not achieve the task. Therefore, the Dayton settlement seemed to freeze the situation on the ground to the benefit of those who had conducted the armed campaign against the Bosnian state and impose such tremendous suffering on its population... the settlement seemed morally wrong and politically impracticable, but still necessary in order to end violence of a scale and intensity not seen in Europe since the end of the Second World War (Weller and Wolf 2008: 1). The fact that the Bosnian Serb and Bosnian Croat communities were not even direct parties to the Dayton agreement, which was instead signed by the leaders of the then Federal Republic of Yugoslavia (Serbia and Montenegro) and Croatia, should not be forgotten.



The difficulty thus lay in the structure of the agreement. It appeared to deny to all sides that which they had vigorously sought to achieve during the war. Republika Srpska, the mainly ethnic Serb entity, was derived statehood or association with then Federal Republic of Yugoslavia. The mainly ethnic Croat entity had already been tied in the Washington Agreement of 1994 into an uneasy 'federation' with the mainly Muslim part of Bosnia and Herzegovina. All three communities were loosely bound together in the shape of a state that appeared to be lacking in most of the powers and institutions necessary for its functioning. At least two of its constituent communities- Serbs and Croats- thus had little if any real interest in making Bosnia and Herzegovina work as an independent and sovereign member of the international community (Weller and Wolf 2008: 2).

There is an issue of accountability that needs to be pointed out, because the High Representative and other international bodies wield governmental power, though these are not directly accountable to the Bosnian people, but accountable to the bodies that appoint them. For example, the PIC and the Council of European Union in the case of double-hated HR, the NATO in the case of the Stabilization Force (SFOR), and the European Court of Human Rights in the case of the international judges on the Bosnian Constitutional Court. Richard Caplan makes a point that, while international authorities seek, among other objectives, to enshrine democratic accountability in the local public institutions within their purview, these same authorities are in many ways unaccountable themselves. International administrators are not elected by the citizens of BiH and can not be removed by them. Nor can the local population contest the decisions of these administrators whose actions, moreover, are not always transparent (Hehir and Robinson 2007: 108). And according to Simon Chesterman, the OHR was an office only 'consistent with relevant United Nations Security Council resolution', not formally run by or directly accountable to the UN (Chandler 2006: 128).

While the UN's peacekeeping role in Bosnia-Herzegovina ended with the Dayton Peace Agreement in 1995, on the other hand, the EU Police Mission replacing the UN Mission to Bosnia at the end of 2002 and the EU's assumption of the NATO

Stabilization Force (SFOR) military security role at the end of 2004. A point is made that, the ending of the UN International Police Task Force (IPTF) mandate is illustrative in this regard as it did not result in any greater ownership for the Bosnian authorities. Under the EU, in the first ever civilian crisis management deployed under the European CFSP (EUPM, 2004), the mandate of the mission is no less authoritative than that of the UNIPTF (Chandler 2006: 140). The point is that, as for as the engagement of the people of Bosnia or their elected representatives is concerned, little has changed over the ten years, since the Dayton Agreement; and further a point was made that, the Bosnian public have been excluded from the transition process and while there is general support for EU membership there has been little public discussion of the costs and benefits involved (Chandler 2006: 142).

After all, the UN Security Council has issued a series of Chapter VII Resolutions agreeing to the designation of individuals for the position of High Representative and reaffirming the High Representative's interpretation of his powers. The High Representative also provides regular reports to the UN Secretary-General with an update on his activities. But point is that the HR is not a UN official and does not receive instructions from the UN Department of Peacekeeping Operations or any other department of the UN. It is also noticeable point that the UN Secretariat has no role to play in the day-to-day activities of the HR and the OHR. Here, Rebecca Everly makes a interesting point that, no UN bodies have ever been established or used for the purpose of reviewing decisions issued by the HR. As concerns international judicial review, one should note that the International Court of Justice is not empowered to hear claims brought directly against international actors such as the High Representative or the OHR, and has not considered the legality of High Representative decisions either in an advisory opinion or indirectly in the course of a contentious case (Weller and Wolf 2008: 42).

Assessing the role of the OHR, Carl Bildt suggests 'that any future peace implementation mission has a lot to learn from the experiences we made breaking new

ground. There must be a unity of political efforts, a clear will to back political intentions with military might and a realization that peace is in essence a political process' (Newman and Schnabel 2002: 149). According to Sally Morphet, the HR made no reference to the UN, law, justice or the concerns of the local populations. This perhaps demonstrates the fact that he and his successors considered that they could not rely on the backing of the international community of state in the UN, Which might have lent increased political legitimacy in his Mission. G-8 backing alone was clearly not sufficient (Newman and Schnabel 2002: 149).

Some argues that, the Mission has often been judged by their mandate performance, facilitation of conflict resolution, conflict containment and limitation of casualties (Newman and Schnabel 2002: 149-50). Therefore, it may be argued that, the OHR and its military counterpart, SFOR, have had more success with conflict containment and limitation of casualties, but it can not be argued that, the OHR have had more success in the case of conflict resolution. In fact, there is very less representation of local people in the OHR, and the OHR is not directly accountable to the people for its civil administration in Bosnia-Herzegovina.

Stephen J. Stedman has argued that, where peacekeeping operations were linked to a peace accord such as in...post-Dayton Bosnia, finding, for example, with respect to peacekeeping,, the "transformation of warring parties into political parties" through demobilization of soldiers, demilitarization, and disarmament was critical...Without this...Other goods such as economic development, democratization, and protecting human rights have little chance of success (Karns and Mingst 2004: 323). Some others pointed out that, internationalized state-building can...serve the stabilization of states emerging from conflict well if it draws on a well balanced approach of consociational techniques, moderated by integrative policies, tempered by a wider regional outlook and sustained by resourceful and skilled international involvement. The experience of Bosnia and Herzegovina may not have scored full marks in all of these categories, but even, and perhaps especially, where the internationalized state-building effort has lacked effective policies, important lessons can be gleaned for other similar

contemporary and future challenges that the international community will no doubt have to face (Weller and Wolf 2008: 12).

In fact, After the Dayton Peace Accords, Bosnia remains a kind of international protectorate under quasi-colonial authority. The country is dependent on aid. Its economy is criminalized and stagnant. There is no unified police force trusted by all three communities (Muslim, Serb, and Croat) and little civil society development to provide the basis for long-term democratization. Only in 1999 was UNHCR with SFOR's presence successful in encouraging refugees to return to minority areas. With the persistence of the Serb Republica Srpska, the country remains effectively partitioned (Karns and Mingst 2004: 321).

There is a hard truth, have to accept that, in Bosnia, people have no faith in the political and developmental institutions because there is high level of corruption in public institutions, and close connection between criminality and politics. Even, after fourteen years of Dayton Peace Accord, building trust in public institutions has been difficult for the OHR and international administrators to end the conflict in Bosnia. The Bosnian peoples have no right to choose their representative for the high authority of Bosnia, and the high authority is not accountable for its activities towards Bosnian peoples. Instead, it is accountable to the body that appoints it. Therefore, there is a question of legitimacy of the government which is being wielded for the sake of Bosnian peoples. There is also a challenge before the government to win the trust of its citizens, and without winning the trust no secure form of government can be established, and therefore, the task of state-building can not be achieved. After all, the trust can be won throughout involvement of the Bosnian peoples in the process of state-building. Therefore, meaningful public participation in order to shape the public or state institutions is indispensable in this regard. And one point is also noticeable that, as long as the final status of Bosnia can not be introduced or established, it is suffice to write that the high authorities of Bosnian government should be responsible and accountable to the Bosnian peoples for its civil administration till then. What kind of role the UN can play is also the matter of acute concern, because of its role has been

marginalized since the Dayton Peace Agreement. Though the UN can facilitate and promote the process of state-building providing its impartial and valuable guidance leading towards full functioning of a legitimate government.

### 3.3: The UN Involvement in Kosovo

The root causes of the Kosovo crisis goes back to 1989, when the Federal Republic of Yugoslavia ruled out local autonomy in Kosovo, a province in Southern Yugoslavia has historical important to Serbs which was more than 90 per cent ethnically Albanian. Kosovo Albanians dissented, boycotting Serbian state institutions and authority in quest for self-rule, and crisis appeared in the form of ethnic cleansing on a massive scale. Satish Nambiar argues that, it is a matter of deep regret that the political leadership of the USA and the countries of Western Europe did not apply their efforts to a resolution of the Kosovo situation during the deliberations at Dayton in November 1995. It is inconceivable that anyone dealing with developments in the Balkans could have failed to recognize that Kosovo was a “tinder box” (Thakur and Schnabel 2001: 178).

In 1996, tensions increased, when the Kosovo Liberation Army (KLA), seeking independence through armed rebellion, launched attacks against Serb officials and Albanians who collaborated with them, and Serb authorities responded with mass arrests. Fighting erupted in March 1998 as Serbian police swept the Drenica region, ostensibly looking for KLA members. After all, 1,500 peoples were killed and 270,000 were fled from their homes, and in this case a violation of the human rights was marked by the UN Security Council as a threat to peace.

In 23 September 1998, having passed a resolution 1199, the Security Council expresses its deep concern on the ‘flow of refugees’, the ‘rapid deterioration in the humanitarian situation through out Kosovo’ and its alarm ‘at the impending humanitarian catastrophe...’ Although the resolution invokes Chapter VII of the UN Charter it lacks the statement required under Article 39 of the UN Charter that it constitutes a threat to international peace. This deterioration of common practice was discussed intensively in

the Security Council and reflects the opposition of Russia to allow any involvement of the Security Council. The decision taken by the Security Council are moderate and hardly adequate if the case is considered to fall under Article 39 of the UN Charter. Resolution 1209 of 24 October, expresses its alarm 'at the continuing grave humanitarian situation through out Kosovo and the impeding humanitarian catastrophe' and- different from the previous resolution- affirm that the '...unresolved situation in Kosovo, Federal Republic of Yugoslavia, constitutes a continuing threat to peace and security in the region'. Again Chapter VII of the UN Charter is invoked. The operative part of the resolution, apart from reiterating resolutions 1160(1998) and 1199 (1998), focuses on the OSCE Verification Mission (Karen and Sylvan 2002: 104).

After all, The Security Council imposed an arms embargo against Yugoslavia, including Kosovo, but the situation deteriorated into an open warfare. In March 1999, following warnings to Yugoslavia and against the backdrop of a Serbian offensive in Kosovo, NATO launched air strikes in Kosovo against the Republic of Yugoslavia without a mandate from the Security Council. The Secretary-General Kofi Annan said on 24 March 1999 that, "it was indeed tragic that diplomacy had failed, but there are times when the use of force may be legitimate in the pursuit of peace.... [But] the Council should be involved in any decision to resort to the use of force". Point is that, the NATO's actions had been undertaken with the stated purpose of implementing the UN Security Council resolutions but without the Security Council authorization. The reason behind this given was to defense a sovereign state on the humanitarian ground.

In fact, first time in the history of the UN military action was enforced without taking the authorization of the Security Council. Therefore, NATO's military intervention raised a fundamental question of how international society should treat intervention like this type of cases. In the case of Kosovo, the military action was wielded outside the UN purview due to veto political in the UN Security Council. Thus the international community took a confrontational and interventionist approach in this regard to curb human rights abuses then being wrought by the Milosevic regime. According to Roger Moran, the approach of the international community has been to

administer Kosovo directly and to defer consideration of the question of the status of Kosovo until certain democratic standards are met further down the road (Uday Bhaskar et al. 2004: 184).

The NATO's intervention in Serbia is often recognized as a dangerous precedent because it clearly violates the provisions of the UN Charter. David Clark (2009) points out that, even the veteran British MP, Clare Short, a forceful advocate of intervention in the Balkans, attributed Tony Blair's foreign policy errors to the "taste for grandstanding" he acquired in Kosovo. After all, there is a point that still contested; either the war in Kosovo was a response to a humanitarian emergency or a geopolitical power play. There is referred a survey by eminent statisticians in 2002 confirmed what refugees had always maintained- they were fleeing an organized programme of ethnic slaughter. An analysis of available data revealed a strong correlation between deaths and displacements, and Serbian military activity. There was no correlation with NATO or Kosovo Liberation Army actions. And the speed and extent of Serbian's mobilization was indicative of a preconceived plan, not a spontaneous reaction to NATO bombing (Clark 2009).

After all, the violence accelerated immediately before and after the start of the bombing campaign. Serbia strikes a major offensive against the KLA and began mass deportations of ethnic Albanians from Kosovo, causing an unprecedented outflow of 850,000 refugees- half Kosovo's Albanian population. About 10,000 were murdered by Serbian forces. These atrocities may, according to David Clark (2009), pass 'the legal test of genocide, but the reality was awful enough. The Serbian state carried out crime against humanity- a ruthlessly executed plan to change the ethnic composition of Kosovo through expulsion and mass murder'. Yet the debate over Kosovo also questioned whether NATO's military action worsened the humanitarian crisis by prompting the large refugee outflow, civilian casualties of bombing, and destruction of infrastructure such as power plants and bridges on the Danube.

After all, it was Russia that acted unilaterally in refusing to accept the balance of international opinion. Russia tabled a draft UNSC resolution on 26 March 1999 condemning NATO's use of force and demanding an immediate halt to the bombing. Russia, China and Namibia voted in favor, leading to a resounding defeat of the resolution. And military action was supported by NATO's members, EU's members and neighboring countries of Serbia. CSR Murthy (2003) argues that in the case of Kosovo "the third world was defeated by the third world".

In June, Yugoslavia accepted a peace plan proposed by the G-8. The Security Council endorsed it and authorized member states to establish a security presence to deter hostilities, demilitarize the KLA and facilitates the return of refugees. It also asked the Secretary-General to establish an interim international civilian administration, under which the people could enjoy substantial autonomy and self-government. Yugoslavia forces withdrew, NATO suspended its bombings, and a 50,000-strong multinational Kosovo Force (KFOR) arrived to provide security.

The G-8 foreign ministers, however, in their list of principles endorsed by and attached to SCR 1244 called for:

A political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of UCK (Newman and Schnabel 2002: 150).

They also called for the establishment of an interim administration 'to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo' (Newman and Schnabel 2002: 150).



The UN Interim Administration Mission in Kosovo (UNMIK) was established in June 1999 by the Security Council under the provisions of the UN Charter. Its task was unprecedented in complexity and scope. The Security Council vested UNMIK with authority over the territory and people of Kosovo, including all legislative and executive powers and administration of the judiciary. Vesting powers in UNMIK means, they wanted, according to David Clark (2009), 'the international community to accept that the UN's commitment to individual human rights should count for more than the sovereign rights of states and their rulers. They wanted to enforce international legal norms, not undermine them'. UNMIK was established with the aim of providing an interim administrative framework that would enable Kosovo to function while its final status was determined (Hehir and Robinson 2007: 125).

The resolution authorized the UN Secretary-General to establish such an administration. UNMIK's responsibilities included organizing elections, supporting key economic infrastructure reconstruction and humanitarian aid, assuring the safe and unimpeded return of all refugees and displaced persons, and maintaining civil law and order including establishing local police forces. Quoting the words of Eide and Holm, Sally Morphet makes an interesting point that "the UN was given executive authority over policing in both Kosovo and East Timor, rather than its normal function of assisting in the development of local police forces and of monitoring their behaviour" (Newman and Schnabel 2002: 150-51).

The terms of UNMIK's competencies were detailed in Security Council Resolution 1244 on 10 June. The resolution outlined the crisis in the province and determined that situation in the region continues to constitute a threat to peace and security.

The Resolution authorized the Secretary-General to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing

institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo (S/RES/1244/1999).

According to Aidan Hehir, UNMIK was designed as a temporary measure and while its immediate remit was to bring peace and create a functioning economic and political system in the province, it was ultimately charged with facilitating its own obsolescence (Hehir and Robinson 2007: 125-26). Further he points out that, the detail of UNMIK's competencies were outlined in paragraph 11 of the resolution and various subsections within this paragraph acknowledge the temporary nature of UNMIK's tenure emphasizing in a number of instances that these are competencies undertaken 'pending a final settlement' and 'pending a political settlement'. Paragraph 11(f) similarly notes that UNMIK's ultimate role is 'overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement' (Hehir and Robinson 2007: 127).

In Kosovo, it is not the UN, but rather NATO that has been in charge of the military side peacekeeping, while the UN has been in charge of administering the state. In June 1999; the UN Security Council authorized the UNMIK to administer the province. According to Sally Morphet, the structure of this mission and its leadership was somewhat similar to that of the OHR (Newman and Schnabel 2002: 151). The UNMIK is designed around "four pillars" presided over by the SRSG, and comprised of different international organizations.

The first pillar -humanitarian assistance- was headed by the UNHCR until May 2001 (when it was phased out), and replaced by a UNDPKO 'police and justice' division. The second pillar- UNDPKO 'police and justice'- set up in May 2001 to provide greater focus, centrality and coordination. According to Sally Morphet, neither the Commander of KFOR nor the SRSG were given authority over the other. The third pillar- democratization and institution building- is headed by the organization for Security and Cooperation in Europe (OSCE). And the fourth pillar- reconstruction and economic development- is managed by the EU. According to a scholar, NATO heads

what would be a fifth pillar, the Kosovo Force (KFOR), but NATO's forces are not integrated into the UN- centralized civilian command of UNMIK (Howard 2008: 302).

The decision to divide the operation, rather than uniting command structures, meant that the different wings of UNMIK are often working at cross, or parallel, purposes. The lack of coordination has incurred the rancor of both Kosovar Serbs and Albanians, and demonstrates a significant absence of second-level learning from the operation in Bosnia, where similar problems occurred (Howard 2008: 302). As Jacques Klein illustrated colorfully: "you have the pillars and poles and what have you- OSCE, KFOR, why for- then you wonder why an SRSG has to struggle with organizations which don't like to be controlled because if I don't pay you, you don't work for me" (Howard 2008: 302).

At least 841,000 refugees of the approximately 850,000 who fled during the war returned, and the first priority was to equip them for the rigors of the coming winter. That accomplished, UNMIK made significant progress towards re-establishing normal life and ensuring long-term economic reconstructions. The KLA was completely demilitarized by September 1999 and its members reintegrated in civil society. In the following months, as some 210,000 non-Albanian Kosovars left Kosovo for Serbia and Montenegro, joint committee facilitated their safe return. Remaining non-Albanian minorities lived in isolated enclaves guarded by KFOR.

In April 2001, the International Criminal Tribunal for the former Yugoslavia indicated former Yugoslav President Milosevic and four others for crimes against humanity during a "systematic attack directed against the Kosovo Albanian civilian population of Kosovo". When the defense had nearly completed its response, Milosevic died of natural causes while in detention, on 11 March 2006. He had been facing 66 counts for genocide, crimes against humanity and war crimes in Croatia, Bosnia-Herzegovina and Kosovo. After all, the Security Council lifted its arms embargo in September 2001. And in November, a 120-member Kosovo Assembly was elected which, in March 2002, elected the province's first President and Prime Minister. In December, UNMIK

completed the transfer of specific responsibilities to local provisional institutions, though it retained control over security, foreign relations, protection of minority rights, and energy- pending determination of the province final status.

A major political focus in Kosovo is the status of Kosovo's minority communities, especially the Serbs. Kosovo's small Serb community suffers restricted freedom of movement sporadic acts of inter-ethnic violence. After the war, more than 200,000 Serbs and other non-Albanian ethnic minorities fled Kosovo. As a matter of principle, the international community has encouraged their returns, although returns have been disappointing (Uday Bhaskar et al. 2004: 186). Relations between Kosovo Albanians and Serbs authorities remain frosty and official contact between Pristina and Belgrade is rare. In 2003, the international community pressed leaders in Belgrade and Pristina to begin a dialogue on practical issue of mutual concern, such as transportation, electricity, and the return of displaced persons. The opening of the direct dialogue began in October 2003, and the international community is working to bring both sides back together later in 2004 (Uday Bhaskar et al. 2004: 186).

The issue related to Yugoslav law also the matter of acute concern because Serb population of Kosovo protested against the legislation of this law, because it was providing legal autonomy for self-determination to Kosovo Albanians. Kosovo Serbs protested against this law stating it is an encroachment on Yugoslav sovereignty. Legal issues, according to a scholar, including property rights also came to the fore, and UNMIK proposed a standard registry of property claims, to redress legal measures on property taken in recent years that discriminated against any ethnic group and to rebuild property and cadastral records (Newman and Schnabel 2002: 151).

UNMIK and the Special Representative of the Secretary-General (SRSG), in particular, wielded unprecedented power. Acting on behalf of UNMIK, the SRSG has the power to dissolve the Kosovar assembly and call new elections, has final authority over the appointment, removal from office and disciplining of judges and prosecutors, exercises authority over law enforcement institutions, can withhold approval of the budget,

conduct external relations and personally appoints the members of the Economic and Fiscal Council, the governing Board of the Banking and Payments Authority of Kosovo, the chief executive of the Customs Service and Tax Inspectorate and the Auditor General.

After all, the SRSG began by attempting, according to a report of Secretary-General on UNMIK in September 1999, local consultation by setting up a Kosovo Transitional Council which was subsequently replaced by a Joint Interim Administrative Structure (JIAS). This arrangement, according to a report of the Secretary-General on UNMIK in December 1999, included an Interim Administrative Council (IAC), which would recommend amendments to applicable law and propose policy guidelines to administrative departments.

In fact, UNMIK wielded unprecedented power and acted as like as a sovereign government in Kosovo. Aidan Hehir rightly points out that, UNMIK effectively acted without external constraint and imbued itself with extensive political powers. These unprecedented competencies were legitimized on the basis that the situation in Kosovo was so dire that external administration was a necessity but also by the fact that this was a transitional phase; UNMIK was established as a permanent locus of power in Kosovo and aimed to dissolve itself and hence rescind these extensive competencies (Hehir and Robinson 2007: 127-28).

There is also a noticeable point that representatives of all major political parties and ethnic groups, according to a report of SG on UNMIK in December 2000, met on a weekly basis to provide input into UNMIK decision making. Despite these efforts, the municipal election in October 2000 were boycotted by the Kosovo Serbs and almost all Rome and Turks; and according to a report of SG on UNMIK in March 2001, political circumstances finally improved after the fall of Milosevic in the same month. UNMIK and the FRY instituted a regular dialogue and agreed to open an UNMIK office in Belgrade. According to Sally Morphet, by March 2001, the Mission was able to shifts

its focus away from relief intensive efforts to political and economic capacity building (Newman and Schnabel 2002: 152).

In the early phase of UNMIK's tenure economic growth was considered to be a key determinant in the transformation of Kosovo's conflict-ridden society. But, according to Aidan Hehir, unemployment and economic malaise were seen as ripe breeding grounds for nationalism and violent ethnic identification and, therefore, if these economic issues could be addressed it was argued these would be commensurate reduction in inter-ethnic strife. He further puts an important point that, the primary issue in Kosovo from 1989 onwards, and particularly from 1998 on, was security, itself a function of sovereignty with both Albanian and Serb communities capable of providing ample evidence to suggest and they will always be oppressed if power is vested in the other community the central issue of sovereignty is paramount. Therefore, the suggestion that all will be well if the economy is growing regardless of whether rule in Kosovo is exercised from Belgrade or Pristina appears to hold little water as the locus of power is considered paramount (Hehir and Robinson 2007: 129-30). After all, as Van Meurs and Weiss note, clearly expresses that 'the current state of affairs in the region indicates that socio-economic transformation makes limited inroads as long as issues of state-sovereignty and inter-ethnic power games dominate the regional and national agendas' (Hehir and Robinson 2007: 130).

Clearly, according to Aidan Hehir, the sovereignty agenda does dominate and while there is ongoing ambiguity as to what Kosovo's future status may be, it has proved impossible to avoid this dominant agenda. Aside from this theoretical problem, the reality has been that the economic situation in Kosovo has been dire and according to the Eide Report, 'the current economic situation remains bleak'. Therefore, from both a theoretical and empirical basis the one issue that may have papered over UNMIK's ambiguous stance regarding Kosovo's status- economic regeneration- has had minimal effect on the politics of the province thereby increasing the need to focus on status (Hehir and Robinson 2007: 130).

After all, UNMIK leadership, including the Secretary-General's Special Representative, had articulated a policy of 'standards before status', whereby Kosovo's final status will not be addressed until Kosovo meets certain international endorsed standards for the establishment of rule of law, functioning democratic institutions, minority rights and economic development. The Contact Group (France, Italy, Russia, UK, US, and EU) has strengthened the 'standards before status' approach.

In the fall of 2003, the Contact Group announced a review date, whereby the international community agreed to review Kosovo's progress in mid-2005. And according to Roger Moran, if substantial progress is made towards meeting the standards, the international community will begin a process to determine Kosovo's future status shortly thereafter (Uday Bhaskar et al. 2004: 186).

In fact, the UNMIK had manifestly failed to redress the economic and political problems, though it tried to maintain standards rather than resolving the issue of Kosovo's final status till 2003. Prior to the March 2004, implementation of 'standards before status' policy was the 'core political project' for UNMIK. SRSG told Security Council that, 'the most urgent task [facing UNMIK] was to produce implementation work plan setting out clearly the action necessary to reach the standards (Hehir and Robinson 2007: 129).

After all, 'standards before status' policy later acknowledged as problematic because demand for sovereignty was being increased in subsequent years. UNMIK has failed in its attempt to provide security and development to the peoples of Kosovo, and it was being perceived as corrupt and indecisive by local population. Even the SRSG has changed four times in five years, which means there has not been effective leadership over the course of operation.

The Eide Report (October 2005) on the 'future status and standards' of Kosovo suggests, Kosovo has entered a new period of dynamic development. A political process is underway and is gaining momentum. It is based on a comprehensive

political strategy, which includes *the prospects for a future status process*. Thus, according to Aidan Hehir, the dynamism ostensibly manifest in Kosovo is a product of a new direction leading towards a future rather than a final status. The report notes, 'Entering the future status process does not mean entering the last stage, but the next stage of the international presence'. It is clear that the Report does not discuss the retreat of the international presence in Kosovo, but rather the need for a 'reconfiguration' that would involve the switch from the UN to the European Union (EU) to give the international presence greater 'leverage' (Hehir and Robinson 2007: 132).

Therefore, the UNMIK will transfer competencies to the EU which will be expected to take on a more prominent role specifically in the areas of police and justice, monitoring and supporting the standards process, and to a focused capacity-building effort. After all, most observers agree that Kosovo will, finally, get independence and most likely outcome is that it will become the member of the EU, but this matter will not be easy and will depend upon the negotiation process. It will so because, there is tremendous animosity between the main three ethnic based political parties of Kosovo, who will be caused to make the negotiation process complicated.

The Eide Report of October 2005 acknowledges, 'The government [in Kosovo] has now elaborated its own programme for capacity-building, in an effort to take greater ownership of this process'. It subsequently adds, however, 'nevertheless, an emerging sense of local ownership will not reduce the need for international support. Capacity-building will require a longer-term perspective'. The implementation of the agreed arrangements on Kosovo's future will require an 'international presence- military and civilian-...to manage the implementation of the settlement in a stable and orderly way (Hehir and Robinson 2007:132-33). The orderly and stable implementation of a settlement is therefore envisaged as possible only under international control, and this is going on, even after the unilateral declaration of independence of Kosovo since March 2008. After all, the Eide Report makes no provisional time table for international disengagement from Kosovo.



During 2006, the Secretary-General's Special envoy, former Finnish President Martti Ahtisaari, conducted four rounds of direct negotiations between the parties and the first high-level meeting between top Serbian and Kosovar leaders, but Kosovo's ethnic Albanian government and Serbia remained completely at odds. In February 2007, he presented his final status plan as "a compromise proposal", but the parties were unmoved. He subsequently reported that the only viable option for Kosovo was independence- which had been consistently opposed by Serbia.

In August 2007, Secretary-General Ban ki-moon welcomed an agreement to have a troika composed of the European Union, Russia and the United States lead further negotiations on Kosovo's future status.

In March 2008, Kosovo's ethnic Albanian government unilaterally declared its independence from Serbia, and the UN, the EU and the US has recognized its independence status from.

After all, the creation of a viable polity in Kosovo is no longer a goal born exclusively from an altruistic desire to make the lives of Kosovo's citizens better but to prove that UN is capable of successfully undertaking these operations, and hence, providing it with a clear *raison deter*...An extended period of administration under UNMIK and later the EU, though opposed by the people on the ground, is necessary if this what is required to maintain the credibility of the state-building project. The clear reluctance to transfer competencies to local political institutions can thus be explained not by neo-imperialism but by the UN's desire to be seen to have succeeded in Kosovo and its commensurate unwillingness to jeopardize this success by divesting control to the Kosovars themselves (Hehir and Robinson 2007: 136-37).

It is argued that, while there has been progress in some areas of local capacity building, Kosovo has become a European haven for drug running, trafficking in women, money

laundering, and other criminal activities. Notorious wide spread violence of March 2004 was not prevented by the UN's peacekeepers. While the UN and NATO operations have helped to freeze most of the fighting, and the parties have made some progress toward fulfilling a series of "standards" or benchmarks that must be met before further discussion about democratization can be held, one would be hard-pressed to argue that the overall operation represents a manifestation of first-or second-level learning, and the results so far have been less than successful (Howard 2008: 303).

According to Sally Morphet, UNMIK, like the OHR, had more success with conflict containment and limitation of casualties than actual conflict resolution. It found but difficult to work with certain local people (and sometimes with their counterpart organizations) (Newman and Schnabel 2002: 152).

Roger Moran makes a point that, the downsizing of a mission whose task has been to administer a territory is problematic, even as parts of the original mandate disappear. The UN has run Kosovo successfully, but is having difficulty devolving power while Kosovo's final status remains unclear (Uday Bhaskar et al. 2004: 186-87).

UNMIK's record in Kosovo has significant implications for state-building globally and underlines many of the key dilemmas inherent in this increasingly prevalent and vaunted practice. If Kosovo is indicative of a broader trend then it is evident that a clear goal must be established at an early stage if any international administration is to achieve as lasting resolution of the underlying problem and avoid a potentially limitless engagement in a region (Hehir and Robinson 2007: 139).

After all, there are many problems remain in Kosovo. Reconciliation between ethnic communities has not been achieved; Serb enclaves are unwilling to cooperate with the Pristina government; and Serbia still refuses to face up the loss of Sovereignty over Kosovo. Yet, according to David Clark (2009), independence has not led to the predicted upsurge of ethnic violence and extremism. The region's countries are moving

steadily, if awkwardly, towards a new kind of unity as EU members. This includes Serbia, whose democratic government has already handed over Radovan Karadzic to The Hague and is committed to meeting its international obligations. Ultra-nationalists are marginalized, and the region has the opportunity of a future free of violence and despair.

### 3.4: The UN Involvement in East Timor

In the late 1990s, East Timor appeared on the international scenario, where human rights abuses have occurred at massive scale. Since East Timor was the colony of Portugal and then under the Indonesian rule, therefore, East Timorese got political awareness slowly, but after getting this awareness, they wanted to self-rule. The differences in religious practices between largest Christians and Muslim state which seized and annexed it in 1974, was at the heart of insurgency. This insurgency was the result of structural violence because the Indonesian government tried to suppress this political awareness forcefully.

After all, to understand the current situation of 1999, there is need to highlight the brief history of East Timor. The island of Timor lays to the north of Australia, in the south-central part of the Chain of islands forming the Republic of Indonesia. Its western part had been a Dutch colony and became part of Indonesia when that country attained independence. East Timor was a Portuguese colony. In 1960, the General Assembly placed East Timor on the list of Non-Self-Governing Territories (NSGTs). In 1974, recognizing its inalienable right to self-determination, Portugal sought to establish a provisional government and popular assembly to determine East Timor's post-colonial status. Meanwhile, in 1974, Indonesia seized and annexed the territory before the establishment of a popular assembly. But in 1975, civil war broke out between the territory's newly formed political parties. Portugal withdrew, stating it could not control the situation. One East Timorese side declared independence as a separate country, while another proclaimed independence and integration with Indonesia.

In December 1975, Indonesian troops landed in East Timor, and a provisional government was formed. Portugal broke off relations with Indonesia and brought the matter before the Security Council, and in April 1976 (on which Japan and the United States abstained) Security Council called on all states to respect the territorial integrity of East Timor, the inalienable right of its people to self-determination and the withdrawal of Indonesia forces from East Timor.

In 1976, the provisional government held elections for an assembly, which then called for integration with Indonesia. When Indonesia issued a law supporting that decision, the pro-independence movement began an armed resistance. In 1983, the Secretary-General started talks with Indonesia and Portugal, but it was only in May 1999, through the good office of the Secretary-General, that agreements were reached, paving the way for a popular consultation.

After all, the UN's record on East Timor is mixed. On the one hand, it condemned Indonesia's invasion, called for the immediate withdrawal of its troops and opposed the ongoing occupation. It never recognized Indonesia's claims to sovereignty over East Timor in spite of US, Japanese, UK, ASEAN and Australian preferences that the issue be regarded as resolved in Indonesia favour. On the other hand, the Security Council did not debate the situation in East Timor between May 1976 and 1999, largely because Indonesia major Western allies were determined to keep East Timor off the Security Council's agenda. Moreover, through out Indonesia's occupation, the UN offered the East Timorese little practical aid or protection (Philpott 2006: 143).

After numerous attempts to resolve the problem through the talks between UNSG and the Portuguese and Indonesian governments, in 1999 the governments asked the Secretary-General to ascertain the views of the East Timorese population on autonomy options for East Timor within the state of Indonesia. Therefore, Indonesia acceded to the manifest will of the UNSC and the world and permitted a plebiscite in 1999 to allow the inhabitants a choice between independence and a continuing political union with Indonesia.

Therefore the UN Assistance Mission in East Timor (UNAMET) was set up on the basis of agreement, and this agreement was signed in 5 May 1999 in New York by the UN, Indonesia and Portuguese authorities. In accordance with a resolution 1236 of UNSC of June 1999, the task was given to UNAMET to organize this consultation and to oversee a transition period pending the implementation of the decision. The agreement to give East Timorese an opportunity to vote for autonomy within Indonesia or independence only three months after the signing of the agreement laid down significant challenge for UNAMET. According to a scholar, principal and most immediate among them was the vetting and registration of voters. The task was enormously complicated by the primary flow in the 5 May agreement, which left responsibility for security in Indonesian hands (Philpott 2006: 143-44).

On the basis of those agreements, the UNSMET organized and conducted voter registration and official ballot. In 30 August 1999, 78.5 per cent of 450,000 registered voters voted for independence from Indonesia, but Indonesian army backed militias who were ramping through Dili and the countryside, opposing independence unleashed a campaign of systematic destruction and violence, killing many and forcing more than 200,000 East Timorese to flee their homes. These militias destroyed most of the existing bureaucratic infrastructure. According to Roger Moran, pro-independence guerillas remained in UN-supervised camps, while the pro-Indonesian militia killed approximately 1,200 Timorese, burned 75 per cent of the country's homes, and forcibly pushed 300,000 people into west Timor as refugees (Uday Bhaskar et al. 2004: 192).

In the face of the military and militia onslaught the UNSC ordered UNAMET to evacuate from Dili. Yet, UNAMET was finally relocated to Darwin. Finally Indonesia accepted the deployment of UN-authorized multinational force. In September 1999, the SC, acting under Chapter VII of the UN Charter, authorized the dispatch of the International Force in East Timor (INTEFET), which helped restore peace and

security. After strong diplomatic efforts Indonesia and Portugal agreed to transfer their authority to the UN and Indonesian authorities withdrew from East Timor.

Immediately following that action, the SC, in 25 October 1999, having passed a resolution 1272, established the United Nations Transitional Administration in East Timor (UNTAET). A full executive and legislative authority was given to UNTAET during the country's transition to independence. The tasks that were given to UNTAET include providing security, maintain law and order, establish an effective administration, assist in the development of civil and social services, engage in capacity-building for self-government, ensure coordination of various assistance efforts; and assisting in building conditions for sustainable development. It was also to provide transitional governance, and public administration, including an international police element, humanitarian assistance, emerging rehabilitation, and military security.

It is clear that, the November 1999 regulation on the authority of the interim administration vested all executive, legislative, judicial and military function in UNTAET. It was first time in the UN history that the UN was fully authorized by the international community to directly involve in the process of state-building through its statehood.

Yet, according to Catherine Scott, the administration has inevitably become embroiled in local controversies. One major legal challenge that particularly affects the ruler population is the question of property rights to large areas of commercial and agricultural land (Newman and Schnabel 2002: 142). The East Timorese within the administration, however, did not want UNTAET to conduct a land survey or issue temporary titles based on land use, as they wanted an independent government to pursue this reform. Others, however, feared that influential politicians might manipulate the process to their advantage thus making it difficult to attract foreign investment for as long as the issue remained unresolved (Newman and Schnabel 2002: 142-43).

On the issue of local capacity building, it is suffice to point out, as Jarat Chopra writes that, the UNTAET was preoccupied 'with control at the expense of the local community's involvement in government' (Newman and Schnabel 2002: 143). And it tried to reject a World Bank project on Community Empowerment and Local Government (CEP) because of fears 'that any national legislation governing local administration would amount to a form of official recognition of these local authorities' (Newman and Schnabel 2002: 143). After all, the UN failed to create any kind of local government and lost the opportunity for introducing democratization alongside existing hierarchical paradigms (Hehir and Robinson 2007: 158).

Point is that East Timorese were not integrated into the administration's transitional structure, though local consultation was initially engaged through a National Consultative Council (NCC) set up in December 1999. According to Jarat Chopra, some East Timorese began to believe UNTAET was purposely resisting Timorese participation in order to safeguard UN influence, while at the same time, was failing to take measures to readdress unemployment, food distribution and lack of reconstruction (Newman and Schnabel 2002: 143). After all, these frustrations were eased when in July 2000 a National Council was set up to facilitate broader participation in policy-making. Districts, civic organizations, political parties and religious groups were given representation in this Council.

The Timorese leadership complained that they were not appropriately consulted about the make-up and proposed functions of the National Consultative Council (NCC); it was so because of exclusive composition of the NCC. The 15-member NCC (11 East Timorese, four UNTAET) formed by Sergio Vieira de Mello, and it had to fulfilled significant responsibilities, including setting up a legal system, re-establishing a judiciary, setting an official currency, creating border controls, organizing taxation and creating the first consolidated budget for East Timor. In July 2000 UNTAET replaced the NCC with a 33-member National Council which included the representatives of the civil society and Church. After all, this body was directly responsible with it task of internal development to the representatives of East Timorese.

On 30 August 2001, more than 91 per cent East Timorese went to the polls to elect an 88-member constituent assembly, tasked with writing and adopting a new constitution and establishing the framework for future elections and the transition to full independence. East Timor's largest pro-independence group, the Revolutionary Front for an independent East Timor (Fretilin), gained the largest number of seats in this election. After all, the UNTAET was criticized for its handling of this election, the conduct of which was not part of its original mandate. And the main finding result of this election was the transfer of complete executive power to the part of Fretilin.

Fretilin group disturbed many East Timorese stating 'who deserves this' (victory in the election), namely 'we (alone) do', who believed that a government of national unity was a better choice for East Timor's immediate future; and according to Jarat Chopra, this was UNTAET's preference but it was rejected outright by Fretilin, sining the party major influence over the drafting of the constitution, particularly its enshrining of a weak Presidency which, for now at least, marginalizes the role of Xanana Gusmao in contemporary politics. UNTAET was distinctively uneasy with this development but did not challenge it (Philpott 2006: 149).

In 22 March 2002, East Timor's first constitution came into force, and Xanana Gusmao became first President of the country. And in 20 May 2002, East Timor achieved its independence. At the end of the transitional period the UNSG, according to Roger Moran, came to Dili to formally transfer power and recognize the independence of East Timor, even as the UN maintained a continuing peacekeeping/capacity-building presence in East Timor (UNMISSET) to assist the fledgling government as it developed its capacity to govern. It is slated to shut down and withdraw in May 2004 (Uday Bhaskar et al. 2004: 192-93). After all, the constituent assembly was transformed into the national parliament, and the new country adopted the name Timor-Leste, and on 27 September 2002, it became the 191<sup>st</sup> member state of the UN.



After all, the UN has remained fully committed in supporting the independent country of Timor-Leste in its efforts to consolidate democratic institutions and advance socio-economic development. Following its declaration of independence on 20 May, the Security Council established a United Nations Mission of Support in East Timor (UNMISSET) to assist the fledgling state in developing core administrative structures, providing interim law enforcement and security, developing the country's police service, and contributing to the maintenance of internal and external security. Upon completing its work in May 2005, UNMISSET was replaced by a United Nations Office in Timor-Leste (UNOTIL), which worked for the next year to support the development of critical state institutions, the police and border patrol unit, and to provide training in democratic governance and the observance of human rights.

However, the dismissal of nearly 600 members of the Timorese armed forces in March 2006 triggered a violent crisis that peaked in May, resulting in casualties. The government requested, and the Security Council endorsed, the deployment of international police and military assistance to secure critical locations and facilities. The Secretary-General sent his special envoy to help diffuse the crisis and to find a political solution. Following extensive negotiations among the political actors, a new government was formed in July, and elections were scheduled for May 2007, in accordance with the constitution.

Subsequently, the Security Council, on 25 August 2007, established a new and expanded operation, the United Nations Integrated Mission in Timor-Leste (UNMIT), to support the government in "consolidating stability, enhancing a culture of democratic governance, and facilitating dialogue among Timorese stakeholders". Since then, stability in the country has been largely maintained and presidential and parliamentary elections were held in a generally calm security environment in May and August 2007, respectively.

After all, the UNTAET operated under a multidimensional mandate to provide security and maintain law and order while working with the Timorese to lay the foundations of

democratic governance. The UN established an effective administration, enabled refugees to return, helped to develop civil and social services, ensured humanitarian assistance, supported capacity-building for sustainable development. According to Roger Moran, the political situation of East Timor that led to the UN to become its temporary sovereign was unique and unlikely to be replicated, and the lessons to be drawn from the largely successful exercise, should accordingly be narrowly construed. There are exceptional circumstances when the international community can establish a species of protectorate-in-all- but name to prepare a territory for self-rule (Uday Bhaskar et al. 2004: 193).

According to Jarat Chopra, East Timor, if there is to be any future for peace operations that are both legitimate and effective, then a much more participatory form of intervention has to be considered. The idea of 'participatory intervention' stands in contrast to the practice in state-(re)building process of relying on only international appointees or elites self- appointed as representatives of the people. Instead, the aim would be to include direct involvement of the local population from the very beginning of an international intervention, in order to ensure justice for the parts and that new governing structures resonate with local reality. Participation has become a minimum standard and a moral imperative. It might also overcome some of the difficulties of state-building or force acknowledgement that at least the UN can not do it. Concretely, more genuine forms of 'democracy' may be possible through CEP- type elections, from bottom up through to national levels, which are imperfect but adequate for transitional purposes (Hehir and Robinson 2007: 164-65).

Finally, this is not to say, however, that the situation in East Timor is stable enough for the UN to withdraw completely. Anti-independence militias are still active in West Timor, crime rates are on the rise, judges and lawyers still need to be trained, landownership problems have not been solved, economic problems persist, and East Timor's security remains at the mercy of its large and unstable neighbors, Indonesian. Given these circumstances, compounded by the legacy of abuse and corrupt rule, it is too early to determine with finally the extent to which the institutions that the UN

sought to create in East Timor will continue to function well into the future, once the UN leaves. But at this point, it is fair to assess the progress in mandate implementation made by UNTAET, in conjunction with the others international missions and the East Timorese, as largely successful (Howard 2008: 298).

## **Chapter IV**

### **The United Nations in Afghanistan**

As far as, this chapter is concerned, the process of the United Nations involvement in state-building began in the wake of a multilateral invasion, led by the United States, which, in turn, was triggered by the terrorist attacks on the World Trade Centre and Pentagon in the United States. The events of 9/11 in 2001 were recognized by the UN Security Council as a breach of international peace under the provisions of the Chapter-VII of the UN Charter (S/RES/1373, 2001). The UN sought its efforts to promote dialogue among Afghans parties, aimed at the establishment of a broad-based, inclusive government. Towards that end, the Secretary-General reappointed Lakhdar Brahimi as his Special Representative in Afghanistan.

Having gone through a press statement, the President of Security Council welcomed the decision by the Secretary-General to reappoint Lakhdar Brahimi as his Special Representative for Afghanistan (S/935, 2001). The tasks assigned for Brahimi was to oversee the humanitarian and political efforts of the UN, and anticipated that he would work to develop plans for the rehabilitation of Afghanistan, and that his appointment would provide a powerful injection to the UN efforts to resolve the crisis in Afghanistan. Meanwhile, a military campaign (result of 'war against terror' policy) commenced on 7 October 2001.

#### **4.1 Security Council Resolution 1378**

On 12 November 2001, the "Six plus Two" groups (China, Iran, Pakistan, Tajikistan, Turkmenistan, Uzbekistan; and the United States and Russian Federation), meeting under the chairmanship of the Secretary-General, pledged their support to efforts of the Afghan people to find a political solution to the Afghan crisis, and agreed that these should be the establishment of a "broad-based, multi-ethnic, politically balanced, freely chosen Afghan administration representative of their aspirations and at peace with its neighbors". Its members also pledged continued support for the UN humanitarian efforts in Afghanistan, as well as in refugee camps in neighbouring states. On 13

November 2001, SRSB Lakhdar Brahimi reported to the Security Council that there was a real opportunity to create a fully representative government in Afghanistan (SC/7210, 2001).

Against that background, having passed its resolution 1378 of 14 November 2001, the Security Council supported international efforts to root out terrorism in keeping with the Charter of the UN, and welcomed the intention of the SRSB to convene an urgent meeting of the various Afghan processes at an appropriate venue and calling on the United Front and all Afghans represented in the processes to accept his invitation to that meeting without delay, in good faith and without preconditions; and expressed its strong support for the efforts of the Afghan people to establish a new and transitional administration leading to the formation of a government. The Security Council expressed its full support for the SRSB in the accomplishment of his mandate, and called on Afghans, both within Afghanistan and among the Diaspora, and member states to cooperate with him, both of which:

- \*should be broad-based, multi-ethnic, and fully representative of all the Afghan people and committed to peace with Afghanistan's neighbours,
- \*should respect the human rights of all Afghan people, regardless of gender, ethnicity or religion,
- \*should respect Afghanistan's international obligations, including by cooperating fully in international efforts to combat terrorism and illicit drug trafficking within and from Afghanistan, and
- \*Should facilitate the urgent delivery of humanitarian assistance and the orderly return of refugees and internally displaced persons, when the situation permits.

The Security Council also expressed a commitment on the part of the United Nations to playing a central role in the establishment of such administration, the Council called upon members of the UN to lend their support, provide humanitarian assistance and long-term assistance for the social and economic reconstruction of Afghanistan.

On 27 November 2001, a conference on Afghanistan's reconstruction, sponsored by the UNDP, the World Bank and the Asian Development Bank, opened in Islamabad. A further donor conference, focusing on immediate and longer-term needs, was held in Berlin in early December.

### The Bonn Agreement

Following Resolution 1378, the UN organized a meeting of Afghan political leaders in Bonn (Germany) in late November. When it concluded on 5 December 2001, the four groups represented, including the Northern Alliance, agreed on a Provisional Arrangement in Afghanistan pending the re-establishment of permanent government institutions. As a first step, the Afghan Interim Authority (AIA) was established. On this occasion, the President of Security Council welcomed the Agreement and congratulated Lakhdar Brahimi, and urged to parties to work together in good faith to implement the Agreement in full; and SC declared its readiness to support the implementation of the Agreement and its annexes (SC/7233, 2001).

On 6 December 2001, having gone through a press release, the General Assembly expressed its view that, cooperation between the UN and the Organization of the Islamic Conference (OIC) was crucial in breaking the vicious cycle of war, terror and misery in Afghanistan; and the OIC itself support the political solution of a broad-based government with representative from all major groups (GA/9992, 2001).

On this day, the Security Council adopted resolution 1383, endorsing the Agreement and calling on all Afghan groups to implement it in full, in particular through full cooperation with the Interim Authority which due to take office on 22 December 2001; noting that the provisional arrangements are intended as a first step towards the establishment of a broad-based, gender sensitive, multi-ethnic and fully representative government. The Security Council also called on, all bilateral and multilateral donors, in coordination with the SRSG, UN Agencies, and all Afghan groups to reaffirm, strengthen and implement their commitment to assist with the rehabilitation, recovery and reconstruction of Afghanistan, in coordination with the Interim Authority.

The Bonn Agreement set out various objectives, and acknowledged the right of the people of Afghanistan to freely determine their own political future in accordance with the principles of Islam, democracy, pluralism and social justice. The Bonn Agreement also recognized the need to ensure broad representation in these interim arrangements of all segments of the Afghan population, including groups that have not been adequately represented at the UN Talks on Afghanistan.

Finally, the Bonn Agreement considered that the UN, as the internationally recognized impartial institution, has a particularly important role to play, in the period prior to the establishment of permanent institutions in Afghanistan.

#### 4.2: Role of the UN during the Interim Period

The role of the UN was envisioned as:

- \*The SRSG would be responsible for all aspects of the UN's work in Afghanistan.
- \*The SRSG would monitor and assist in the implementation of all aspects of the agreement.
- \*The UN would advise the Interim Authority in establishing a political neutral environment conducive to the holding of the Emergency Loya Jirga in free and fair conditions. The UN would pay special attention to the conduct of those bodies and administrative departments which would directly influence the convening and outcome of the Emergency Loya Jirga.
- \*The SRSG or his/her delegate would be invited to attend the meetings of Interim Administration and the Special Independent Commission (SIC) on the convening of the Emergency Loya Jirga.
- \*If for whatever reason the Interim Administration or the SIC were actively prevented from meeting or unable to reach a decision on a matter related to the convening of Emergency Loya Jirga, the SRSG would taking into account the views expressed in the Interim Administration or in the SIC, use his/her good offices with a view to facilitating a resolution to the impasse or a decision.
- \*The UN would have the right to investigate human rights violations and, where

necessary, recommend corrective action. It would also be responsible for the development and implementation of a programme of human rights education to promote respect and understanding of human rights.

#### The Afghan Interim Authority (AIA):

The Bonn Agreement provided the composition of the AIA. The AIA consisted of an Interim Administration presided over by a chairman (the political arm of the AIA), a SIC for the convening of the Emergency Loya Jirga, and a Supreme Court of Afghanistan, as well as such other Courts as established by the Interim Administration. The AIA was regarded as the repository of Afghan sovereignty, with immediate effect through out the interim period, capable of representing Afghanistan in its external relations and occupying the seat of Afghanistan at the UN and its specialized agencies, as well as in other international institutions and conferences.

There was also made a provision by the Bonn Agreement that an Emergency Loya Jirga shall be convened within six months of the establishment of the AIA. The Emergency Loya Jirga would be opened by His Majesty Mohammad Zaher Shah the former king of Afghanistan. It would decide on a Transitional Authority, including a broad-based transitional administration, to lead Afghanistan until such time as a fully representative government could be elected through free and fair elections to be held no later than two years from the date of the convening of the Emergency Loya Jirga ; and a Constitutional Loya Jirga would be convened within eighteen months of the establishment of the Transitional Authority, in order to adopt a constitution for Afghanistan. In order to assist the Constitutional Loya Jirga prepare the proposed Constitution, the Transitional Administration would within two months of its commencement and with the assistance of the UN, establish a Constitutional Commission. According to Simon Chesterman, the purpose of the Loya Jirga was to encourage those who wield power in Afghanistan to exercise it through politics rather than through the barrel of a gun (2002: 40).



## Interim Administration:

The Interim Administration was composed of a Chairman, five Vice-Chairmen and 24 other members. Each member, except the Chairman, took a particular portfolio, much as ministers of a government cabinet office might in a western democratic State, with detailed provisions concerning procedures and functions set out in the Bonn Agreement. The functions assigned were the following:

The Interim Administration was to be entrusted with the day-to-day conduct of the affairs of the state, and shall have the right to issue decrees for the peace, order and good government of Afghanistan.

The Chairman of the Interim Administration or, in his/her absence, or one of the Vice-Chairmen, would represent the Interim Administration as appropriate.

Those members responsible for the administration of individual departments would also be responsible for implementing the policies of the Interim Administration within their areas of responsibility.

Upon the official transformation of power, the Interim Administration would have full jurisdiction over the printing and delivery of the national currency and special drawing rights from international financial institutions. The Interim Administration would establish, with the assistance of the UN, a Central Bank of Afghanistan and would regulate the money supply of the country through transparent and accountable procedures.

The Interim Administration would establish, with the assistance of the UN, an Independent Civil Service Commission to provide the Interim Authority and the future Transitional Authority with shortlists of candidates for key posts in the administrative departments, as well as those of governors and aluswals, in order to ensure their competence and integrity.

The Interim Administration would with the assistance of the UN, establish an independent Human Rights Commission, whose responsibilities would include human rights monitoring, investigation of violations of human rights, and development of domestic human rights institutions. The Interim Administration would with the assistance of the UN, also establish any other Commissions to review matters not covered in this agreement.

The members of the Interim Administration were expected to abide by a Code of Conduct elaborated in accordance with international standards.

Failure by a member of the Interim Administration to abide by the provisions of the Code of Conduct would lead to his/her suspension from that body. The decision to suspend a member would be taken by a two-thirds majority of the membership of the Interim Administration on the proposal of its Chairman or any of its Vice-Chairmen.

The functions and powers of members of the Interim Administration would be further elaborated, as appropriate, with the assistance of the UN.

### The Special Independent Commission

The purpose of creating this body was the convening of the Emergency Loya Jirga within six months of the establishment of Interim Authority to decide on an Afghan Transitional Authority (ATA). A specific task was assigned to the UN to provide assistance for the establishment and functioning of this body and of a substantial secretariat. To achieve the above mentioned purposes, final authority was given to this body over determining the procedures for and the number of people who would participate in the Emergency Loya Jirga. This was done to ensure the representation of a significant number of women and other segments of the Afghan population as well.

The Bonn Agreement provided for a Constitutional Loya Jirga, to be convened within 18 months of the establishment of the Transitional Authority, in order to adopt the new constitution for Afghanistan. In order to assist the Constitutional Loya Jirga prepare the proposed Constitution, the Transitional Administration was expected to within two months of its commencement and with the assistance of the UN, establish a Constitutional Commission.

Annex III of the Bonn Agreement called upon the UN to take the necessary measures to guarantee national sovereignty, territorial integrity and unity of Afghanistan as well as the non-interference by foreign countries in the internal affairs of Afghanistan. It also requested the UN to conduct as soon as possible i) a registration of voters in advance of the general elections that would be held upon the adaptation of the new

constitution by the Constitutional Loya Jirga and, ii) a census of the population of Afghanistan.

### International Security Force

To take deteriorating security situation in Afghanistan into account, Annex I of the Bonn Agreement called upon the UN Security Council to consider the early deployment to Afghanistan of a UN mandated force. This force had to assist in the maintenance of security for Kabul and its surrounding areas. It was also articulated that, such a force could, as appropriate, be progressively expanded to other urban centers and other areas.

Further, on 23 May 2002, the Security Council, having passed its resolution 1413, decide to extend the authorization, for a period of six months beyond 20 June 2002, of the International Security Assistance Force (ISAF), as defined in the resolution 1386 of 2001; and authorized the member states participating in the ISAF to take all necessary measures to fulfill the mandate of the ISAF. The Security Council also requested the leadership of the ISAF to provide monthly reports on implementation of its mandate, through the Secretary-General.

On 20 December 2001, having passed a resolution 1386, the Security Council authorized the establishment of an ISAF under Chapter VII of the UN Charter to help the Authority to maintain security in Kabul and its surrounding areas. ISAF was established for six months period to help the AIA as well as the personnel of the UN, so that tasks could be operated in a secure environment. The Security Council also called on member states participating in the ISAF to provide assistance to help the AIA in the establishment and training of new Afghan security and armed forces.

On 21 December 2001, the Interim Afghan Government is sworn in; and on 22 December 2001, the internationally recognized administration of President Rabbani handed power to the new AIA, established in Bonn and headed by Chairman Hamid

Karzai. SRSG Lakhdar Brahimi moved to Kabul for his work in support of the new Afghan administration, and the first ISAF troops were deployed.

In January 2002, the Security Council, through a Presidential statement, welcomed the positive changes in Afghanistan as a result of the collapse of the Taliban regime. It decided to adjust its sanctions to reflect the new realities, targeting Al-Qaeda and its supporters.

#### 4.3: UN Assistance Mission in Afghanistan (UNAMA)

In response to the report of the UNSG, the General Assembly adopted a resolution 56/200A on 28 February 2002 supporting the Secretary-General's recommendation for an enhanced role of the UN Special Mission to Afghanistan in helping the AIA to implement the Bonn Agreement.

Taking the deteriorating security situation in Afghanistan into account, it was felt that there was a need for an effort to coordinate all elements of the UN operations in Afghanistan. The Secretary-General, therefore on 18 March 2002, recommended the Security Council for the establishment of a single mission, UNAMA. On 28 March 2002, the Security Council, acting on the recommendation of the Secretary-General, having passed its resolution 1401, established UNAMA for an initial period of 12 months with the intention of considering periodic extensions to its authority, to fulfill the tasks entrusted to the UN under the Bonn Agreement, in such areas as human rights, the rule of law and gender issues. Headed by the SRSG, it would also promote national reconciliation, while managing all UN humanitarian activities in Afghanistan in coordination with the AIA and its successors. The Security Council also reaffirmed its strong support for the SRSG and endorsed his full authority, in accordance with its relevant resolutions, over the planning and conduct of all UN activities in Afghanistan; and called upon all Afghan parties to cooperate with UNAMA in the implementation of its mandate and to ensure the security and freedom of movement of its staff throughout the country. The Security Council also called on ISAF, in implementing its

mandate in accordance with resolution 1386 of 20 December 2001, to continue to work in close consultation with the Secretary-General and his Special Representative.

### Establishment of the Transitional Authority

In April 2002, the process of electing members to the Emergency Loya Jirga began. Afghans in 300 districts were to select potential candidates to form a pool from which 1,500 would be selected, beginning in May. Special provision was made for the participation of women in the Loya Jirga. On 11 June 2002, the nine-day council was opened by the former king of Afghanistan Mohammad Zaher Shah, who nominated Hamid Karzai to lead the nation, pending full elections and the establishment of a new constitution. Votes were taken to elect a head of state, and on 13 June 2002, Hamid Karzai was elected as Afghanistan's head of state as well as President of, to lead the Transitional Government for the next two years. Following further negotiations, a ministerial cabinet was created to form the Transitional Administration.

On 26 June 2002, the S.C., having passed its resolution 1419, expressed support for the establishment of the Afghan Transitional Authority (ATA). S.C. reiterated its strong support for the ATA in the full implementation of the Bonn Agreement, including the establishment of a Constitutional Commission, and in strengthening the central government, building a national army and police force, implementing demobilization or reintegration activities and improving the security situation throughout Afghanistan, combating illicit drug trafficking, ensuring respect for human rights, implementing judicial sector reform, establishing the basis for a sound economy and reconstructing productive capacity and infrastructure. The S.C. also called on all Afghans groups to cooperate fully with the ATA in order to complete the process according to the Bonn Agreement and to implement the decisions of the Emergency Loya Jirga. The S.C. also called upon the ATA to establish an Independent Constitutional Commission for the purpose of holding elections in June 2004. Further, on 24 December 2002, the S.C., having passed its resolution 1453, expressed recognition of the ATA as the sole legitimate government of Afghanistan, pending democratic elections in 2004.

## Kabul Declaration on Good Neighbourly Relations

Through the ATA, Afghanistan held negotiations with the neighbouring states-China, Iran, Pakistan, Tajikistan, Turkmenistan and Uzbekistan, on the status and future of relations between them. The negotiations resulted in the Kabul Declaration on Good Neighbourly Relations on 22 December 2002. Afghanistan as well as its neighbouring states celebrated the first anniversary of the formation of the new Afghan Administration as a result of the Bonn Talks and the progress made and welcomed combined efforts of the international community to provide the support required for rebuilding Afghanistan as it continued to take its rightful place in the community of nations, and expressed their commitment to participate in this process.

## Afghan National Elections

At the request of President Hamid Karzai, by recommendation of the S.G, and with the endorsement of the S.C, an electoral unit independent of the ATA was established under the auspices of UNAMA. According to the Secretary-General's report of 18 March 2003, the Transitional Authority had made progress in the consolidation of government authority through various means, including the adaptation of a national development budget, the successful completion of a currency reform operation, and steps taken towards public consultations and holding of a Constitutional Loya Jirga later that year. The S.G also reported that the Electoral Assistance Division of the Department of Political Affairs (part of the UN Secretariat) was working with UNAMA on the process for holding elections to be held in June 2004. The UNAMA electoral unit would, again at the segmentation of the S.G, be headed by an internationally recognized senior expert, supported by a team in Kabul and in the provinces (A/57/762 and S/2003/333).

Despite the work of the electoral unit, it was indicated by the ATA that elections in Afghanistan would not be held before September 2004. Therefore, on 26 April 2003, a 35-member constitutional review commission was inaugurated. It conducted public consultations throughout Afghanistan and abroad to ascertain the views of the Afghan people. The resulting draft constitution addressed such issues as the rights and

freedoms of individuals, form of government, the respective powers of the central government and local institutions, equality among all Afghan citizens, the role of Islam, and the status of language and religious sects. In October, the commission submitted its draft to the Constitutional Loya Jirga. In November, it was published and widely distributed. The Loya Jirga was set to convene in five weeks.

### Report of the UNSC Mission to Afghanistan, 31 October to 7 November 2003

The Security Council Mission recognized the difficulty of organizing general elections, the insecurity and the risks of disenfranchising a larger segment of the population from the political process. It stressed the importance of tackling the issues of terrorism, factional fighting, narcotic drugs as well as improving the general security throughout Afghanistan so that the elections could be held within the timeframe provide in the Bonn Agreement. Therefore, in this regard, the Mission noted the transitional provisions of the draft constitution, in particular the definition of a transitional period contained in it, Presidential elections followed by Parliamentary elections as soon as possible.

The Mission stated that the ISAF had been positive so far in order to provide security in Kabul, and similar statements was made towards the Provincial Reconstruction Teams (PRTs) in Mazar-i-Sharf. The Mission also anticipated that the ISAF would play further role in contributing to the Bonn process, in particular in support of the Constitutional Loya Jirga and the electoral process. The Mission appreciated the efforts of the ISAF in creating an environment in which the Constitutional Loya Jirga and electoral processes could be conducted successfully. The Mission also noted that Afghanistan had now entered the most critical juncture in the peace process- the draft constitution was released on 3 November and preparations for the Constitutional Loya Jirga and the start of the electoral registration exercise were underway.

The Mission, following discussions with the head of the UNAMA Electoral Unit, was of the view that, notwithstanding the substantial efforts made by the UNAMA and the

Afghan electoral authorities, the ability to undertake registration was made precarious not only by the lack of security, which prevented access in particular to significant Pashtun areas, but also by the dearth of voluntary funding on which the project was dependent. The Mission learned that for the completion of registration process, a total of \$62 million was required.

The draft constitution, which was released during the Mission's visit, provided for a transitional arrangement. This provision, if accepted by the Constitutional Loya Jirga, allowed a gap (of up to 12 months) between the convening of the presidential and parliamentary elections. Yet President Karzai expressed concern that such a delay might be construed as an illegitimate attempt to hold onto power and fuel frustration over the perceived lack of balanced representation in the central government and its limited authority. He further expressed the view that, such sentiment could alienate parts of the population, notably in majority Pashtun areas. Therefore, to avoid the consolidation of the power base of factional leaders, it was seen as important for credible elections to take place as soon as possible after the presidential elections.

Following this the voter registration began in December 2003 in eight cities across Afghanistan, ahead of general elections for the national parliament and presidency in 2004. Every Afghan citizen 18 or older by 20 June 2004 and appeared in person was to be registered.

On 14 December 2003, Loya Jirga convened to consider the proposed Afghan Constitution. On 29 December 2003, the draft constitution was circulated at a plenary session of the Constitutional Loya Jirga. The text, which included changes approved earlier by the Loya Jirga's reconciliation committee, provided for a establishment of a presidency with significant powers and a bicameral legislature with an assured minimum number of women members. It also codified respect for fundamental human rights and called for the laws of the nation to confirm with the principles of Islam.



On 4 January 2004, the Loya Jirga reached agreement on the draft. The constitution had 162 Articles organized into 12 Chapters. The Constitution established a unitary state with a strong central government. It provided for a democratically elected President and for separation of powers among the judiciary, executive and legislative branches. The Government was allowed to delegate certain authorities to local administrative units (provinces) in the areas of economic, social and cultural affairs, and to increase the participation of the people in development. To this end, it established a role for elected provincial, district, and village level councils to work with the sub-national administration. Municipalities were to administer city affairs under the oversight of elected mayors and municipal councils. A Joint Electoral Management Board was also established to run the elections including the Afghan Interim Electoral Commission and a UN support unit.

On 26 January 2004, after the Dari and Pashto language versions had been completely reconciled, it was formally adopted as the Constitution of Afghanistan when it was signed by Afghan President Hamid Karzai.

By mid-March 2004, just 1.5 million of Afghanistan's 10 million eligible voters were registered, although a voter registration drive was planned for May 2004. Notwithstanding the fact that the day 9 October 2004 had been set for the elections, considerable instability remained, particularly in outlying areas of Afghanistan.

On 26 March 2004, the S.C , having passed its resolution 1536, reaffirmed the ATA as the sole legitimate government of Afghanistan pending the democratic presidential and parliamentary elections envisioned in the Bonn Agreement as in the Afghan Constitution; and recalled the importance of the coming elections to establish democratic Afghan authorities as a further step towards the implementation of the Bonn Agreement and welcomed in that regard the creation of a Joint Electoral Management Body and initial progress made in voter registration. The S.C also encouraged Afghan authorities to enable an electoral process that provide for voter participation that was representative of the national demographics including women

and refugees and called upon all eligible Afghans to fully participate in the registration and electoral process. It is also important to note that, the S.C welcomed the appointment of Jean Arnault as new SRSR for Afghanistan.

On 9 October 2004, more than 8 million Afghan people- 70 per cent of registered voters, 40 per cent of them women- went to the polls, choosing Hamid Karzai as the country's first ever direct elected President. Hamid Karzai won the presidency with 55.4 percent of the vote, but its legitimacy came into question when all 15 candidates opposing incumbent president Karzai withdrew, alleging that election irregularities had invalidated the vote.

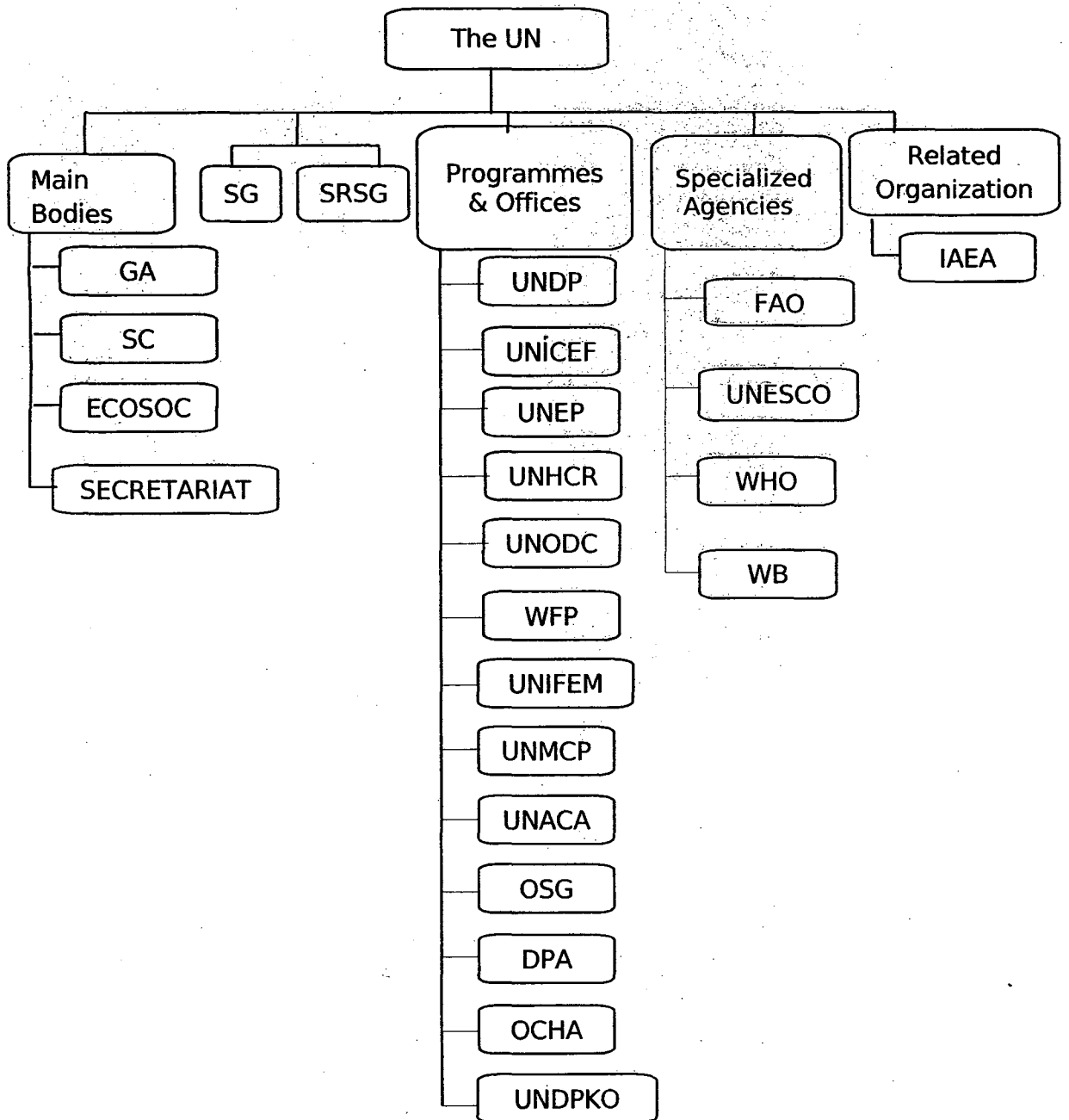
On 24 March 2005, the S.C, having passed its resolution 1589, stressed the importance of establishing a framework for the holding at the earliest possible date of free and fair elections. It welcomed in this regard the announcement of the Joint Electoral Management Body for elections to the lower house of the parliament (Wolesi Jirga) and provincial councils to be held on 18 September 2005. It called upon UNAMA to continue to provide necessary support in order to facilitate timely elections with the broadest possible participation, and urged the donor communities to promptly make available the necessary financial support based on that framework, in close coordination with the government of Afghanistan and UNAMA. The S.C also stressed the importance of security for the holding of credible parliamentary, provincial and district elections, and to this end called upon Member States to contribute personnel, equipment and other resources to support the expansion of the ISAF and the establishment of provincial reconstruction teams in other parts of Afghanistan, and to coordinate closely with UNAMA and the government of Afghanistan.

On 18 September 2005, the Afghan people voted for the members of their National Assembly and Provisional Councils, despite a series of deadly attacks by Taliban fighters during the campaign. Former Northern Alliance warlords and their followers claimed victory, and at the end of December 2005, the new Afghan National Parliament was inaugurated. It is worth noting that, while the conclusion of nationwide

elections paved the way for establishing a constitutional government at the centre, this was only the beginning of the process of state-building (Warikoo 2007: 76).

The next and the country's second Presidential elections were to be held on 20 August 2009. But before this election, it was important to resolve the key constitutional problem. Although, the Independent Election Commissioner Azizullah Ludin was of the view that holding of fresh elections was impossible given the overwhelming security problems, the Constitution however stated that the vote must be held 30 to 60 days before the President's five-year term expired on May 21.

Chart 1: The United Nations Control and Command in Afghanistan, 2002 - 08



## 4.4 An Overview of the Process of the UN Involvement in State-building in Afghanistan

### The issue of Governance and Development

Despite the criticism of the UNAMA having supported a rushed constitution making process that allotted too little time for public education in a country with a largely illiterate public, its role in providing assistance to institution building and elections in Afghanistan cannot be overlooked. The UNAMA provided logistical support for the Emergency Loya Jirga, presidential election of 2004 and parliamentary elections of 2005. It also assisted the ATA fractious constitutional commission and constitutional drafting working group, and facilitated civic education and consultation efforts around the country.

The nature of Afghan government is highly centralized. Provincial and local governments have only a very modest formal role in decisions concerning their own structures, recruitment of senior staff, size of establishment, composition of work force etc. Such decisions are made by each ministry in Kabul, in conjunction with the Office of Administrative Affairs, and signed off by the head of the Independent Administrative Reform and Civil Service Commission (IARCSC). The ministry in Kabul or the President makes staff appointments at middle to senior grades, while the provincial Governor appoints junior staff down to district level. Despite this very high degree of de jure centralization, the de facto reality is that central control is very weak, given the strength of regional and local warlords who command substantial revenues and military power, and have captured the government administration in the localities they control.

Charts 1 and 2 illustrate the control and command structure of the UN mission in Afghanistan. Chart 2 in particular looks at the inter-agency framework established in Afghanistan for purposes of rebuilding the country.

On 31 January 2006, a high-level group meeting in London launched the “Afghanistan Compact”- a five year agenda to consolidate democratic institutions, curb insecurity,

control the illegal drug trade, stimulate the economy, enforce the law, provide basic services to the Afghan people, and protect their human rights. On 15 February 2006, the UNSC unanimously endorsed the Compact as providing the framework for partnership between the Afghan Government and international community.

On 15 February 2006, the S.C, endorsed the “Afghanistan Compact” and called on the Afghan government, and on all members of the international community and international organizations, to implement the Compact and its annexes in full. It affirmed the central and impartial role of the UN in Afghanistan, including coordination of efforts in implementing the Compact, the early formation of the Joint Coordination and Monitoring Board, co-chaired by the Afghan government and the UN, and with a secretariat function to support it.

### Economic Sanctions and International Pledges

In January 2002, the S.C, having passed its resolution 1388, lifted sanctions against Ariana Afghan Airlines on the basis that the airline was no longer owned, leased operated by or on behalf of the Taliban; while, on 16 January 2002, the S.C, having passed its resolution 1390, imposed economic sanctions against the Taliban and Al-Qaeda, and decided to freeze without delay the funds and other financial assets or economic resources of these groups.

In a move that might be seen as one of the more proactive approaches of the S.C in the implementation of economic sanctions, the Council charged the Security Council Committee Established under Resolution 1267 with various implementation and monitoring responsibilities. It also called on members of the UN to report to the Committee on the steps taken to implement the new economic sanction impose against the Taliban and Al-Qaeda (Conte 2007: 87).

In January 2002, the International Conference on Reconstruction Assistance to Afghanistan was held at Tokyo. In response, the participants of the conference expressed their readiness to provide assistance to Afghanistan, and this conference

raised pledges of \$ 4.5 billion, much of which were decided to humanitarian projects. On 21 January 2002, addressing the conference, S.G Kofi Annan said reconstruction would require \$ 10 billion over ten years, including \$1.3 billion for the current year and \$ 376 million for quick impact and recovery projects that were “ready to go”. Such project would include the return of some 1.5 million Afghan children to school within two months. An Implementation Group was established, to be chaired by the AIA, with vice-chairs, including representatives of the World Bank and the UNDP. After all, as of mid-2005, only \$ 3.9 billion of this money had actually been disbursed. And of the amount, \$ 3.3 billion has actually been invested in projects, with only \$ 900 million spent on projects that have actually been completed (Warikoo 2007 b: 14).

### The Issue of Disarmament

The task of disarmament was carried out with the assistance of the UNAMA throughout the transitional period despite many challenges and suspensions of the process. On 18 July 2002, three Afghan factions near Mazar-e-Sharif began turning over their weapons under the UN monitoring, in the first such voluntary exercise ever in Afghanistan. On 24 October 2003, UNAMA officially launched its disarmament, demobilization and reintegration programme in the northern province of Kunduz.

### Judicial Reform and Transitional Justice

The Bonn Agreement provided for some legal framework until the adoption of the new Afghan Constitution. These included the following: the Constitution of 1964, a) to the extent that its provisions are not inconsistent with those provisions contained in the Bonn Agreement, and b) with the exception of those provisions relating to the monarchy and to the executive and legislative bodies provided in the Constitution, and existing laws and regulations to the extent that they are not inconsistent with the Agreement or with international legal obligations to which Afghanistan is a party, or with those applicable provisions contained in the Constitution of 1964, provided that the Interim Authority shall have the power to repeal or amend those laws and regulations.

It was also provisioned in the Bonn Agreement that, the judicial power of Afghanistan shall be independent and shall be vested in a Supreme Court of Afghanistan, and such other courts as may be established by the Interim Administration. The Interim Administration would establish, with the assistance of the UN, a Judicial Commission to rebuild the democratic justice system in accordance with Islamic principles, international standards, the rule of law and Afghan legal traditions.

The Afghan Ministry of Justice has estimated that it will require \$ 100 million in 2005 alone to improve provincial and district justice systems. According to a Report of the Independent Expert on the Situation of Human Rights in Afghanistan of 11 March 2005, the programs initiated to date are generally viewed as a step in a “disconnected” and “ad hoc” fashion (Warikoo 2007 b: 17). The international aid from a variety of sources have been woefully inadequate in this regard. The absence of a centrally administered judicial system and lack of confidence with what is in place has only encouraged local settlement of disputes, often through tribal codes that contravene human rights standards. The traditional informal justice system, although widely used and having some advantages, becomes highly inequitable and vulnerable to corruption where it is controlled by warlords and factional commanders.

According to a scholar, little has been learnt from the past and that compromise, driven by self-interest, continues to characterize the west’s dealing with Afghanistan. In the current climate, it could be argued that the emphasis is on ‘Afghanising democracy’ rather than ‘democratising Afghanistan’ (Barakat 2002: 803). According to the Weinbaum and Finkelman, the international community faces a formidable challenge in advancing post-conflict justice...the identification of individuals for prosecution for some abuses but not others will invite charges or favoritism, thereby increasing factionalism and conceivably ethnic tensions. While many Afghans and foreigners are now calling for an international tribunal to investigate and punish those responsible for the most heinous crimes, no system of accountability can be imposed on Afghanistan from the outside. Nor are the country’s courts and laws as now constituted up to the task. A strong case can be made, nevertheless, that disarming illegally armed groups



and bringing perpetrators of human rights abuses to justice can have a positive effect in nearly every aspect of the state-building process (Warikoo 2007 b: 18).

#### 4.5 The Issues of Sovereignty and Legitimacy

Taking the learned lessons from the UN involvement in the process of state-building in the Balkan region such like Bosnia and Kosovo; for the UN it was desirable that it address the issue of sovereignty first, then the issue of legitimacy. Therefore, from the very outset it was deemed necessary to create a sovereign government rather than legitimate one at the national level, and use it as a means for strengthening nationwide identity. Thus, in this regard, much emphasis was given upon sovereignty and traditional territorial boundary of Afghanistan, and on extending central rule throughout Afghanistan. This was evident in the perception and work of President Hamid Karzai throughout his tenure. President Karzai has been insistent in requesting the UNSC to expand the jurisdiction of the ISAF beyond Kabul and its surrounding areas. President Karzai has asserted that the national government of Afghanistan lacking balanced representation of all Afghan ethnic groups, and the government authority has been limited throughout his tenure (S/1074, 2003: paragraph 34).

For most Afghans however, the major issue is legitimacy, as was reflected in the talks at Bonn in November 200, where the emphasis has been on the representation of all Afghan ethnic groups in the Afghan government. It is evident that the Bonn Agreement provided greater participation of non-Pashtun groups, particularly the groups belong to the Northern Alliance in the Afghan Interim as well as Transitional government. In this regard it is important to note that the Constitution of Afghanistan was drafted in January 2004 even before the Presidential as well as Parliamentary or general elections of October 2004 and September 2004 respectively; and that the majority of the Pashtun ethnic group, nearly 40 per cent of the Afghan population, was not the part in the process of drafting the Afghan Constitution.

According to S. Frederick Starr, while the UN, the US, or other coalition members did not deny the importance of establishing the new government's legitimacy, their

approach differed fundamentally with that of many Afghans on two points. First, the international community believed that sovereignty and legitimacy should be addressed seriatim, and not simultaneously. Second, it believed that the main and essential measure needed to establish legitimacy was the holding of national elections. By contrast, most politically active Afghans held that Afghan sovereignty could not be re-forged without addressing the problem of legitimacy (Fukuyama 2006: 109).

While the Bonn Agreement did focus on the question of legitimacy, there was no intention to address the issue before the holding of national elections. What degree of legitimacy would the central government enjoy during the time period of interim as well as transitional government, remained unanswered. The issue of legitimacy could have been solved during that period by offering all Afghan ethnic groups as well as regions to join in the government's services, and by distributing jobs, authority and resources in a fair and equitable manner to all Afghan ethnic groups, but it was scarcely mentioned in the Bonn process.

The main concern of the US and the ISAF was to destroy the remnants of Taliban forces and root out the Al-Qaeda networks from the Afghanistan's soil; therefore, they ignored the legitimacy-destroying acts of the Northern Alliance. Northern Alliance ignoring the decrees of the Bonn Agreement kept its private army in capital Kabul and simultaneously consolidated its groups' family's control over markets, service contracts with the government, and key embassy positions abroad. This is important as the Northern Alliance was then part of central government and its members did hold high ranks in the central government; and the US and the ISAF were highly dependent on Northern Alliance for providing security in capital Kabul as well as elsewhere in the country.

Therefore, it is clear that during the Interim as well as transitional period, limited role was played by the UN in the process of state-building, and the UN failed to involve all the Afghans ethnic groups in the process of Afghan state-building.

It is worth noting that after the Presidential election of October 2004, the Karzai government enjoyed partial legitimacy in the eyes of most Afghan people. From the government perspective, International Non-Governmental Organizations (INGOs) did not involve local administration or local populations among whom they worked; which had most serious implications for the process of state-building. The INGOs appeared to be undermining civil administration at the local level, even in cases where local officials were trying to do their jobs. Therefore, the Karzai government had requested the international community as well as multilateral donors to provide their pledges of aid money to be channeled through it rather than to the INGOs directly in order to strengthen the sovereignty as well as legitimacy of the central government.

S. Frederick Starr makes a point that, in the aftermath of the Loya Jirga, the international community failed to identify and address the core issue of legitimacy and the chief indicators by which Afghans evaluated their government- namely, the degree of regional and ethnic balance in staffing and the ability of government to deliver services locally. The failure invited warlords and other independent forces to reassert themselves, especially among those people least represented in Kabul and where local administration was weakest. Starr further points out that before the Presidential election of October 2004, legitimacy was weak, if nonexistent, and its absence systematically undermined efforts to firm up Afghan sovereignty (Fukuyama 2006: 119).

If elections are viewed as one of the key means of legitimizing a new government, then the importance of capable and honest administrators at local level is a sine qua non of nation-building itself. The Afghan example proves that initiatives independent of the state can do little for nation-building unless they are coordinated, assisted, and protected by government administrators at both central and local levels. "Civil Society" without state institutions leads nowhere, and can even undermine nation-building (Fukuyama 2006: 122).

## The Issue of Security

Afghanistan reveals the fact that the task of state-building can not be achieved without fully secured environment. Achieving secure environment is indispensable for progress toward economic development and political stability too. Indeed, the task of state-building is to be achieved by Afghans themselves, but Afghans are not able to achieve this task without the help of international community. Therefore, for achieving secure environment in Kabul as well as throughout the country heavy dependence upon the assistance of the ISAF, and particularly upon the US.

It is also important to note that the ISAF has not been able to provide secure environment because of its nature of composition; therefore, there is need for a strong standby force in this regard. Current security status reveals the fact that it is not so easy a task as was understood at Bonn. Now, security status in Afghanistan has become complicated because it has crossed the borders of Afghanistan, and Taliban fighters receive their outfits and logistic support not only from the southern region of Afghanistan but also from its neighbouring state Pakistan.

Therefore, taking the grave security situation in Afghanistan into account, Obama administration has announced to send the contingent of 30,000 US troops into Afghanistan. In fact, Taliban attacks escalated last year, even as the number of NATO and US troops in Afghanistan nearly doubled in first half of 2008. Brahma Chellaney (2009) has rightly pointed out that, the Soviet Union, with 100,000 troops, couldn't pacify a country that historically has been "the graveyard of empires". Yet President Obama has embarked on a near- doubling of US troops in Afghanistan to raise the combined US, NATO and allied force level there to 100,000.

Even IEC of Afghanistan, Azizullah Ludin has accepted that the presidential polls of 20 August 2009 may be extended because of overwhelming security problems. Therefore, to address the security problems, there is need to apply, according to Shared Cowper-Coles (2009), the British ambassador to Afghanistan, military pressure on the Taliban and....need also to show the disaffected populations, predominantly not

exclusively of the Pashtun belt, that there is place for them in an Afghan political settlement.

After all, it is not to say that, even today, Afghanistan has become a post-conflict state. Afghan civilians and foreign aid workers are being assaulted by the Taliban fighters. According to Weinbaum and Finkelman, violence has suspended many development projects in the south, and has kept foreigners increasingly confined to Kabul. Even the relatively secure capital is not immune to attack. While the exact identity of the individuals or group scarring out these attacks is not precisely known, it appears that a loose coalition of interests intent on undermining Afghanistan's current state-building process is the source of the bloodshed. These spoilers compromise former Taliban or Taliban supporters (including Pashtun nationalist or Islamic oriented groups such as Gulbuddin Hekmatyar's Hizb-e-Islami), narco-traffickers, factional commanders and common criminals (Warikoo 2007 b: 6).

In fact, the ISAF had earlier been mostly restricted to peacekeeping and service mission in order to assist the Afghan central government to work in secure environment in Kabul and its surrounding areas. According to Weinbaum and Finkelman, the level of international investment in security in Afghanistan is the lowest international-troop-to-population ratio of any major international intervention in the past ten years. Whereas the Kosovo and Bosnia missions enjoyed per capita troop ratios of 1: 50 and 1: 66 respectively, the same ratio in Afghanistan stood at 1: 1,115 in the summer of 2004. With roughly the same size population as Afghanistan, there are roughly 140,000 American troops stationed in Iraq (Warikoo 2007 b: 6).

In the first half of 2002, several government officials were assassinated, and there was an attempt on President Karzai. Increasingly, the UN and other humanitarian workers were being targeted- particularly Afghan nationals working with these organizations. Prior to the fall of the Taliban, Afghanistan had been described by the UN Mine Clearance Programme as the most heavily mine country in the world, with a staggering 9.7 million landmines. By May 2003, with some 8,000 de-miners working in the

country, the UN Mine Action Centre for Afghanistan had to suspend mine clearance along parts of the route connecting Kabul and Kandahar owing to the security situation. Full demining activities were only able to resume thanks to the introduction of a new technology that reduced the amount of work that needed to be done manually (Basic Facts about the UN 2004: 110). In 2006, more than 4,400 Afghans, including 1,000 civilians, died in antigovernment violence- twice as many as in 2005. By the end of the year, a significant Taliban insurgency was underway, mainly in the volatile south. It was the most severe violence since the Taliban's fall in 2001.

On 15 February 2006, the S.C, having passed its resolution 1659, acknowledged the continuing commitment of NATO to lead the ISAF, and welcomed the adoption by NATO of a revised Operational Plan allowing the continued expansion of the ISAF across Afghanistan, closer operational synergy with the Operation Enduring Freedom (OEF), and support, within means and capabilities, to Afghan security forces in the military aspects of their training and operational deployments. On 27 September 2007, the S.C voiced concern about the increased violence and terrorism, as it approved the extension of the ISAF for another year. Addressing this situation, the S.G Ban-Ki-moon expressed the key to sustaining security gains in the long-term lay in increasing the capability, autonomy and integrity of the Afghan National Security Force (ANSA), and especially the Afghan National Police (ANP).

However progress in security sector reforms (SSR) has been limited so far and greater efforts are required to extend the rule of law beyond Kabul into major regional cities and the provinces. In fact, the security situation across much of the country has deteriorated, interfering with the government's state-building agenda, and the demilitarization of Kabul, mandated by the Bonn Agreement, has not yet been fully implemented. The main point of concern is that the role of the UN, particularly the ISAF, is being marginalized in this regard; and Afghanistan's security status heavily dependant upon the combined US, NATO and allied force, particularly upon the US-led standing force.

## The Issue of Drug Control

In the case of Afghanistan, drug trade has been regarded as a major obstruction to run the process of state-building successfully, and drug trading activities are effectively undermining the efforts of the international community in this regard. In fact, by the late 1990s, Afghanistan had become notorious as the source of nearly 80 per cent of the world's illicit opium and the source of heroin. Nearly 1 per cent of its total arable land, some 640 square kilometres, was devoted to poppy growing (Basic Facts about the UN 2004: 110).

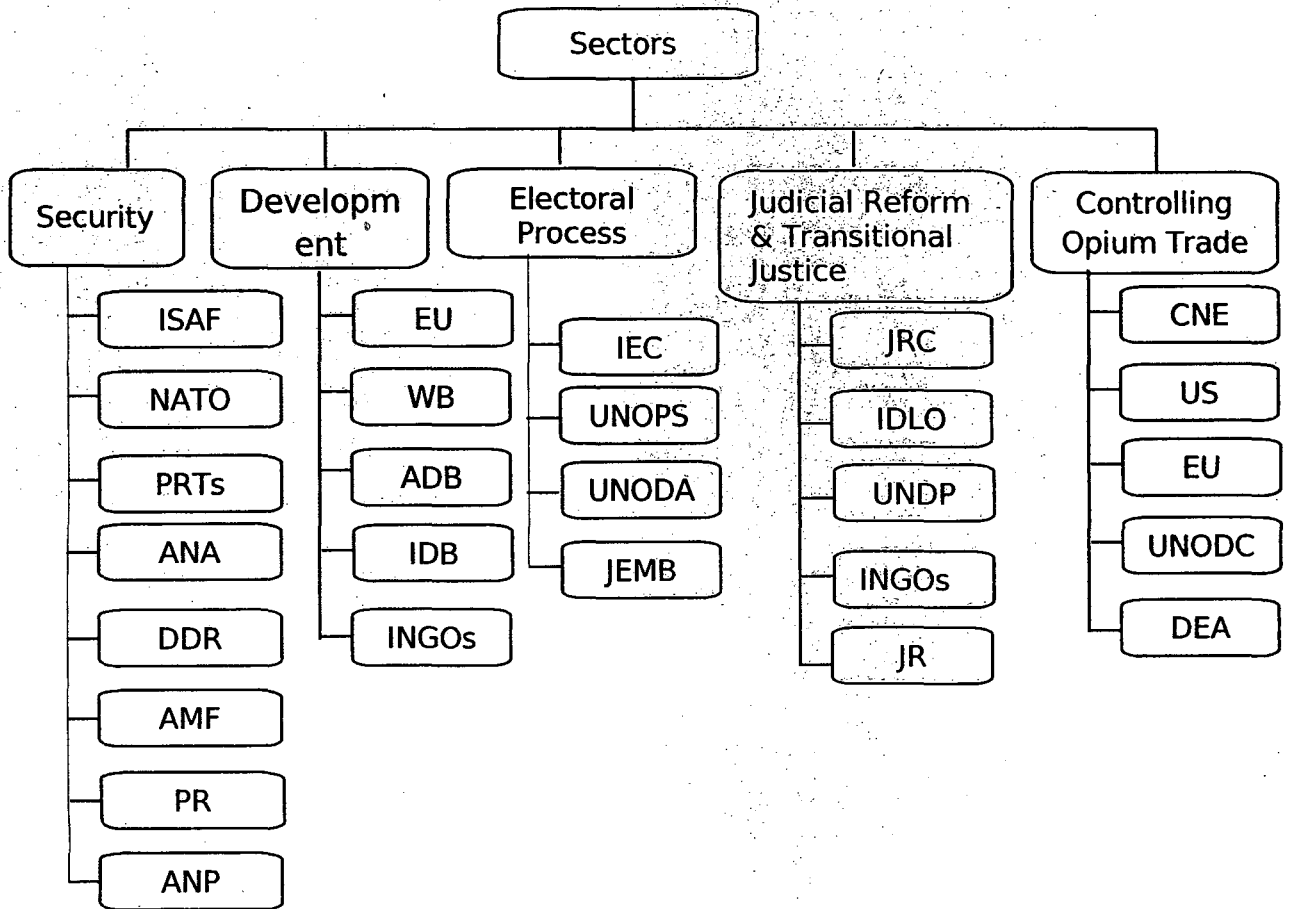
In October 2003, the UN Office on Drug and Crime (UNODC) reported that Afghanistan was providing about three-quarters of the world's opium. About 1.7 million Afghans- some 7 per cent of the national population- worked in that industry, and land under opium poppy cultivation had increased by 8 per cent over the past year. In December 2003, Afghanistan's Foreign Minister Dr. Abdullah met with the UNODC in Vienna to discuss drug-control efforts. According to World Drug Report of 2005, Poppies are now cultivated for the drug trade in all of Afghanistan's provinces with 10 per cent of the population involved in production (Warikoo 2007 b: 18).

By 2007, according to the UNODC Report, the country's \$ 3 billion opium trade accounted for more than 90 per cent of the world's illegal output. Poppy was concentrated mainly in the south, where the Taliban was profiting from the drug trade. In the centre and north, where the government had increased its authority and presence, cultivation was dropping.

The drug cultivation epidemic has starved the central government of valuable tax revenue while funding the terrorist organizations and heirs to the Taliban currently battling US troops near the Pakistan borders (Warikoo 2007 b: 19). There is emerging sense among the international community about the links between drug profits and terrorism that are hard to ignore.

**Chart 2: The United Nations Cooperation with other Actors in Afghanistan, 2002**

- 08





## The Issue of Corruption

The Afghan President Karzai has acknowledged, corruption is contributing to the collapse of public confidence in his government and to the resurgence of the Taliban, whose fighters have moved to the outskirts of the capital Kabul. Addressing the Ruler Development Conference in November 2008, President Karzai expressed that, “all the politicians in this country have acquired everything- money, lots of money”, and “God knows, it is beyond the limit. The banks of the world are full of the money of our statesmen”.

Ashraf Ghani, former Afghan finance minister, expressed the view about the Karzai government that, “this government has lost the capacity to govern because the shadow government has taken over, and the state had been taken over by drug traffickers, and the narco-mafia state is now completely consolidated”. According to Dexter Filkins (2009), on the streets here, tales of corruption are as easy to find as Kebab stands. Everything seems to be for sale: public offices, access to government services, even a person’s freedom. The examples....\$ 25,000 to settle a lawsuit, \$ 6,000 to bribe the police, \$ 100,000 to secure a job as a provincial police chief- were offered by people who experienced them directly or witnessed the transaction.

The point is that, these kinds of activities are eroding the public confidence in the Karzai government, and the acts of corruption pose challenge before the government authority. President Karzai has failed repeatedly to confront the powerful figures who are behind much of the corruption. A raft of investigations has concluded the people at the highest levels of the Karzai administration, including Karzai’s own brother, Ahmed Karzai, are cooperating in the country’s opium trade, now the world’s largest. In the streets and government offices, hardly a public transaction seems to unfold here that does not carry with it the requirement of a bribe, a gift, or, in case you are a beggar, “harchee”- whatever you have in your pocket (Filkins 2009). That corruption may be endemic here, but if there is any hope in the future, it would seem to lie in the revulsion of average Afghans like Farani, who, after seven years, is still refusing to pay (Filkins 2009).

## **Chapter V**

### **Conclusion**

In the 21st century, weak, collapsed or failed states have come to be recognized as potential threats to peace and security at both level- national and international in the community of states. It is being argued that only capable states are able to fulfill their obligations towards native peoples as well as world peoples. If states are not able to fulfill such obligations due to some reasons, then it is the responsibility of the international community to come forward to help in the process of state building, making a state capable in order to fulfill its obligations. This is however a hotly contested issue. Does the international community have such a right to intervene in such situations? It is a contested issue because outside intervention in the name of state building does break the conventional pattern of international order and violates the country sovereign rights. A country sovereign right is being compromised on humanitarian ground, and outside intervention is being justified on this ground.

Outside intervention is also the subject matter of academic debate. Restrictionists are not in favour of this type of intervention in the name of state building while counter-restrictionists favour such a move. Both parties have some limits and strengths to support their respective positions. There is also an approach i.e. international society approach that seeks balance views about the issue of state sovereignty vs. human rights.

Taking the above theoretical issues into account, the study tried to explore and examine the role played by the United Nations in the name of state building. It also tried to compare the UN with its predecessor the League of Nations in order to judge its effectiveness in this regard. In order to examine it sought to rely on the following questions: whether or not an international organization is equipped to or possesses the right and capability to perform such a task, is it the most appropriate authority, does the participation of an international organization enhance legitimacy, the legal position and so on.

As far as, the League is concerned, the establishment of the Mandate System marked the effective beginning of systematic international intrusion into the workings of colonialism. The incorporation of Article 22 in the Covenant constituted the first explicit declaration of the authority and responsibility of international community for safeguarding and promoting the welfare of “peoples not yet able to stand by themselves under the strenuous conditions of the modern world”, and provided the broad outlines of a working arrangement whereby “advanced nations” would exercise “tutelage” over such peoples “on behalf of the League”, and the Council, supported by an advisory Permanent Mandates Commission, would give institutional expression to the League’s interest in the faithful performance of the duties entrusted to its national agents.

Here a crucial account can be made that, where the Council did not serve itself as a means of effecting the political neutralization of a colony, wherein the mandate system approached it by prohibiting the militarization of territories in the “B” and “C” categories. In fact, the United Nations system has, according to Inis L. Claude, reversed that provision and has gone even further by setting up a special type of arrangement, tailor-made for the United States, which enables the Pacific Islands to be at once a trust territory and an integral segment of the American system of military bases; these islands indeed constitute a “sacred trust” of the United States, but they are sacred primarily to the strategic interests of the administering power (1964: 340).

The Mandate System created entirely a new type of sovereignty, a “political sovereignty which is constrained, first, by powerful economic forces, and second, by the politics of knowledge- the construction of social reality, the science of colonial administration, and the micropolitics of normalization (Anghie 2000: 284). Further, the mandate system represented a new kind of technique developed by colonial nations on how colonial relations may be furthered, consequently, through economic rather than purely political control. Practical aspects of mandate system reveals that how this transition took place, from a formal system of colonialism based on political control to

a more elusive but nonetheless powerful system of neo-colonialism based on economic control.

The term “sacred trust” was a product of colonial nations’ own national conscience and an obligation for the performance of which the state was answerable almost exclusively to that same national conscience (Claude 1964: 322) and the term “well-being and development” was regarded in economic term that provided that base upon which mandate-holding powers justified their possession of the mandate territories to form the “sacred trust of civilization”, and this was the logic and rationale for a new kind of colonialism, in that sense, in new international economic order mandate territories could perform their traditional role providing raw materials to advanced colonial states and offering markets for metropolitan products in its territories. One, also important fact that could not be ignored that the League supervisory activities through the Mandate Commission had some, directly or indirectly, effect in exacerbating unrest in the mandated territories; and provided one more instrument for nationalist leaders to use in their struggle for independence.

The mandates system offered an opportunity for “international science to guide national policy in handling problems as they arise...” (Jacobson 1970: 503). The Mandates Commission was given only marginal and indirect powers of supervision and in practice played little part other than reviewing the annual report mandatory powers were required to submit (Armstrong 2004: 31). Taking the view from the practical aspects of the Mandate System, although the League was legally responsible for handling the colonial administration in all mandate territories, though it was not possessed the full sovereignty to constrain the behaviour of mandatory powers. In fact, Mandatory powers had possessed sovereignty over their mandate territories. The fact that could not be ignored that the Mandate System was not the product of the League Covenant, but of the treaties term on the basis of bargaining among conquered colonial nation-states themselves; and various motivational factors were responsible for the creation of Mandate System to fulfill the interests of conquered colonial states. According to a scholar, despite the League’s ostensible commitment to national

sovereignty and independence, its approach to the mandated territories and colonial possession generally legitimated rather than undermined colonialism (Berger 2006: 16).

The mandate system was the basis for the trusteeship system although a number of changes and innovations were embodied in latter. In some respects the administering powers under the trusteeship system are given greater freedom of action than was possessed by the mandatories, in others the United Nations is given a relatively greater degree of supervisory control than was possessed by the League of Nations. The goals of trusteeship system under the Charter are more comprehensive and practical than were those of the Mandate System (Leeper 1951: 1210).

The purpose of the creation of the League of Nations was to promote international cooperation and to achieve international peace and security and mandate system was just a legal instrument among others to achieve that purpose. The task that assigned for the League was dual in character. The very purpose of Mandate System was, on the one hand, to create sovereign 'functioning' states; and on the other hand, to secure equal opportunities for the trade and commerce of other members of the League. The purpose, which was to be fulfilled by the Mandate System, fell far short of the expectations of those who framed this system.

As far as, the UN is concerned, main findings related to the case study of Cambodia, Former Yugoslavia-Bosnia, Kosovo and East Timor as well as Afghanistan are following:

By the Paris Peace Agreement of October 1991, the UN was given full authority, for the first time in its history, to supervise ceasefire, repatriation of the fled Khmer, disarm and demobilize the factional armies, engage in demining, oversee the government's performance and hold free and fair elections. For the time period of March 1992 to September 1993 the UN was sovereign authority over the matter of foreign affairs, defense, finance, and public security in Cambodia. The UN established

a multiparty liberal democracy in the framework of a constitutional monarchy, with the former Prince Sihanouk elevated to king. UNTAC is regarded as a paradigm, and in this respect provide a useful case study of the UN's capabilities. UNTAC achieved its objectives but failed to leave the country in the progressive democratic state. It is also important to point out that disarmament and demilitarization aspects of the accord were not attained due to the intransigence of the Khmer Rouge. According to Yasushi Akashi, the UN's success in Cambodia derived partly from the international situation, in which all major power were ready to dissociate themselves from the cold-war entanglement, and partly from the prevailing desire for peace by the Cambodian parties, exhausted after the prolonged 20 years of war. They were ready to lay down their arms (with the exception of the Khmer Rouge, which dropped out of the peace process in the second part of 1992 and more decisively in 1993) (Thakur and Schnabel 2001: 151).

UNTAC's presence helped end the civil war and bring peace of sorts to most of the country, but it could not fulfill all its mandated tasks. Karns and Mingst has leveled a charge upon it that, it was unable to achieve a complete ceasefire, demobilization of forces (with the Khmer Rouge, in particular, retaining a significant military capability), or its full civil mission. Cambodia, therefore, illustrates the difficulty of carrying out all aspects of a complex peacekeeping and peace building mission (2004: 315-16). Some serious charged has also been leveled against the UNTAC that, the UN has no role in internal conflicts and civil wars, and hence the level of legitimacy remains very low or questionable (Rajan 1996: 147). Some other pointed out that, UNTAC, which cost the UN \$1.8 billion, was abruptly terminated after Cambodia's successful 1993 elections, but the military seized power in July 1997, erasing many of its gains (Karns and Mingst 2004: 316).

At the talks in Dayton, Ohio, in 21 November 1995, agreement was reached between Bosnia-Herzegovina, Croatia and Yugoslavia, ending the 42-month war. To ensure compliance, the Security Council authorized a multinational, NATO-led, 60,000-strong Implementation Force. Point is that, in Bosnia and Croatia, UNPROFOR was replaced

by the NATO Implementation Force (IFOR). After all, IFOR was NATO's first effort to do what UN peacekeepers have done in the past: separate forces, supervise withdrawals, interpose themselves between parties, and provide a safe environment in which peace may take root (Karns and Mingst 2004: 320). In late 1996, IFOR was replaced by a smaller NATO Stabilization Force (SFOR), which was an indefinite mandate, acknowledging the scale of the peacekeeping and peace building tasks.

It should not be forgotten that the Dayton Peace Agreement was in essence a US managed process. David Chandler (2006) has pointed out that the European powers resented being sidelined by the US and lobbied Washington for the UN involvement in overseeing the implementation of the peace agreement. The US refused and the Europeans responded with the idea of establishing a Peace Implementation Council. This could, firstly, help to provide some sense of international legitimacy in the absence of the UN involvement and, secondly, and more importantly from the European perspective, ensure that Washington included the Europeans and others in the policy process. In fact, the PIC was a legal figment, designed to cohere the international management of the Dayton process. And it was finally signed on 14 December 1995 in Paris. Carl Bildt makes a point that UN authorization was avoided because of United States reservations about UN involvement (Newman and Schnabel 2002: 147). After all, the UN was given responsibility for the new International Police Task Force (IPTF), which was given a stronger mandate than previous UNCIVPOL operations. There is also a noticeable point that, the Office of the High Representative (OHR) was authorized through Dayton and not through the UN, although the UN has become steadily more engaged with it. And according to Simon Chesterman, the OHR was an office only 'consistent with relevant United Nations Security Council resolution', not formally run by or directly accountable to the UN (Chandler 2006: 128).

After fourteen years of Dayton Peace Accord, building trust in public institutions has been difficult for the OHR and international administrators to end the conflict in Bosnia. The Bosnian peoples have no right to choose their representative for the high

authority of Bosnia, and the high authority is not accountable for its activities towards Bosnian peoples. Instead, it is accountable to the body that appoints it. Therefore, there is a question of legitimacy of the government which is being wielded for the sake of Bosnian peoples. There is also a challenge before the government to win the trust of its citizens, and without winning the trust no secure form of government can be established, and therefore, the task of state-building can not be achieved. What kind of role the UN can play is also the matter of acute concern, because of its role has been marginalized since the Dayton Peace Agreement. Though the UN can facilitate and promote the process of state-building providing its impartial and valuable guidance leading towards full functioning of a legitimate government.

Kosovo case revealed the fact that first time in the history of the UN military action was enforced without taking the authorization of the Security Council. Therefore, NATO's military intervention raised a fundamental question of how international society should treat intervention like this type of cases. In the case of Kosovo, the military action was wielded outside the UN purview due to veto political in the UN Security Council. Thus the international community took a confrontational and interventionist approach in this regard to curb human rights abuses then being wrought by the Milosevic regime. David Clark (2009) points out that, even the veteran British MP, Clare Short, a forceful advocate of intervention in the Balkans, attributed Tony Blair's foreign policy errors to the "taste for grandstanding" he acquired in Kosovo. After all, there is a point that still contested; either the war in Kosovo was a response to a humanitarian emergency or a geopolitical power play. Yet the debate over Kosovo also questioned whether NATO's military action worsened the humanitarian crisis by prompting the large refugee outflow, civilian casualties of bombing, and destruction of infrastructure such as power plants and bridges on the Danube. After all in the case of Kosovo, the third world was, according to C.S.R Murthy (2003), defeated by the third world.

It should not be forgotten that the Security Council vested UNMIK with authority over the territory and people of Kosovo, including all legislative and executive powers and



administration of the judiciary. According to Aidan Hehir, UNMIK was designed as a temporary measure and while its immediate remit was to bring peace and create a functioning economic and political system in the province, it was ultimately charged with facilitating its own obsolescence (2007: 125-26). In Kosovo, it is not the UN, but rather NATO that has been in charge of the military side peacekeeping, while the UN has been in charge of administering the state, In June 1999; the UN Security Council authorized the UNMIK to administer the province. According to Sally Morphet, the structure of this mission and its leadership was somewhat similar to that of the OHR (Newman and Schnabel 2002: 151). After all, UNMIK made significant progress towards re-establishing normal life and ensuring long-term economic reconstructions. And in December 2002, UNMIK completed the transfer of specific responsibilities to local provisional institutions, though it retained control over security, foreign relations, protection of minority rights, and energy- pending determination of the province final status.

It should not be forgotten that the UNMIK had manifestly failed to redress the economic and political problems, though it tried to maintain standards rather than resolving the issue of Kosovo's final status till 2003. 'Standards before status' policy later acknowledged as problematic because demand for sovereignty was being increased in subsequent years. UNMIK has failed in its attempt to provide security and development to the peoples of Kosovo, and it was being perceived as corrupt and indecisive by local population. Even the SRSG has changed four times in five years, which means there has not been effective leadership over the course of operation. The Eide Report of October 2005 acknowledges, 'The government [in Kosovo] has now elaborated its own programme for capacity-building, in an effort to take greater ownership of this process'.

The creation of a viable polity in Kosovo is no longer a goal born exclusively from an altruistic desire to make the lives of Kosovo's citizens better but to prove that UN is capable of successfully undertaking these operations, and hence, providing it with a clear raison deter...An extended period of administration under UNMIK and later the

EU, though opposed by the people on the ground, is necessary if this what is required to maintain the credibility of the state-building project. The clear reluctance to transfer competencies to local political institutions can thus be explained not by neo-imperialism but by the UN's desire to be seen to have succeeded in Kosovo and its commensurate unwillingness to jeopardize this success by divesting control to the Kosovars themselves (Hehir and Robinson 2007: 136-37).

UNMIK's record in Kosovo has significant implications for state-building globally and underlines many of the key dilemmas inherent in this increasingly prevalent and vaunted practice. If Kosovo is indicative of a broader trend then it is evident that a clear goal must be established at an early stage if any international administration is to achieve as lasting resolution of the underlying problem and avoid a potentially limitless engagement in a region (Hehir and Robinson 2007: 139).

In East Timor, in accordance with a resolution 1236 of UNSC of June 1999, the task was given to UNAMET to organize this consultation and to oversee a transition period pending the implementation of the decision. The agreement to give East Timorese an opportunity to vote for autonomy within Indonesia or independence only three months after the signing of the agreement laid down significant challenge for UNAMET. By a resolution 1272 of the SC (25 October 1999) a full executive and legislative authority was given to UNTAET during the country's transition to independence. The task that were given to UNTAET includes providing security, maintain law and order, establish an effective administration, assist in the development of civil and social services, engage in capacity-building for self-government, ensure coordination of various assistance efforts; and assisting in building conditions for sustainable development. It was also to provide transitional governance, and public administration, including an international police element, humanitarian assistance, emerging rehabilitation, and military security. It was first time in the UN history that the UN was fully authorized by the international community to directly involve in the process of state-building.

The UN has remained fully committed in supporting the independent country of Timor-Leste in its efforts to consolidate democratic institutions and advance socio-economic development. Following its declaration of independence on 20 May, the Security Council established a United Nations Mission of Support in East Timor (UNMISSET) to assist the fledgling state in developing core administrative structures, providing interim law enforcement and security, developing the country's police service, and contributing to the maintenance of internal and external security. Upon completing its work in May 2005, UNMISSET was replaced by a United Nations Office in Timor-Leste (UNOTIL), which worked for the next year to support the development of critical state institutions, the police and border patrol unit, and to provide training in democratic governance and the observance of human rights.

The UNTAET operated under a multidimensional mandate to provide security and maintain law and order while working with the Timorese to lay the foundations of democratic governance. The UN established an effective administration, enabled refugees to return, helped to develop civil and social services, ensured humanitarian assistance, supported capacity-building for sustainable development. According to Roger Moran, the political situation of East Timor that led to the UN to become its temporary sovereign was unique and unlikely to be replicated, and the lessons to be drawn from the largely successful exercise, should accordingly be narrowly construed. There are exceptional circumstances when the international community can establish a species of protectorate-in-all-but-name to prepare a territory for self-rule (Uday Bhaskar et al. 2004: 193).

Finally, this is not to say, however, that the situation in East Timor is stable enough for the UN to withdraw completely. But at this point, it is fair to assess the progress in mandate implementation made by UNTAET, in conjunction with the others international missions and the East Timorese, as largely successful (Howard 2008: 298).

In Afghanistan, the UN has adopted “light footprint” approach to involve itself in the process of state-building. The UN is not seeking a transitional administration or peacekeeping or anything like that, as it did in the Balkans region like Bosnia and Kosovo, Cambodia and East Timor in Asia. Rather it is working to bring the various parties, groups or factions together, and then, thus, helping the Afghans rebuild their own country. The Bonn Agreement is the perfect example of the role that is being played by the UN here.

According to Uma Shankar, state-building in Afghanistan has historically remained linked with the strategic balance and power games being played in the region. Its fragile state system has never been able to cope with the uneven strategic pressures. The present phase of state rebuilding in Afghanistan is taking place under the umbrella of unchallenged U.S hegemony. In the light of Caspian Sea Oil and gas resources, the importance of Afghanistan as an alternative route of supply line has brought in the focus of U.S foreign policy. It is an unfortunate reality that the present U.S interests and prospects of peace, stability and constitutional government in Afghanistan are greatly linked. The present U.S interest badly needs peace and stability in Afghanistan. The U.S interests have guided the endeavour for replacement of the Transitional Administration by a duly elected Presidency in October 2004 and Parliamentary and Provincial elections in October 2005 (Warikoo 2007 b: 77-78).

The war on terror, according to some scholars, is being used as an excuse to further U.S control in the oil-rich Caspian Sea basin. Washington considers its military might as a trump card that can be employed to prevail over its rivals in the struggle for political hegemony and resources (Fouskas and Gokay 2005: 156). Powerful geopolitical and geoeconomic interests are fuelling the American war drive, which suggests that the real motive for America’s operation in Afghanistan is more related to its interest in the resource of central Asia than to any democratic project (Fouskas and Gokay 2005: 156).

According to BBC News of 4 November 1997, if the Balkans are a major key to transportation of vast Caspian oil resources to western markets, Afghanistan is the key to oil transportation to world markets through the Indian Ocean (Fouskas and Gokay 2005: 156).

The study undertaken confirms certain findings - that the UN-led state-building process is running under the shadow of the U.S interests, priority was given to sovereign government rather than legitimate one, Security Council more dominant in the process of state-building rather than the General Assembly. The challenges are multifold. According to Ramesh Thakur (2009), the strengthened U.S military presence and activity come with heightened risk of an increased level of civilian casualties and culturally offensive behaviour. Just as there is a need to shift from a heavy military to a major civilian footprint, so at some stage the lead international actor should be the United Nations. For all its faults, the organization has no peer competitor in nation building. For reasons that remain unclear, the U.N. wanted and was given a light footprint. The result, much to the evident frustration of its senior leadership in Afghanistan, is a one-third unfilled number of U.N. vacancies there and even those who go are not always the best, for the U.N.'s best are not attracted to a mission of playing second fiddle to the Americans.

In the case of Afghanistan, it is clear that involvement of the UN and the U.S-led coalitions to accomplish the task of state building is driven more by political and strategic considerations than humanitarian, and the role of the UN is being marginalized, and further role of the UN will depend upon the U.S stands or moves in this regard. One thing should not be forgotten that now the U.S is seeking an 'exit strategy' from Afghanistan, and the Obama administration has declared that the U.S goes in Afghanistan to find out military solution by offering Taliban to come at negotiation table. The U.S is too much hurry in its efforts in order to find out military solution of Afghanistan's problem and it is evident in the declaration of deploying 30,000 troops in Afghanistan. The strategy is to build military pressure upon the Taliban, so that they could come at the negotiation table. After all, one account may be

drawn at this stage, according to M.K. Bhadrakumar (2009), Indian Foreign Service Officer and former ambassador, “talking with the moderate Taliban is necessary but it is no longer sufficient, as it would have been in 2002 or 2003”.

Over all, cases like Cambodia, Yugoslavia-Bosnia, Kosovo, East Timor reveal the fact that the UN is competent body to achieve the goal of state building because the UN involves itself, more or less, directly in the form of transitional government, but Afghanistan case is slightly different because the UN is not directly involved here and this task has been left to the Afghans themselves. Afghanistan case also reveals the fact that the UN is going to adopt the trajectory of its predecessor the League of Nations in this regard. It is evident in the fact that the UN authorizes actions and activities of, and provides legitimacy to international participants, what the League did same through its mandate system. The UN is also being utilized for the strategic, political and economic purposes.

The UN is a legitimacy provider in the case of Afghanistan and its role is to merely provide assistance to the Afghan government to become stable in order to fulfill its national and international obligations. Since the UN is being utilized for the pursuit of strategic goals, therefore, its internationally recognized impartiality or neutrality is at stake. It should not be forgotten that the state building is per se a political agenda, and therefore, it is desirable that democratic Afghan government would be more conducive on the negotiation table than fundamentalist government. However, making democratic institutions does not mean the guarantee of a stable government or capable one that able to fulfill its national as well as international obligations.

Afghanising democracy is a good concept because it stresses the need for Afghans to come forward in democratic way to shape their political agenda. The Balkan region's peoples, particularly, Bosnian peoples, unfortunately, don not have opportunity in this regard, but Afghans have, though challenges remain here, e.g legitimate government. It is also worth noting that Afghans have to complete this task within internationally recognized framework (the Bonn Agreement). The success of building democratic

institutions in Afghanistan would also depend upon the success of its middle class. After all, Afghans have to involve themselves in the long term process of state building which is going to become time consuming, miserable and complicated process. However current state building efforts is just a beginning of that process.

## *Appendix: Chronology of Events in Afghanistan (2001- 08)*

<b>2001</b>	
<b>September</b>	
11	Suicide attacks on the US kill more than 3000 people and destroy the two towers of the World Trade Centre, using three hijacked passenger airlines as missiles, with a fourth also hijacked, crashing in the field in Pennsylvania. Early speculation about the source of the attack centered on Saudi-born terrorist leader Osama bin Laden, assumed to be living in and working from Afghanistan. Islamic Emirate of Afghanistan leaders condemned the attacks and rejected suggestions that Osama bin Laden could be behind them.
12	In an internationally televised address, US President George W. Bush announced a “war against terrorism” intent on targeting both terrorist and those who harbored terrorist. Afghanistan was implied in this declaration. By its Resolution, 56/1, the General Assembly called for international cooperation to bring to justice the perpetrators, organizers and sponsors of the outrages of 11 September 2001 (A/RES/56/1).
18	United Nations Security Council demanded that the Afghanistan “immediately and unconditionally” hand over Osama bin Laden. Having gone through a press statement, the President of Security Council expresses, there is one and only one message the Security Council has for the Taliban, implement UNSC resolutions, in particular resolution 1333, immediately and unconditionally (SC/7148).
<b>October</b>	
4	The President of Security Council welcomed the decision by Secretary-General to reappoint Lakhdar Brahimi as his Special Representative for Afghanistan. And it was expected that the appointment should provide a powerful injection to UN efforts to resolve the crisis in Afghanistan.
7	Forces of the US and UK unleashed missile attacks against Taliban military targets and Osama bin Laden’s training camps in Afghanistan: Kabul, Kandahar and Herat were hit.
	The President of Security Council welcomed contribution of Member States to respond to the UN emergency fund, and called on the Taliban to desist immediately from threatening the safety and security of aid workers; and to cease immediately the obstruction of aid destined for the Afghan people. (SC/7169-AFG/153).
16	The President of the Security Council urged neighboring states to intensify their cooperation in working with the UN to respond to the refugee crisis, and stressed the need for the international community to respond financially to the needs of host countries (SC/7175-AFG/156).
<b>November</b>	
6	The President of Security Council acknowledged the important role that the UN office for the coordination of humanitarian affairs (OCHA) and called on the Taliban not to impede the work of the UN agencies. (SC/7197).
8	Pakistan, being the only nation that still had diplomatic ties to the Taliban, asked Afghanistan’s rulers to close their consulate in the city of Karachi.
9	Battle of Mazar-e-Sharif
10	The Taliban and Northern Alliance fighters both claimed that the strategic northern Afghan city of Mazar-e-Sharif was taken by Northern Alliance fighters.
12	Taliban forces abandon Kabul ahead of advancing Northern Alliance troops. 2001 uprising in Herat. The “Six plus Two” group (China, Iran, Pakistan, Tajikistan, Turkmenistan, Uzbekistan; and United States and Russian Federation), meeting under the chairmanship of the Secretary-General, agreed on the need for a broad-based and freely chosen Afghan government. Its members pledged continued support for UN humanitarian efforts in Afghanistan, as well as in refugee camps in neighboring states.



14	Northern Alliance fighters take over Kabul, the Afghan capital, and control virtually all the north of Afghanistan. Having passed its resolution 1378, the Security Council supported international efforts to root out terrorism and welcomed the intention of the Special Representative to convene an urgent meeting of the various Afghan processes at an appropriate venue and calling on the United Front and all Afghan represented in the processes to accept his invitation to that meeting, without delay, in good faith and without preconditions (S/RES/1378).
16	Mohammad Atef, the military chief of the Al-Qaeda, killed in a US air strike.
25	Northern Alliance gained control of Kunduz, the last Taliban stronghold in Northern Afghanistan, but only after Pakistani aircraft rescue several thousand Taliban and Al-Qaeda fighters and their military advisers. The Taliban then controlled less than 25% of the country, mainly around Kandahar in the south.
	US Marines landed in force by helicopter at Camp Rhino south of Kandahar and began preparing it for fixed wing aircraft. They also occupied the main road between Kandahar and Pakistan.
	Battle of Qala-i-Jangi: Forces loyal to Osama bin Laden smuggled weapons into their prison near Mazar-e Sharif after surrendering at Kunduz. They attacked the Northern Alliance guards and storm an armory. US Special Forces call in air attacks. Hundreds of prisoners are killed as well as 40 Alliance fighters and one US CIA operative, Johnny Michael Spann. Spann becomes the first US and Coalition combat casualty. A young American named John Walker Lindh is found in the midst of the rebellion and extradited to the US on terrorism charges.
27	A Conference on Afghanistan's reconstruction, sponsored by UNDP, the World Bank and the Asian Development Bank opened in Islamabad.
December	
5	The Afghan Interim Authority (AIA) was established. The President of Security Council welcomed the Agreement reached in Bonn and congratulated Lakhdar Brahimi (SC/7233).
6	Kandahar falls
	The Council called on all bilateral and multilateral donors, in coordination with the Special Representative of the Secretary-General, UN Agencies, and all Afghan groups, to reaffirm, strengthen and implement their commitment to assist with the rehabilitation, recovery and reconstruction of Afghanistan, in coordination with the Interim Authority and as long as the Afghan groups fulfill their commitments. (S/RES/1383).
19	Having gone through a resolution 56/176, the General Assembly, welcomed the appointment by Secretary-General of a Special Representative for Afghanistan, affirmed the essential role of the UN in supporting the efforts of the Afghan people to establish a new transitional administration leading to the formation of a government, and urged all parties to work and cooperate fully with the Special Representative of Secretary-General for Afghanistan and the UN Special Mission to Afghanistan. (A/RES/56/176).
20	UN Agencies would need \$662 million to cope with vital needs in the country up to 1 March. So far, only \$35 million had pledged by donor countries. The Tokyo meeting in January 2002 would prepare the ground for urgent humanitarian assistance to Afghanistan, especially for reconstruction revitalization. It was expressed that establishment of the Afghan Interim Authority was the first step in process aimed to usher in a new era of peace and security in an Afghanistan free of terrorism and drugs, at peace with its neighbors. (GA/10002).
	Having passed its resolution 1386, the Security Council, recognizing that the responsibility for providing security and law and order throughout the country resides with Afghan themselves and reiterated its endorsement of the Agreement on provisional arrangements in Afghanistan pending the reestablishment of permanent government institutions, signed in Bonn on 5 December 2001 (S/2001/1154) (The Bonn Agreement); It was determined to ensure the full implementation of the mandate of the International

	Security Assistance Force (ISAF), in consultation with the Afghan Interim Authority established by the Bonn Agreement and called on Member states participating in the ISAF to provide assistance to help the Afghan Interim Authority in the establishment and training of new Afghan security and armed forces. (S/RES/1386).
21	The Interim Afghan government is sworn in. The General Assembly called for increased international assistance for Afghanistan and also called on the Afghan Interim Government to respect the countries international obligations regarding narcotic drugs (GA/10005).
22	The internationally recognized administration of President Rabbani handed power to the new Afghan Interim Authority, established in Bonn and headed by Chairman Hamid Karzai. The General Assembly called upon all Afghan groups, in particular the Interim Authority, to implement the Bonn Agreement fully and strongly supported the enhanced role of the UN Special Mission to Afghanistan in helping the Interim Authority to implement this Agreement until it is a new UN Mission in Afghanistan (A/RES/56/220A). The General Assembly called upon all relevant organizations of the UN System to continue to coordinate closely their humanitarian assistance to Afghan on the basis of the principles-laid out in the Strategic Framework for Afghanistan, and appealed to donor countries as well as other humanitarian organizations to cooperate closely with the UN, taking into account the priorities and requirements outlined in the donor alert and subsequent appeals (A/RES/56/220B).

<b>2002</b>	
January	
11	Members of the Council called, in particular, for the international community to provide immediate assistance to the Interim Authority by providing rapid contributions to the Afghan Interim Authority Fund (AIAF). (SC/7263).
15	Having passed a resolution 1388 , the Security Council noted that Ariana Afghan Airlines is no longer owned, leased or operated by or on behalf of the Taliban, nor or its funds and other financial resources owned or controlled, directly or indirectly, by the Taliban; Acting under Chapter VII of the Charter of the U.N, Decides that the provisions of paragraph 4 (a) and (b) of resolution 1267(1999) do not apply to Ariana Afghan Airlines aircraft or Ariana Afghan Airlines funds and other financial resources (S/RES/1388).
16	Having passed a resolution 1390, the Security Council reiterated its support for international efforts to root out terrorism, in accordance with the Charter of the U.N and also recalled the obligation placed upon all member states to implement in full resolution 1373(2001), including with regard to any member of the Taliban and the Al-Qaida organization, and any individual, groups, undertakings and entities associated with the Taliban and the Al-Qaida organization, who have participated in the financing, planning, facilitating and preparation of terrorist acts or in supporting terrorist acts. (S/RES/1390).
21	Addressing, an international conference on Reconstruction Assistance to Afghanistan in Tokyo, U.N Secretary-General Kofi Annan said, reconstruction would require \$10 billion over 10 years, including \$1.3 billion for the current year and \$376 million for quick impact and recovery projects that were "ready to go".
February	
9	Hamid Karzai became the head of the Afghan Interim Government.
March	
1	Operation Anaconda against Al-Qaeda fighters launched.
2	Army Chief Warrant Officer Stanley L. Harriman, of the Third Special Force Group, is killed in an ambush along the road from Gardez to the Shahi Kot Valley.
4	Seven American Special Operations Force Soldiers are killed as they attempt to infiltrate the Shahi Kot Valley on a low flying helicopter reconnaissance mission.

27	Members of Security Council acknowledged the importance of maintaining security in Kabul, and expressed their intention to extend the mandate of the ISAF after its expiry on 20 June 2002. (SC/7341-AFG/193).
28	UNSC acting on the recommendation of the Secretary-General, established the UNAMA for one year, to fulfill the tasks entrusted to the U.N under the Bonn Agreement, the rule of law and gender issues. Having gone through a resolution 1401, the Security Council reiterated its endorsement of the Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions, signed in Bonn on 5 December 2001 (S/2001/1154) (the Bonn Agreement), in particular its Annex 2 regarding the role of the U.N during the interim period, and welcomed the establishment on 22 December 2001 of the Afghan Interim Authority and looking forward to the evolution of the process set out in the Bonn Agreement (S/RES/1401).
April	
17	The 87 year-old exiled king of Afghanistan, Mohammad Zahir Shah, returns.
18	Tarnak Farm incident leaves four Canadians dead from friendly fire.
May	
23	Having passed a resolution 1413, the Security Council expressed its appreciation to the U.K of Great Britain and Northern Ireland for taking the lead in organizing and commending the ISAF and recognizing with gratitude the contributions of many nations to the ISAF. The Council also determined to ensure the full implementation of the mandate of the ISAF, in consultation with the Afghan Interim Authority and its successors established by the Bonn Agreement, Acting for these reasons under Chapter-VII of the Charter of the U.N, the Council decided to extend the authorization, for a period of six months beyond 20 June 2002, of the ISAF, as defined in resolution 1386(2001) (S/RES/1413).
June	
7	The President of the Security Council (Syria) called on the Afghan people and their leaders across the country to work together, within the framework of the Bonn Agreement, to build democratic institutions and to prepare in due course for national elections (SC/7422).
11	Former king of Afghanistan, Mohammad Zahir Shah opened the Loya Jirga. This nine-day Council was opened, and Hamid Karzai was nominated by king Zahir Shah to lead the nation.
13	Hamid Karzai was elected as Afghanistan's head of state, to lead the transitional government for the next two years.
21	Members of Security Council welcomed the successful conclusion of the Loya Jirga and inauguration of President Hamid Karzai as head of the new Transitional Administration (SC/7432).
26	Having passed a resolution 1419, the Security Council reiterated its endorsement of the Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions, signed in Bonn on 5 December 2001 (S/2001/1154) (the Bonn Agreement), and welcoming initial steps for its implementation, including the establishment of the human rights and Judicial Commissions (S/RES/1419).
July	
1	In Uruzgan province, a U.S AC-130 gunship struck a wedding party, killing 48 civilians and injuring 117. The United States claimed their plane had come under attack from anti-aircraft fire before the strike.
6	Vice President Abdul Qadir assassinated in Kabul.
18	Three Afghan factions near Mazar-e-Sharif began turning over their weapons under the U.N monitoring, in the first such voluntary exercise ever in Afghanistan.
September	
5	Kabul bombing kills 30 people. An assassination attempt was made on President Karzai in Kandahar, a gunman wearing the uniform of the new Afghan Army opened fire, wounding the Governor of Kandahar and an American Special Operation officer. The gunman and one of the president's bodyguards were killed.

19	Members of Security Council reiterated their full support to the Transitional Authority of Afghanistan to speed up, assisted by the international community, the process of rebuilding Afghanistan, and carry forward the political process in accordance with the Bonn Agreement, and also reaffirmed their full support for the coordinating role of the U.N in Afghanistan and the efforts of the Secretary-General's Special Representative, Lakhdar Brahimi, in the accomplishment of his mandate. (SC/7507-AFG/208).
November	
27	Having gone through a resolution 57/8, the General Assembly, decided to convene, on 18 November 2002, an open-ended panel of the General Assembly on Afghanistan (A/RES/57/8). Having gone through a resolution 1444, the Security Council determined to ensure the full implementation of the mandate of the ISAF, in consultation with the Afghan Transitional Authority and its successors established by the Bonn Agreement, and acting for these reasons under Chapter-VII of the Charter of the U.N decided to extend the authorization, for a period of one year beyond 20 December 2002, of the ISAF, as defined in resolution 1386(2001) (S/RES/1444).
December	
6	The General Assembly called on donor countries that pledged financial aid at the International Conference on Reconstruction Assistance to Afghanistan, held in Tokyo on 21 and 22 January, to fulfill their assumed commitment promptly, and it called on all member states to provide humanitarian assistance and to support the Transitional Authority (GA/10115).
22	The Kabul Declaration on Good-Neighborly Relations was signed.
24	Having passed a resolution 1453, the Security Council recognized the Transitional Administration as the sole legitimate Government of Afghanistan, pending democratic elections in 2004, and reiterating its strong support for the full implementation of the Agreement on Provisional Arrangements in Afghanistan pending the reestablishment of Permanent Government Institutions (the Bonn Agreement), and also endorsed the Kabul Declaration on Good-Neighbouring Relations signed by the Transitional Administration of Afghanistan and the Governments of China, Iran, Pakistan, Tajikistan, Turkmenistan and Uzbekistan, the states neighbouring Afghanistan, in Kabul on 22 December 2002(S/2002/1416) (S/RES/1453).

## 2003

January	
14	According to a Press Release of Security Council, the Council established the UNAMA in resolution 1401 (2002) adopted on 28 March, and made a point that peace process consists of two pillars- one for political affairs; and second for relief, recovery and reconstruction. In a briefing on 19 July, SRSR Lakhadar Brahimi warned the Council that, despite numerous achievements, security was the most formidable remaining challenge, and he proposed the expansion of the ISAF. In ensuring debate, however, several speakers stressed that such extension was not practicable and that current conditions would not allow for such extension. As President Karzai had signed a decree on 1 December, establishing an ANA that was unified, under civilian control and ethnically balanced, he urged the international community to provide both political and financial support for the reform of security sector. Finally, by its resolution 1453 (2002) of 24 December, the Council endorsed the Kabul Declaration on Good-Neighbourly Relations signed by the Transitional Administration and Governments of Afghanistan's neighbouring countries on 22 December (SC/7632/2003).
February	
3	Opium economy in Afghanistan was acknowledged as an international problem. The UNODC acknowledged that, by the year 2000, the country was the source of 70 per cent of

	all the illicit opium produced in world. Following a decline in 2001, production resumed at high levels in 2002, again making Afghanistan the world's largest producer (followed by Myanmar and the Lao People's Democratic Republic), and accounting for almost three quarters of global opium production (SOC/NAR/851/2003).
6	The UNEP draws attention about the deteriorate environmental situation in Afghanistan, and pointed out that, the Helmand River, the main tributary of the waterlands which drains 31 per cent of Afghanistan's land areas , has run as much as 98 per cent below its annual average in recent years. Four years of drought has compounded problems caused by uncoordinated management of river basis's dams and irrigation schemes during two decades of conflict. Without a stable source of water, much of the natural vegetation of the Sistan basin has died or been collected for fuel. This has contributed to soil erosion and significant movement of sand onto roads and into settlements and irrigated areas (AFG/219-UNEP/134/2003).
24	Having gone through a Press Release, the Security Council expressed the view that disarming rival factions, creating strong National Army, and Police are crucial for securing Afghanistan's fragile peace (SC/7670/2003).
March	
14	The Commission on the status of women adopted by consensus its draft- agreed conclusions on one of the two themes of its current session- women's access to the media and information and communication technologies. It differed, however, actions on conclusions for its second theme, violence against women, until a later day. Under the agreed conclusions, the Commission agreed that increasing women's access to and participation in the media and information and communication technologies was vital for women's empowerment. It urged governments, UN bodies, International Financial Institutions, and civil society to integrate gender perspectives and ensure women's full participation in national policies, legislation, programmes and regulatory and technical instruments in information and communication technologies and media and communications (WOM/1399/2003).
27	Having gone through a Press Release, the Security Council expressed the view that, there is lack of security in Afghanistan that threatens peace process at all levels (SC/7708/2003).
28	The Secretary-General appalled at killing of Richard Munguia, RED CROSS worker in Afghanistan, in Uruzgn province in southern Afghanistan (SG/SM/8653-AFG/220/2003). Security Council extended Afghanistan Mission until 28 March 2004, unanimously adopting resolution 1471 (2003). The Security Council recognized that the UN must continue to play its central and impartial role in efforts to assist the Afghan people to consolidate peace and rebuild their country, extended the UNAMA for another 12 months, until 28 march 2004. The Security Council also recognized the ATA as the sole legitimate government of Afghanistan pending democratic elections by June 2004 and reiterated its strong support for the full implementation of the Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions, signed in Bonn on 5 December 2001 (S/2001/1154) (the Bonn Agreement), in particular its annex 2 regarding the role of the UN during the interim period (SC/7711/2003). Adopting its resolution 1471 of 28 March, the Security Council decided to extend the UNAMA for an additional period of 12 months from the date of adoption of this resolution (S/RES/1471/2003).
April	
25	The Commission on Human Rights requested the Secretary-General to appoint an independent expert to aid and advise the Transitional Authority of Afghanistan on human rights matters (HR/CN/1048/2003).
26	A 35-member constitutional review commission was inaugurated. It conducted public consultations throughout Afghanistan and abroad to ascertain the view of Afghan people.
May	

6	The SRSRG Lakhdar Brahimi told the Security Council that unstable, insufficient security in Afghanistan casts long shadow over peace process, and also told that next steps require security throughout country; and advocated expansion of the ISAF beyond Kabul in due regard of electoral registration and the elections in 2004 (SC/7751/2003).
20	Penitentiary Reform Project in Afghanistan was launched. The Project, which is a component of the UNODC Criminal Justice Reform Programme in Afghanistan, was designed at the request of Italy as the lead country in the justice sector. It was developed in close consultation with the Judicial Commission, the Ministry of Justice and other UN agencies, including the UNAMA, the UNICEF, the UNDP and the UNIFEM (AFG/222-SOC/CP/254/2003).
27	It is with deep regard that the Secretary-General learnt today of the tragic death of 62 Spanish troops returning from service with the ISAF in Afghanistan and 12 Ukrainian crew members, in a plane crash in north-west Turkey. The troops were returning from having served with the ISAF in the selfless contribution to the Afghan peace process (SG/SM/8717/2003).
29	The FAO made a point that agricultural project in Afghanistan at risk, and around \$ 25 Million urgently needed for Long-Term Development Activities (AFG/223-SAG/131/2003).
June	
17	The Security Council urged international community to strengthen cooperation against drug production, trafficking in Afghanistan; and having gone through a Presidential Statement, President of the Security Council (Russian Federation) stressed need to improve security in Provinces, extend Transitional Administration Authority throughout country (SC/7795/2003).
18	On the behalf of the President of the Security Council, the Council stressed the need to improve the security situation in the provinces and further to extend the authority of Afghan Transitional Administration throughout the country, and welcomed the establishment and deployment of international civilian-military Provincial Reconstruction Teams (PRT) in the provinces and encouraged States to support further efforts to assist with improving security in the region.
20	The UN and the Central Asian Governments launched projects to counter heroin flow from Afghanistan (AFG/224-SOC/NAR/869/2003).
July	
24	The FAO declared that it was facing funding gap of \$ 10-15 Million (SAG/148/2003).
August	
11	NATO takes over command of the peacekeeping force in Afghanistan, marking its first major operation outside Europe in its 5-year-history.
25	The UNODC has just added another project to fight narcotics to its largely expanded portfolio on 20 projects- worth \$ 38 Million- in the fight against illicit drugs in Afghanistan. The Executive Director of UNDOC and the Afghan Minister of Interior signed an agreement in Kabul to help establish a new drug interdiction department within the Ministry (AFG/228-SOC/NAR/873/2003).
September	
24	Addressing the high-level ad hoc meeting on Afghanistan, the Secretary-General Kofi Annan called for continued support for political process, security reform, and reconstruction (SG/SM/8894-AFG/230/2003).
October	
13	The Security Council authorized expansion of the ISAF in Afghanistan to allow for maintenance of security outside the capital, Kabul for international personnel engaged in reconstruction and humanitarian efforts. The Security Council determined that the situation in Afghanistan still constituted a threat to international peace and security, the Council unanimously adopted resolution 1510 (2003)

	<p>and, acting under Chapter VII of the UN Charter, authorized the Member States participating in the security assistance force to take all necessary measures to fulfill its mandate. That mandate (which was to expire on 20 December) was also extended for a period of 12 months (SC/7894/2003).</p> <p>Adopting its resolution 1510, the Security Council authorized expansion of the mandate of the ISAF to allow it , as resources permit, to support the ATA and its successors in the maintenance of security in areas of Afghanistan outside of Kabul and its environs, so that Afghan authorities as well as the personnel of the UN and international civilian personnel engaged, in particular, in reconstruction and humanitarian efforts, can operate in a secure environment, and to provide security assistance for the performance of other tasks in support of the Bonn Agreement.. Security Council also decided to extend the authorization of the ISAF, as defined in resolution 1386(2001) and this resolution, for a period of 12 months (S/RES/1510/2003).</p>
24	<p>The UNAMA officially launched its disarmament, demobilization and reintegration programme in the northern province of Kunduz.</p> <p>Under Secretary-General for Peacekeeping Operations told the Security Council that as the final and most important stages of the peace process in Afghanistan moved ahead, many of the fundamental, structural causes of insecurity remained unresolved; and it was stressed that success of disarmament, electoral registration dependent on improvement of security conditions in Afghanistan (SC/7904/2003).</p>
28	<p>At the request of the Transitional Government of Afghanistan, the UNEP, together with the European Commission and the Ministry of Irrigation, Water Resources and Environment announced a € 4.27 million programme to promote good environmental governance and to support the rehabilitation of the country's environment (AFG/232-UNEP/177/2003).</p>
29	<p>The Afghanistan Opium Survey for 2003, conducted by the UNODC, for the first time jointly with the Afghanistan government, confirms the country's place as the leading producer of opium, responsible for about three quarters of the world's output.</p> <p>The area under opium poppy cultivation in Afghanistan increased by 8 per cent, from 74,000 hectares in 2002 to 80,000 now. Opium production increased by 6 per cent, from 3,400 to 3,600 tonnes (SOC/NAR/880/2003).</p>
November	
12	<p>"Six plus Two" Group pledged their support to efforts of the Afghan people to find a political solution to the Afghan crisis, and agreed that there should be the establishment of a "broad-based, multi-ethnic, politically balanced, freely chosen" Afghan administration representative of their aspirations and at peace with its neighbours.</p>
18	<p>Having gone through a Press Statement, President of the Security Council (Angola) expressed the view that, Members of the Security Council condemned unequivocally the murder on 16 November of Bettina Goislard, a staff member of the UNHCR (SC/7912-AFG.234/2003).</p>
December	
5	<p>General Assembly told that despite significant gains, Afghanistan remains fragile, continues to require international support.</p> <p>It also called on all Afghan groups to respect the authority of and support the Transitional Administration, and called on donors to respect their commitments made at the Tokyo International Conference on Reconstruction Assistance to Afghanistan, as it discussed the situation in that country and adopted, without a vote, a related resolution (GA/10215/2003).</p>
14	<p>Loya Girga convened to consider the proposed Afghan Constitution.</p>
29	<p>The draft constitution was circulated at a plenary session of the Constitutional Loya Jirga. The text, which included changes approved earlier by the Loya Jirga's reconciliation committee, provided for the establishment of a presidency with significant powers and a bicameral legislature with an assured minimum number of women members.</p>

<b>2004</b>	
<b>January</b>	
4	The Loya Jirga reached agreement on the draft and Constitution of Afghanistan approved by the Loya Jirga. The Constitution has 162 Articles organized into 12 Chapters. According to Article 162 the Constitution has now entered into force and will now be signed and proclaimed by President Karzai who will also be responsible for supervising its implementation.
5	Secretary-General Kofi Annan congratulated the delegates to the Constitutional Loya Jirga on the completion of this difficult and complex process (SG/SM/9103-AFG/239).
6	Members of the Security Council welcomed the new Constitution agreed by Afghanistan's Constitutional Loya Jirga on 4 January.
<b>February</b>	
6	UNODC Afghanistan Opium Survey 2003 estimated the production of that year 3,600 tons, an increased of 6 per cent compared to 3,400 tons in 2002 (AFG/246-SOC/NAR/888. The General Assembly recalled the United Nations Millennium Declaration outlined the interrelated commitments, goals and targets to be achieved on, inter alia, development, peace and security and setting the required framework for international cooperation for achieving those goals; and recalled that the Security Council, on 17 June 2003, called upon the international community to provide assistance to the Transitional Administration of Afghanistan in collaboration with the UNODC and in line with the national drug control strategy (A/RES/59/161).
15	The General Assembly applauded the adoption of a pluralistic and democratic constitution on 4 January 2004, the first direct election of a Head of State in the history of Afghanistan, on 9 October 2004, and the substantive progress achieved in the empowerment of women in Afghan politics as historic milestones in the political process, which will help to consolidate durable peace and national stability in Afghanistan. The General Assembly welcomed the adoption of a new Constitution for Afghanistan on 4 January and the historic presidential elections held on 9 October 2004. The General Assembly also welcomed the establishment of an executive steering committee of the PRTs (A/RES/59/112A-B).
<b>March</b>	
8	Secretary-General urged to expand the NATO engagement in Afghanistan (SG/SM/9188).
24	After 26 months, one of the last major benchmarks reached in Afghanistan peace agreement-holding free and fair elections (SC/8036).
26	Having gone through a resolution 1536, the Security Council welcomed the Constitution adopted by the Loya Jirga on 4 January 2004 which reflects the determination of the Afghan people to ensure the transition of their country towards a stable and democratic state. The Security Council reaffirmed the Transitional Administration as the sole legitimate government of Afghanistan pending the democratic presidential and parliamentary elections envisioned in the Bonn Agreement as in the Afghan Constitution. The Security Council decided to extend UNAMA for an additional period of 12 months from the date of adoption of this resolution. The Security Council welcomed the appointment of Jean Arnault as new SRSG for Afghanistan. The Security Council welcomed the progress made by the ISAF, in expanding its presence outside of Kabul. The Council also welcomed the development of the new Afghan National Army and Afghan National Police as important steps towards the goal of Afghan security forces providing security and ensuring the rule of law throughout the country (S/RES/1536).
31	Secretary-General told in Berlin Conference that Afghanistan will need continued international assistance until transition is complete (SG/SM/9236-AFG/252).
<b>April</b>	



6	Security Council welcomed \$8.2 billion commitment for Afghanistan reconstruction and stressed importance of improved security for free, credible elections (SC/8053).
June	
14	Secretary-General urged international support for Interim Government, pending elections in Afghanistan (SG/SM/9364).
26	President Karzai signed into law the new Constitution of Afghanistan.
July	
9	Secretary-General expressed full support for Afghanistan election dates and underscored need for safe and secure environment for electoral process (SG/SM/9413-AFG/258).
15	Security Council welcomed 9 October Presidential election in Afghanistan and it was stressed that accelerated disarmament needed for safer electoral process (SC/8149).
September	
28	Under-Secretary-General told Security Council that preparation for 9 October Afghan election on track (SC/8199).
October	
9	Afghanistan's Presidential Election ended peacefully. In the country's first direct election, Hamid Karzai won the presidency with 55.4 % of the vote, but its legitimacy came into question when all 15 candidates opposing incumbent president Karzai withdraw, alleging that election irregularities had invalidated the vote.
12	Security Council stressed 'historic importance' of Afghanistan election and congratulated voters for commitment to democracy (SC/8217).
November	
18	According to Afghan Opium Survey 2004, opium cultivation in Afghanistan has increased by 64 per cent compared to 2003 (AFG/269-SOC/NAR/917).
December	
8	General Assembly unanimously adopted resolution "The situation in Afghanistan and its implications for international peace and security, as well as emergency assistance for peace, normalcy and reconstruction in the war-torn country" and called for recognition of urgent need to tackle challenges still facing Afghanistan (GA/10316).

2005	
March	
24	The Security Council decided to extend the mandate of the UNAMA for an additional period of 12 months from the date of adoption of this resolution. The Council stressed the importance of urgently establishing a framework for the holding at the earliest possible date of free and fair elections and welcomed in this regard the announcement of the Joint Electoral management Body that elections for the lower house of the parliament (Wolesi Jirga) and provincial councils will be held on 18 September 2005. The Council also welcomed the effort to date of the government of Afghanistan to implement its national drug control strategy adopted in May 2003, including through the launch of the 2005 Counter Narcotics Implementation Plan in February 2005 (S/RES/1589).
June	
24	Jean Arnault, the SRSG and Head of the UNAMA, told the Security Council that worsening security situation in Afghanistan had a negative impact on preparation for upcoming elections (SC/8428).
28	Operation Red Wing, a counterterrorism mission in Kunar province, involving four US Navy members, took place. Three of the SEALs were killed during the operation, whilst a fourth was protected by local villagers and was rescued by the US military. Nevertheless, Operation Red Wing resulted in the death of 19 Americans and many Taliban fighters.
August	
25	Security Council stressed need for high level of commitment by international community to address remaining challenges in Afghanistan (SC/8478).

29	According to the report of the UNODC, Opium cultivation in Afghanistan has decreased by 21 per cent, down from 131,000 hectares (ha) in 2004 to 103,000 ha in 2005.
September	
13	The Security Council decided to extend the authorization of the ISAF, As defined in resolution 1386(2001) and 1510(2003), for a period of 12 months beyond 13 October 2005 (S/RES/1623).
18	Afghan Parliament Election, 2005. Talibani fighters launch a series of attacks as Afghan vote, the first legislative elections in Afghanistan in decades. Former Northern Alliance warlords and their followers claim victory.
22	The Members of the Security Council welcomed the holding of the Parliamentary (Wolesi Jirga) and Provincial Council elections on 18 September, the final milestone of the Bonn Process. They commended the Joint Electoral management Body for its dedicated efforts, and the people of Afghanistan for their determination and commitment to rebuilding their State through a democratic process (SC/8508-AFG/279).
November	
23	President of Security Council congratulated Afghans on confirmation of parliamentary, provincial council elections results (SC/8562).
December	
7	The General Assembly applauded the holding of parliamentary and provincial council elections on 18 September 2005, leading to the completion of the Bonn Process. The General Assembly welcomed the continuing and growing ownership of the rehabilitation and reconstruction efforts by the Government of Afghanistan through the National Development Framework. The General Assembly underlined the coordinating role of the SRSG for Afghanistan and of the UNAMA in ensuring a seamless transition, under Afghan leadership, from humanitarian relief to recovery and reconstruction (A/RES/60/32A-B).
20	The Members of the Security Council congratulated the people of Afghanistan on the inauguration of their new Parliament, which marked the completion of the Bonn political process (SC/8595-AFG/281).
27	Secretary-General appointed Tom Koenigs of Germany as the SRSG as well as Head of the UNAMA for Afghanistan. (SG/A/964-AFG/282-BIO/3724).

2006	
January	
13	The US CIA attempts to kill Ayman al-Kalahari by bombing Damadola, Pakistan, a village near the Afghanistan border. The attacks kill at least 18 people. Anonymous US government sources claim he was invited to feast in the village, but did not attend.
31	Addressing the London Conference the Secretary-General told that providing assistance to Afghanistan is in interest of entire international community (SG/SM/10331-AFG/286).
February	
1	The Afghanistan Compact is developed, establishing a framework of international cooperation with Afghanistan.
15	Security Council unanimously endorsed five-years 'Afghanistan Compact' aimed at bolstering security, development and counter-narcotics efforts. The Compact, launched on 31 January at a conference in London, sets out a five-year agenda for sustained and prolonged engagement in Afghanistan with a view to consolidating democratic institutions, curbing insecurity, controlling the illegal drug trade, stimulating the economy, enforcing the law, providing basic services to the Afghan people, and protecting their human rights (SC/8641). Having gone through a resolution 1659, the Security Council endorsed the "Afghanistan Compact" and its annexes as providing the framework for the partnership between the Afghan Government and its international community which underlies the mutual commitments set out in the Compact, and also called on the Afghan Government, and on all members of the international community and international organizations, to implement the Compact and its annexes in full.

	The Council acknowledged the continuing commitment of NATO to lead the ISAF, and welcomed the adoption by NATO of a revised Operational Plan allowing the continued expansion of the ISAF across Afghanistan, closer operational synergy with the OEF, and support, within means and capabilities, to Afghan security forces in the military aspects of their training and operational deployments (S/RES/1659).
March	
22	The General Assembly welcomed the Counter-Narcotics Implementation Plan of Afghanistan, launched in February 2005, which formalized the establishment of the new counter-narcotic ministry. The General Assembly also welcomed the establishment by the Government of Afghanistan of a counter-narcotics police force in support of its counter-narcotics campaign (A/RES/60/179).
23	Having adopted a resolution 1662, the Security Council decided to extend the mandate of the UNAMA, as laid out in the report of the Secretary-General of 7 March 2006 (S/RES/2006), for an additional period of 12 months from the date of adoption of this resolution. The Council also welcomed the inauguration of the new Afghan National Assembly. The Council welcomed the finalization of the 10-year strategy for justice reform in Afghanistan, and invited the Afghan Government, with the assistance of the international community, to continue to work towards the establishment of a fair and transparent justice system, including the reconstruction and reform of the correctional system, as highlighted in the Compact, in order to strengthen the rule of law throughout the country and eliminate impunity (S/RES/1662).
29	Afghan Christian convert Abdul Rahman takes political asylum in Italy. Many Islamic clerics and members of Afghanistan's parliament protest his release. Battle of Lashkagar: Taliban fighters attack a NATO base.
July	
14	Battle of Panjwali between Canadian NATO forces and the Taliban.
August	
14	The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) has allocated \$11 million from the rapid response component of the Central Emergency Response Fund (CERF) for emergency relief for drought-stricken Afghanistan (AFG/289-IHA/1217).
September	
2	Canadians launch Operation Medusa.
12	Having gone through a resolution 1707, the Security Council recognized that the responsibility for providing security and law and order throughout the country resides with the Afghans themselves and welcomed the cooperation of the Government of Afghanistan with the ISAF. The Security Council also welcomed the extension of ISAF into southern Afghanistan, with effect from 13 July 2006. The Planned further ISAF expansion into eastern Afghanistan and the increased coordination between ISAF and the OEF coalition. The Security Council decided to extend the authorization of the ISAF for a period of 12 months beyond 13 October 2006 (S/RES/1707).
14	British armed forces personnel are killed after their aircraft crashes in Kandahar.
December	
19	Zahir Tanin, the new Permanent Representative of Afghanistan to the UN, presented his credentials to the UNSG Kofi Annan (BIO/3825).

<b>2007</b>	
January	
24	The General Assembly expressed its strong commitment to the implementation of the Afghanistan Compact and the annexes thereto, launched at the London Conference on

	<p>Afghanistan held on 31 January and 1 February 2006, which provide the framework for the partnership between the Government of Afghanistan and the international community. The General Assembly commanded the ANA and ANP, the Assistance Force and the OEF coalitions for their efforts to improve security conditions in Afghanistan. The General Assembly applauded the inauguration of the Afghan National Assembly, on 19 December 2005, which completes the Bonn Process, as well as the constitution of the provincial councils and also welcomed the constitution of the national government.</p> <p>The General Assembly welcomed the finalization of ten ten-year strategy for justice reform in Afghanistan, and expressed its appreciation for the appointment and confirmation of a highly qualified Supreme Court.</p> <p>The General Assembly also welcomed the launching on 31 January 2006 of the updated National Drug Control Strategy at the London Conference on Afghanistan (A/RES/61/18).</p>
February	
27	Bagram Air Base bombing: A suicide attack at Bagram Air Base while Vice-president of the US Dick Cheney is visiting kills 23, but the vice-president is not injured. The Taliban claims responsibility and declares that Cheney was their intended target.
March	
4	Shinwar Massacre. The US troops open fire on a convoy and kill 8 or more Afghan civilians on the main road linking Jalalabad with the Pakistan border. Local people protest at the soldiers' actions. Taliban insurgency: Two British soldiers serving with the NATO International Security Assistance Force are killed in Helmand province during clashes with Taliban forces.
6	Operation Achilles against the Taliban in Helmand province.
23	<p>The Security Council stressed the central and impartial role that the UN continues to play in promoting peace and stability in Afghanistan by leading the efforts of the international community.</p> <p>The Security Council decided to extend the mandate of the UNAMA until 23 March 2008. The Security Council welcomed the decision by the European Union to establish a mission in the field of policing with linkage to the wider rule of Law and counter-narcotics.</p> <p>The Security Council welcomed the establishment of the provincial councils in accordance with the Afghan Constitution (S/RES/1746).</p>
May	
13	<p>Afghanistan-Pakistan Skirmishes.</p> <p>NATO confirms that Mullah Dadullah, the foremost military leader of the Taliban, has been killed in battle.</p>
Jun	
15	Battle of Chora begins.
July	
3	Addressing to Conference on Justice and Rule of Law in Afghanistan, the Secretary - General stressed the need for align international efforts with local traditions (SG/SM/11075-AFG/296).
17	Security Council welcomed recent international initiatives aimed at bolstering Afghanistan's stability and development (SC/9080).
19	South Korean hostage crisis in Afghanistan begins.
August	
	Secretary-General Ban KI-moon announced the appointment of Bo Asplund of Sweden as his Deputy Special Representative for Afghanistan Mr. Asplund will also serve as the UN Resident Coordinator, as well as the United Nations Humanitarian Coordinator in Afghanistan (SG/A/1085-AFG/300-BIO/3908).
September	
19	<p>The Security Council decided to extend the authorization of the ISAF for a period of 12 months beyond 13 October 2007.</p> <p>The Council also authorized the Member States participating in ISAF to take all necessary measures to fulfill its mandate (S/RES/1776).</p>

October	
15	SRSO told the Security Council that integrated political-military strategy needed to overcome violence and to bring peace to Afghanistan (SC/9143).
November	
5	The Secretary-General Ban KI-moon underlined the crucial role that the NATO-led ISAF and the Afghan security forces are playing to ensure that Afghanistan does not again become a host for terrorist and extremist groups. He took this opportunity to thank all those countries who have provided assistance to Afghanistan, and reiterated Security Council resolution 1776 (2007), which expressed its appreciation for "the leadership provided by the NATO, and for the contributions of many nations to ISAF and the OEF coalitions, including its maritime interdiction components" (SG/SM/11261-AFG/302).
6	Baghlan sugar factory bombing kills 75, including six Afghan MPs. At least 35 people are killed and dozens more wounded in a suicide bombing in northern Afghanistan. Secretary-General deeply saddened by deplorable suicide attack today in Northern Afghanistan, reportedly killing more than 40 civilians, wounding even more (SG/SM/11264-AFG/304).
8	The members of the Security Council condemned in the strongest terms the suicide attack against a visiting parliamentary delegation, which caused numerous deaths in the town of Baghlan in northern Afghanistan (SC/9166-AFG/305).
December	
7	Battle of Musa Qala, a major clash in Helmand province.

2008	
January	
14	The Taliban attacks the Serena Hotel in Kabul, resulting in the death of at least six people. The Secretary-General noted the challenges that Afghanistan and international community have faced in 2007, and was thankful to all those Member States contributing troops and assets to the NATO-led ISAF and international forces in Afghanistan. In this context, he welcomed in particular the decision by the Government of Japan, on 11 January 2008, to resume its activities in support of these operations, which, together with Afghan security forces, are assisting the Government of Afghanistan to bring security and development to its people (SG/SM/11370-AFG/306).
February	
17	Dozens of people are killed and dozens more injured as a bomb explodes in a dog fighting match in Kandahar, the deadliest suicide bombing of the war.
March	
10	Secretary-General Ban Ki-moon has appointed Kai Eide of Norway as his Special Representative for Afghanistan and Head of the UNAMA. Mr. Eide replaces Tom Koenigs of Germany, who completed his assignment in December 2007 (SG/A/1123-AFG/311-BIO/3969).
20	The Security Council recalled the importance of the Kabul Declaration of 22 December 2002 on Good-Neighbourly Relations, looked forward to the Third Regional Economic Cooperation Conference on Afghanistan to be held in Islamabad, and stressed the crucial importance of advancing regional cooperation as an effective means to promote security, governance and development in Afghanistan. The Security Council welcomed the holding of the Afghan-Pakistani Peace Jirga in Kabul on August 2The Security Council decided to extend the mandate of the UNAMA, as defined in its resolutions 1662(2006) and 1746(2007), until 23 March 2009. The Security Council also decided further that the UNAMA and the SRSO, within their mandate as guided by the principle of reinforcing Afghan ownership and leadership (S/RES/1806).
June	
10	Gora Prai air strike in Pakistan kills Pakistani paramilitary troops.
11	The Security Council acknowledged the mandate and leading role played by the

	<p>International Narcotics Control Board (INCB), as an independent treaty body, in the implementation of the United Nations international drug control conventions and the international control of precursors.</p> <p>The Security Council stressed the central role played by the UNODC in assisting Member States, notably by providing technical assistance, in the fight against illicit drugs (S/RES/1817) Welcoming outcome of Paris Conference for Afghanistan, Security Council endorsed key elements identified as essential for peace and Prosperity (SC/9395).</p>
12	Secretary-General made a remark in Paris Conference that stable, secure, prosperous Afghanistan benefits entire global community (SG/SM/11637-AFG/316).
13	Sarposo Prison attack. A Taliban attack on a prison in Kandahar, allows almost all of the 1150 inmates to escape, including 390 Taliban inmates.
15	<p>The President of Afghanistan Karzai warns the Taliban that he will send force into Pakistan in hot pursuit of militants.</p> <p>More than 15 Taliban insurgents killed as NATO and Afghan forces attempt to recapture the hundreds of prisoners who escaped following the Kandahar prison raid. The Prime Minister of Pakistan Yusuf Raja Gillani warns that Pakistan will not tolerate incursions over its borders.</p>
16	Hundreds of Taliban militants swarm in the Arghanbad District of Kandahar province with the Afghan Government sending reinforcements to the nearby city of Kandahar.
July	
7	A suicide car bomber strikes outside the Indian embassy in Kabul, with at least 58, including four Indians killed. India blames the Pakistani ISI for the attack. Secretary-General condemned in strongest terms suicide bombing in Afghanistan today (SG/SM/11684-AFG/318).
13	Battle of Wanat. Taliban fighters attack a NATO base, killing 9 American soldiers.
August	
19	French forces engage in heavy fighting with Taliban insurgents 50 Kilometers east of Kabul, Uzbin Valley, with 10 French soldiers dead.
22	<p>The US-led coalition kills 30 Taliban militants in fighting in Western Afghanistan.</p> <p>At least 76 civilians are killed following a coalition air strike near the village of Azizabad in the western province of Herat.</p>
27	Operation Eagle's Summit begins in Helmand Province.
September	
3	US Army troops cross the Pakistan border and launch a raid in the Angoor Ada region of Waziristan. Twenty civilians die. Earlier 'up to 90' people were killed during US air raid in Herat, many of them women and children, the Afghan government and the UN said, HRW says civilian death from international air strikes nearly tripled between 2006 and 2007.
15	Secretary-General condemned suicide attack on the UN convoy in Afghanistan (SG/SM/11790-AFG/320).
22	<p>The Security Council recognized the importance of the contribution of neighbouring and regional partners for the stabilization of Afghanistan and stressed the crucial importance of advancing regional cooperation as an effective means to promote security, governance and development in Afghanistan.</p> <p>The Security Council welcomed the continued coordination between ISAF and the OEF coalitions, and the cooperation established between ISAF and the EU presence in Afghanistan, in particular its police mission (EUPOL Afghanistan).</p> <p>The Security Council decided to extend the authorization of the ISAF, as defined in resolutions 1386(2001) and 1510(2003), for a period of 12 months beyond 13 October 2008. The Security Council also called upon ISAF to continue to work in close consultation with the Afghan Government and the SRSG as well as with the OEF coalitions in the implementation of its mandate, including through the provision of Quarterly reports (S/RES/1833).</p>
November	
10	General Assembly reaffirmed its strong commitment to peace and stability in Afghanistan and adopted consensus resolution urging global cooperation in countering ongoing

	challenges (GA/10780).
December	
17	The Secretary-General noted the challenges that Afghanistan and its international partners are facing and is thankful to all those Member States contributing troops and assets to the ISAF and other international forces in Afghanistan, which, together with Afghanistan security forces, are supporting the efforts of the Government of Afghanistan to bring security and development to its people. In this context, he welcomed the adoption by the Parliament of Japan, on 12 December, of the Replenishment Support Special Measures Law, which allows Japan to continue for a further year its activities in support of international operations in Afghanistan (SG/SM/12012-AFG/322).
19	The US vows to send 3,000 more troops to Afghanistan.

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