

Managing Security Challenges in Post-Conflict Peacebuilding

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EXECUTIVE SUMMARY

- While a functioning security sector provides the cornerstone for stable and democratic post-conflict societies, the record of the international community in establishing this critical function is mixed. Despite repeatedly having to manage the immediate post-conflict situation in various peace operations in Europe, Africa, Asia and Latin America, the international community still fails to take the state of the local security sector adequately into account when planning its own intervention.
- The success of international intervention depends on the extent of local involvement in creating solutions to security sector problems. To gain local acceptance security structures have to accord with local traditions while simultaneously meeting international standards.
- Local acceptance of solutions proposed by the international community often depends upon the successful integration of local informal networks of influence, which can be difficult to achieve. Avoiding existing informal networks runs the risk of creating ineffectual formal structures while the informal ones continue to flourish alongside. Informal networks frequently have criminal connections; the challenge is to empower them without entrenching corruption.
- While tangible progress towards greater strategic coordination among international institutions (for example, joint planning staffs at headquarters) is probably unrealistic, organizations can work to minimize the barriers institutional cultures and methods create. Unity of purpose at the strategic level is essential for better coordination at the operational and tactical levels.
- While unified missions under a single Special Representative of the UN Secretary General offer the best model for managing peace operations, at least in Kosovo and East Timor, tactical and operational coordination can be improved by increased joint activity and congruent administrative boundaries.
- For the foreseeable future as, civilian elements of an international force are always likely to arrive behind military forces in theater, critical gaps in the local security sector will persist in the early stages of peace operations. To fill these gaps, military forces should undergo a “doctrinal shift” and consider performing non-military security sector tasks such as policing, judiciary and penal activities, at least in the initial stages of missions.
- The promotion of human rights, which is central to the involvement of international actors in the first instance, presents unexpected policy dilemmas to the same actors in post-conflict peacebuilding. On the one hand, most agree that respect for human rights should not be seen as antithetical or secondary to a functioning security sector. On the other hand, the unique post-conflict environment often constrains the immediate implementation of internationally held human rights standards, thus rendering the international community open to considerable criticism.



Mr. Paul Meyer, *co-chair*, General Maurice Baril, *keynote speaker*, and Dr. David M. Malone, *co-chair*

Introduction

The Second Working Group on ‘Managing Security Challenges in Post-Conflict Peacebuilding’, part of the International Peace Academy’s multi-year research project *UN, NATO and Regional Actors in the 21st Century: Partners in Peace?*, met in Ottawa on 21-23 June 2001. The meeting, generously hosted by the Canadian Government and held against the unfolding backdrop of the growing involvement in Macedonia of the North Atlantic Treaty Organization (NATO) and the European Union (EU), included 41 participants from a number of international organizations as well as government officials and academics. The group examined how the international community could best fill the post-conflict security gap while at the same time creating a stable security environment to serve as the foundation for a society with functioning security institutions and a self-sustaining respect for human rights.

The intra-state character of most conflicts in the last decade has often led to the virtual collapse of indigenous security structures. In the immediate post-conflict

environment crime, in all its manifestations, flourishes and local security structures are often inadequate, inappropriate or simply non-existent. Immediate post-conflict situations therefore pose two problems to the international community: the short-term need to fill the security gap left by non-functioning local institutions, and the long-term goal of re-creating the local security sector.

Such situations often amount to an undeclared state of emergency. Yet these security challenges inherent to the post-conflict situation tend only to be hastily considered during operations planning, and are also often not the object of coherent long-term planning, despite the fact that the international community must often fill the “security gap” on a short to mid-term basis. The short-term need to cope with post-conflict security challenges is linked to the broader mid- and long-term imperative to bring about serious security sector reform in a state emerging from conflict.

The term ‘security sector’ encompasses many elements: military and paramilitary forces, police forces, judicial and penal structures and mechanisms for civilian

oversight of these institutions. Security sector reform – a broad range of activities designed to bring under civilian control or strengthen institutions in this area – has received increasing attention since the early 1990s. Once almost exclusively the domain of military assistance programs, there is now recognition on the part of traditional development assistance actors that the security sector cannot be treated in isolation from other development efforts. Indeed, participants at Ottawa observed that a functioning security sector is the cornerstone of a democratic and stable society: all other reform or development efforts will be compromised if security structures are flawed. Thus the World Bank, International Monetary Fund, United Nations Development Program and other bilateral and multilateral development bodies have all turned their attention to security sector reform; for its part, the Development Assistance Committee of the Organisation for Economic Cooperation and Development has published guidelines for donors in this area¹.

Maximum involvement of local actors in security sector reform is necessary, both to ensure that the ensuing security structures are in harmony with the local society and are thus economically, developmentally and culturally sustainable, and to ease the eventual transfer of responsibility to local authorities. This is true not only of Europe but also of Africa, Asia and Latin America.

The Ottawa working group focused primarily on the Balkans, with some attention paid to East Timor. This report follows the agenda of the working group in considering four main themes: 1) the coordination of institutional responses to security challenges, with particular attention to Kosovo, 2) the need to reconceptualize the role the military plays in managing security challenges, 3) the strengthening of civilian police capacity and the rule of law, and 4) judicial and penal capacity-building, again with a focus on Kosovo.

I. Politics of Coordination

The increasingly complex nature of peace operations² and the overlapping nature of military and civilian roles means that existing forms of ad hoc cooperation must make way for broader coordination if security sector challenges are to be met. Such coordination can be examined at three different levels: strategic, tactical and operational.

Strategic Dimension

The strategic-level issues discussed included the mechanics of and constraints to cooperation among institutions, but also related to how missions such as the United Nations Interim Administration Mission in Kosovo (UNMIK), the NATO-led Kosovo Force (KFOR), the United Nations Transitional Administration in East Timor (UNTAET) and the NATO-led Stabilization Force (SFOR) in Bosnia handle local expectations and integrate local actors in the creation of solutions. The nature of the response to security sector challenges changes over time from emergency measures, such as the international military force taking on policing and judiciary duties in the early post-conflict phase, to capacity-building in later stages. Successful handling of the challenges requires a shared long-term vision on the part of all the institutions involved as to the nature of the solution, which in turn requires effective strategic coordination. In this context participants endorsed the exchange of liaison offices, joint generic planning exercises, greater coordination and improved strategic planning outside of the institutional structure among groups of countries such as the Group of 8 (G-8), the UN Security Council or bodies such as the Contact Group, greater institutional interoperability – networked planning staffs and increased joint training among national armed forces – as possible means for improving coordination among organizations at the strategic level.³

¹ Development Co-operation Guidelines Series, *Conflict, Peace and Development Co-operation*, Development Assistance Committee of the Organization on Economic Co-operation and Development, 1997. See in particular sections IV & V for discussion of security sector reform issues.

² Here the term “peace operations” is used in the broadest possible sense to include the political, economic and social dimensions of conflict prevention and peacemaking; peacekeeping; and peacebuilding. This definition is based on the *Report of the Panel on United Nations Peace Operations* headed by Ambassador Lakhdar Brahimi, better known as the “Brahimi report”. See “Defining the elements of peace operations” in the chapter on “Doctrine, strategy and decision-making for peace operations” at http://www.un.org/peace/reports/peace_operations/. Interestingly, even the NATO definition of what it terms as “Peace Support Operations” is remarkably similar to the UN definition of peace operations and covers “Conflict Prevention, Peacemaking, Peace Building and Humanitarian Operations”, which goes well beyond traditional peacekeeping. See NATO Doctrine for Peace Support Operations MC 327/1 dated 16 October 1998.

³ John G. Cockell, “Coordinating Institutional Responses to Security Challenges in Peacebuilding: Kosovo in the Balkans Context,” paper presented at the IPA meeting *Managing Security Challenges in Post-Conflict Peacebuilding*, June 22-23, 2001, Ottawa.

Overcoming Institutional Hurdles

Better coordination at the headquarters level, especially during the planning stage, was considered to be desirable; however many participants doubted whether the development of closely coordinated planning among the relevant organizations was a realistic goal, given the significant differences in institutional cultures and structures⁴. Yet institutions could at least work to improve their understanding of each other's limitations and motivations, which would contribute to a clearer grasp of the comparative advantage of each when drawing up mandates, recognizing that comparative advantage refers not only to the role each institution is best suited to play on the ground but to other factors as well, such as rapidity of deployment, rapidity of access to funds and operational flexibility. An optimal use of comparative advantage and flexibility on the ground are only possible when there is agreement among organizations as to the broader objectives of the mission.

Managing Objectives and Expectations

If the purpose of a mandate is to translate a strategic-level overview into operational instructions, then the challenge is to develop a mandate that is both clear and flexible, something that requires both unity of purpose and agreement on the broader objectives to be pursued from all the institutions involved. Thus the efforts of the international community in East Timor have benefited from the relative coherence of opinion, both international and local, as to the eventual end status for East Timor, a coherence that is lacking in the case of Kosovo. Yet the potential obstacles to the activities of the international community created by the lack of clarity regarding Kosovo's eventual status have been to some extent compensated for by the flexibility of the mandate laid out in United Nations Security Council Resolution 1244. Though sometimes perceived as too imprecise, 1244 succeeded in meting out responsibilities and providing much-needed leeway on the ground to a greater degree than either the Bosnian Implementation Force (IFOR) and SFOR mandates, both of which were widely considered to have been too rigid. Success of international efforts, including local acceptance of solutions, depends to a



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great extent on the successful management of expectations. Creating realistic expectations both among local populations and in the international community requires a common vision and coherent approach at the strategic and the operational level; a clear communications strategy to get this vision across is equally important.

Engaging Local Stakeholders

Involvement of the local community throughout efforts to reform the security sector is vital. The sustainability of any solution depends entirely on its acceptance by the local community, which in turn requires that the solution respect local traditions and standards while conforming to international norms. And just as it is important for the international community not to take on ownership of a conflict but to ensure that the parties to the conflict own it, so is it essential that the local community comes to own the solution as well.

Usually the local community consists of overlapping economic, social, criminal and political spheres, among which the international community has to make difficult and delicate choices when creating new structures. There is often a tendency to ignore informal networks of power when they ought instead to be integrated into the solution⁵ (such as the transformation of the UÇK [Kosovo Liberation Army] into the Kosovo Protection Corps). The

⁴ The limits to institutional cooperation were examined at length and outlined in the report by Kelvin Ong of the IPA's meeting on *Cooperation in Preventing and Managing Conflict in Europe*, April 20-21, 2001, New York.

⁵ Dr Annika S. Hansen, "Exploring Mechanisms to Strengthen the Indigenous Civil-police Capacity and the Rule of Law in the Balkans: Prospects and Problems", paper presented at the IPA meeting *Managing Security Challenges in Post-Conflict Peacebuilding*, June 22-23, 2001, Ottawa.

international community needs to acknowledge that while many individuals and groups in positions of economic, social or political power only got there in the first place by dubious means, these individual and groups can be excluded only at the risk of creating ineffectual structures while real power remains in the hands of the parallel shadow network. Participants agreed that an examination of how to address the integration of informal networks, if possible through reference to situations elsewhere, was necessary. Some participants suggested that externally imposed economic reform programs were in part responsible for enriching some informal power structures, and that economic programs should be examined with a view to limiting this linkage. Diasporas, too, play an important role in the funding of informal networks; the Albanian diaspora, for instance, has proved particularly influential in this respect in Kosovo.

Participants also felt that local involvement was essential in devising solutions to security challenges. They thought that for the most part this involvement was gravely insufficient in Kosovo, particularly with respect to the activities of Pillars II (civil administration) and III (democratization and institution-building). Though many structures for consultation with local representatives are in place, local actors are not consulted in the drafting of regulations, and the structures seem not to be genuinely consultative. Instead, local actors have the impression they are being asked to rubber-stamp pre-arranged solutions. Accordingly, there was a deep and growing skepticism about the value of the process, and a poor opinion of many institutions and the justice system as a whole, which could only negatively affect their legitimacy, viability and credibility.

Operational and Tactical Dimension

Mission Models

Experience across the Balkans has shown that a fully integrated mission structure under a UN Special Representative of the Secretary-General (SRSG), such as the United Nations Transitional Administration in Eastern Slavonia (UNTAES)⁶, offers the most effective model, though the compact size of UNTAES was another

factor in its success. Some practical steps, such as a merging of all operational aspects of all the organizations involved in a given mission, including logistics and communications, under a single structure can also enhance operational coordination. Joint electoral centers in particular have proven to be very helpful in the success of elections.

The UNMIK four-pillar structure has also greatly improved operational cooperation on the civilian side, though participants recognized that coordination was better at the upper levels of each pillar than it was further down, with frequently little contact among the members of different organizations on the ground. Indeed, much of the success of tactical coordination in the field lies in the individuals and their own willingness to coordinate. Conversely, there are cases where contact and coordination on the ground are more frequent and often much better than at the headquarters level – which can in turn create divisions, not among institutions, but rather between the actors in the field, (who may share a unified view of a situation), and their respective headquarters.

Civil-Military Cooperation

Participants agreed that a welcome evolution had taken place in the nature of civil-military coordination at the operational level: no longer patterned after the “hegemonic” NATO Civil-Military Cooperation (CIMIC)



Professor Brian Job and Ms. Angela Kane

⁶ See the discussion on “Models of cooperation” in the report by Kelvin Ong on the IPA conference *The UN, Europe and Crisis Management*, October 19-20, 2000, Paris.

model which effectively denoted civilian dependence on the military, coordination is now more a joint effort to structure military support to the civil authority, via joint planning, joint ops centers and joint patrols.

Sector Culture

In-theatre co-ordination is greatly facilitated by congruent sectors, and it was argued that all international and local actors should work within the same administrative boundaries and should seek to create similar command structures for each organization to enable ease of contact at every level – “mirroring” – as is the case in Kosovo but was not the case in Bosnia. However, it was also acknowledged that the separate administrative regions might become military “fiefdoms” of individual troop-contributing nations, and that differing approaches or national restrictions could lead to an unequal application of the mission mandate across the mission area. National political restrictions on troops and national chains of command running parallel to international ones create internal tensions and often tie the hands of force commanders; a system of points of contact in national contingents could help overcome some of the obstacles posed by such restrictions.

Doctrinal Issues and Institutional Culture

It was also recognized that each step toward greater ties between organizations must be tempered by the concern of doing damage to an organization’s principles (e.g. its neutrality or objectivity) or creating an unwanted precedent. The differences in institutional cultures and structures that create comparative advantage also create obstacles to more closely coordinated relationships between them. The limited membership of some regional organizations or initiatives means that some would-be participants find themselves excluded from operations. Institutional jealousy, spurred on by turf battles and differences in funding and equipment, is also a real issue. As one way of minimizing misunderstanding, participants felt that it might be useful to have heads of civilian agencies on the ground with military experience.

Differences in institutional culture can also undermine attempts to create a uniform approach to carrying out the mandate across the mission area. Military police and paramilitary units in Civilian Police (CIVPOL) operations often have policing cultures that are unique to



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themselves, and can only be brought under central control with great difficulty.

Constraints to Coordination

Added to the problems inherent in institutional structure are very real problems on the ground, in particular poor infrastructure and logistics, which must be taken into account during planning. Resource constraints in particular harm both co-ordination efforts and successful intervention in the security sector. Missions need a broad overview and a sense of perspective to be able to plan; without this perspective there can be no sense of priorities, and without clear priorities funding will be haphazard at best. Equipment essential to the performance of police or judicial duties was frequently overlooked in the Kosovo planning process, and finding funds after the fact was a struggle. Key personnel and skills were also often in short supply, and sometimes not because they were non-existent but because a lack of rosters and databases meant that organizations only had a very limited knowledge of what resources were available and how to draw on them. Even when funds did exist, rapid disbursement was often a problem; a possible solution suggested was the creation of a rapid reaction mechanism for swift disbursement of funds in the early stages of deployment.

Timelines

The question of differing timelines is another issue to consider in institutional coordination and security sector reform. It is improbable that organizations will ever be

able to deploy simultaneously – the military will always have an edge on civilian organizations, and deployment gaps must be recognized and provided for at the planning stage. Similarly, some organizations can get and disburse funding faster. The critical early “emergency” phase of an operation is where problems arise, and the issue has hitherto been insufficiently addressed. And yet it creates much of the friction within missions, with certain essential roles either performed by people who should not be performing them – or not performed by people who could perform them, but who for whatever reason (mandate, resources, institutional image) will not. Participants urged that organizations both work to improve their deployment procedures (civilian organizations in particular should improve their planning), and be pragmatic and flexible about filling gaps. Mission structures and the division of responsibilities should be frequently reviewed as the build-up continues, until all are in place and performing their appropriate duties.

Timelines for the transfer of responsibilities create further problems in coordination – either no explicit timeline has been laid out in the mandate, or conversely an institution has a specific deadline in its mandate for the termination of its involvement but has no clear idea of whom to hand off to, or local bodies have been inadequately prepared to take on the tasks when the time comes. This last is perhaps the most relevant – participants agreed that rather than setting time limits to its involvement, the international community should base its disengagement on the readiness of the local authorities to take on responsibilities. This in turn should incite the international community to better tailor its assistance to local authorities, in order to create this readiness.⁷

II. A Changing Military Role

The question of a military role in re-establishing the rule of law is one illustration of the larger issue of the changing role of the military in response to the evolving nature of peace operations⁸. Participants agreed there

was a need to educate peacekeepers about the political, judicial and human rights implications of their presence as part of their regular training.

The internal nature of most contemporary conflicts creates a law and order crisis, collapse of the law-and-order framework or even a failed-state scenario, which has had serious repercussions for the nature of peacekeeping. Moreover, crime mushrooms in a post-conflict environment. The re-establishment of peace and security and law and order within the state in conflict has to be an essential common objective (and indeed has figured explicitly in the mandates for both Kosovo and East Timor), and the creation of a sustainable, stable security environment is one of the milestones that should define the exit strategy for the international community. Yet the civilian and military capacities to address these security challenges remain inadequate and rule of law is rarely accorded the priority it deserves at the time of deployment. The military, because of its ability to deploy rapidly, is increasingly faced with civilian tasks it is ill-equipped and disinclined to carry out, while the civilian side with its appropriate expertise takes too long to deploy and does so in a haphazard manner. Operational planning by military, CIVPOL and civilian agencies concerning the security sector is often



Mr. Graham Day and Mr. Nick Etheridge

⁷ One recent example of this is the premature planned reduction of the UN's presence in East Timor. The UN Transitional Administration in East Timor is being reduced to an Assistance Mission at a time where many analysts agree that extended engagement is required, particularly given recent political developments in neighboring Indonesia and the possible uncertain post-elections situation in East Timor.

⁸ Presentation by Hansjoerg Strohmeyer, “The Role of the Military Force in Managing Security Challenges After the Conflict: Lessons from Kosovo and East Timor”, IPA meeting on *Managing Security Challenges in Post-Conflict Peacebuilding*, June 22-23, 2001, Ottawa.



Dr. Mark Baskin, Mr. John Cockell, and Colonel Gaston Côté

incomplete, frequently because of a lack of accurate information about the state of the civil authority in theatre.

Adjustment and flexibility on both sides are required if future missions are to tackle these challenges effectively. The military might have to undergo a “doctrinal shift” and accept that for pragmatic reasons their role in the early, emergency stage of an operation will include a substantial component of traditionally civilian tasks, and develop their capabilities accordingly. Civilian institutions, for their part, will have to take steps to improve their mechanisms (for instance standing capacities and rosters) and response times, which implies greater funding and political will on the part of member states. The ideal would be to create a civilian blue force (comprising police, judiciary and corrections elements), ready to deploy immediately once a military green force has created the conditions for a ceasefire, though participants were divided on the likelihood of ever attaining the capacity to deploy a civilian component from the first day of the operation.

Both Kosovo and East Timor suffered a complete collapse of their law-and-order structures; Kosovo had a total of 30 lawyers post-conflict, not all of whom were acceptable under the circumstances, either because of their lack of training and experience or because they were compromised by their role during the conflict. East Timor had even fewer lawyers and no East Timorese judges or prosecutors. However, while the international

community was not in a position to fill in the gaps immediately in Kosovo, a force detention management unit within the Australian-led International Force for East Timor (INTERFET) was on the ground early and could provide a judge, prosecutor, defense lawyer and prison liaison. Though it would be inappropriate for the military to carry out these civilian tasks over the long run, the gap was at least minimized. Participants thought it would be worthwhile to examine the idea of a rapidly deployable ‘blue force’ or security sector package, preferably UN-headed but with input from regional institutions. Some participants thought that such a military-led ad hoc judicial arrangement, rather than relying on martial law, could be *sui generis* in nature and based on existing local law, in accordance with international law (or with a general set of rules for arrest and detention as proposed in the Brahimi report⁹).

The Fourth Geneva Convention regarding non-belligerent occupation was also proposed as a possible basis, though some doubts were raised as to its applicability in the Kosovo situation, as NATO, and later KFOR, were perceived by at least some on the ground as having been party to the conflict, i.e. belligerents. Another example was that of the British Army’s ‘town majors’, whereby the local major could act as judge in the absence of an appropriate local authority. Another potential model is the concept of military aid to the civil power, as in the relatively common military role of disaster relief, though this raises the questions of who constitutes the civil authority and how to transfer responsibility to it. Some, though not all, NATO members have military doctrine on carrying out public security functions – often confined to reservists – but there is no NATO-wide doctrine on the matter.

As an illustration of lessons learned by regional organisations, following the Feira Summit in June 2000, the EU has drawn on the UNMIK experience in setting up its capacity in the following ways:

- a roster of 150 EU nationals deployed in crisis management situations in judicial or legal roles;
- crisis management exercises to test deployment of civilian elements and thereby provide the core of a possible blue force or SHRBRIG (Stand-by Forces High-Readiness Brigade) capacity for UN,

⁹ See recommendation #6 on “Transitional civil administration” in Summary of Recommendations, *Report of the Panel on United Nations Peace Operations*, UN General Assembly document A/55/305-S/2000/809, 21 August 2000.

Organisation for Security and Cooperation in Europe (OSCE) or EU operations;

- consideration of how best to fight organized crime, as Balkan organized crime has a direct impact on the EU.

However, it remains to be seen how effective this capability, when created, will be during peace operations.

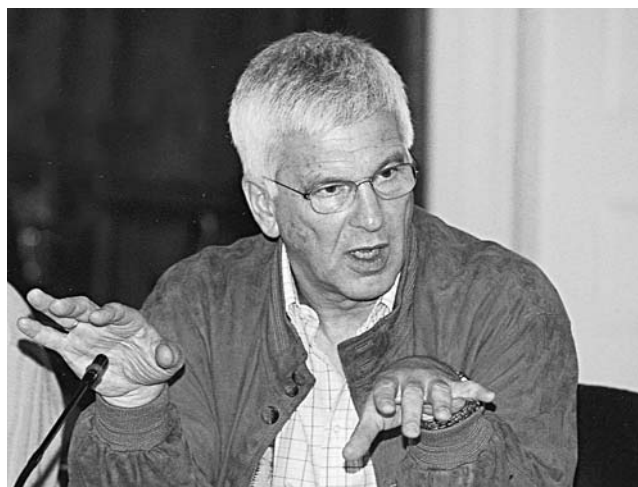
III. Reviving and Strengthening Civilian Police

Discussion on policing covered two main themes: 1) the issues involved in strengthening indigenous police forces and 2) problems facing CIVPOL units in a post-conflict situation.

Strengthening indigenous police forces

Efforts to reform and strengthen the local police capacity must address both structural issues, to create appropriately sized and structured well-trained police forces, and behavioural issues, to ensure that policing is in line with international standards and accountable and responsive to the community rather than a tool of the political authority.¹⁰ Police reform needs to proceed hand-in-hand with judicial and penal reform. The key elements of any international effort should be training and monitoring. Significant challenges include managing local expectations and integrating local players/networks.

The merits of creating a new police force from scratch versus reforming an existing one can be debated. Creating a new force offers a better chance of building a better model and weeding out entrenched corrupt elements, but does mean the international community has to assume policing in the interim. Care must also be taken, when using a former armed group as the core of a new police force, that it does not simply represent a change of uniform – numbers usually need to be reduced and police officers need to be trained in the difference between military and police work. An important instrument, first used in Bosnia, is a system of vetting and



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certification. It serves both as a filter and as a useful monitoring tool, in that de-certification can be used to sanction misbehavior.

It is important to recognize that local populations have for some time usually been on the receiving end of first sub-standard and then no policing. Managing expectations is crucial for the credibility of both CIVPOL units and a newly established or reformed police force. Reformed police forces change the balance of power within a state, and need the support of local government in order to function. This has not always been the case in some areas where the UN has been involved. The apparently inflated public expectations in the Balkans, of both CIVPOL and indigenous police forces, indicate a strong public demand for good policing and could serve as an important control of government attitudes.

To meet international standards of representative diversity in civilian police forces it is important to have female recruits, and the need for multi-ethnic representation is of particular relevance in the Balkans. The record on multi-ethnicity so far in Bosnian and Kosovar police forces is mixed, though perhaps as good as can realistically be expected for now. Cooperation among police officers of different ethnic origins seems to work best via female recruits. In this context, some participants wondered whether the international community was not being too harsh in setting standards in the

¹⁰ Dr Annika S. Hansen, "Exploring Mechanisms to Strengthen the Indigenous Civil-police Capacity and the Rule of Law in the Balkans: Prospects and Problems", paper presented at the IPA meeting *Managing Security Challenges in Post-Conflict Peacebuilding*, June 22-23, 2001, Ottawa.



Mr. Michael Matthiessen

Balkans that it has difficulty in meeting itself. However, others thought it important to maintain these standards, at least as goals.

International efforts to reinforce local police capacity have to be viewed against the backdrop of broader societal change - the creation of a police force is a state-building exercise, and implies a transformation in loyalties, identities and methods. This process is of necessity a long-term one. Setting a time limit on international involvement is counter-productive. Long-term international control of the process is expensive, but experience across the Balkans seems to show that sustainable success of a local police force is directly linked to the degree of international involvement in setting it up. Thus the Kosovo Police Service (KPS) will probably be more successful over time than the entity police forces in Bosnia. There is an imperative to transfer responsibility to locals eventually, and each solution, whether short, medium or long-term, needs to be analyzed with its transferability in mind. Local police should be trained to take on tasks as early as is feasible, backed up if necessary by international elements.

Monitoring is essential to ensure the long-term viability of police reform, and again implies a long-term commitment, even after local forces have been trained and are up and running. Local authorities can take over

monitoring when they have both a formal civilian oversight mechanism in place as well as the informal but vital check that a free media provides. In the absence of these elements, international monitoring is essential.

Regional efforts are of particular importance in police reform, especially with respect to organized crime, which is a regional problem with implications for all of Europe. The EU thus has a concrete interest in the issue and is engaged in sharing expertise. For the moment this aid, under the Phare assistance program, is short-term and technical in nature but some participants suggested it should be expanded. The Balkan area could benefit from the EU's Schengen experience, which is designed to make borders open to traffic but secure from crime. Customs and fiscal expertise, such as the European Commission's Customs and Fiscal Assistance Office (CAFAO) in Bosnia, is also valuable in the fight against organized crime.

CIVPOL issues

UN CIVPOL contingents have taken on the role of policing where local police forces are absent, a role that carries with it many difficulties.¹¹ Yet though a CIVPOL presence will never be as good as a national police force, it at least can fill a security gap at a crucial time and serves as an important vector to transmit international police values to local police forces.

CIVPOL buildup is slow and piecemeal, as individual officers are pulled from their standard duties in the absence of any international standby police capabilities. Contingents tend to involve a few officers from a large number of countries; the opposite would surely be more efficient. Efforts are further hampered by high turnover and weak command structures. The media has amply profiled recruitment problems whereby less-than-competent officers, attracted by the relatively high international salaries, have signed on and underperformed¹²; volunteers sometimes lack the most basic language and driving skills. Individual police specialties are rarely taken into account or used properly, with the result that some important tasks go unperformed and some officers find themselves in roles they are unsuited

¹¹ For further discussion of CIVPOL issues, see "Policing the Peace: Towards a Workable Paradigm", report by Kelvin Ong on an IPA/Jane's Conferences meeting held November 2-3, 2000, New York.

¹² Colum Lynch, "UN Police in Bosnia: Who's Watching?", *Washington Post*, May 29, 2001.

to. International police operations also suffer from resource constraints, lacking interpreters, funding and basic equipment. CIVPOL lack both basic information and broader access to military intelligence. The UNMIK police experience has taught several lessons: the UN should try to improve its recruitment process (and indeed now actively selects officers using Selection Assistance Teams), encouraging fewer member states to offer a greater number of officers and ensuring that the full spectrum of relevant specialties are represented.

Participants agreed that, among all peace operation functions, policing is uniquely influenced by local and cultural factors. These factors limit interoperability among national CIVPOL units, and together with language problems create a barrier between CIVPOL and the local population. Therefore some participants proposed that longer tours, to promote better contact with the local community and less rapid turnover, should also be considered.

The integration of CIVPOL units into broader peace operations with a military component should mean that they have access to military intelligence; for their part the military should be able to aid police in information-gathering without any prejudice to their own functions. One participant suggested that the widespread deployment of troops in a mission area could be utilized to gather useful information about the flow of people and vehicles, which in turn could assist the often-understaffed police in the fight against organized crime.

Moreover, policing cannot take place in a vacuum – it must be backed up by at least a basic justice and penal system, as the international CIVPOL presence is only one link in the law and order chain.

The UNMIK Pillar I experience has shown that planning and funding in the early stages of a CIVPOL operation should also prepare for a Serious Crimes Unit, access to military intelligence, an informer budget, a criminal hotline and a witness protection program.

Apprehension of War Criminals

The issue of the apprehension of indicted war criminals needs to be examined in the context of rule of law in the

Balkans. One suggestion of the Dutch constabulary is to create an international arresting team, separate from the military peacekeeping presence; participants wondered whether such a team could form part of an eventual blue force, perhaps under EU auspices. Similarly a dedicated international “tracking team” could be deployed to track indicted war criminals. Participants expressed the opinion that, where international intervention has been undertaken with the aim of preventing war crimes and crimes against humanity, as in Kosovo, the international community had the added responsibility to ensure that the relevant capacities to address war crimes issues are created.

IV. Re-establishing Judicial and Penal Systems

Participants examined the issues connected to the re-establishment of judicial and penal systems, with particular reference to the Kosovo case. Serious gaps still exist in the Kosovo justice system, 18 months after it first began to be put in place; in this respect, the Kosovo experience provides a useful object lesson in what mistakes to avoid. Two significant flaws, from which the others flow, are 1) the lack of a coherent mid- to long-term strategy for justice coupled with a justice system that is outdated, and 2) the lack of a real human rights commitment.¹³

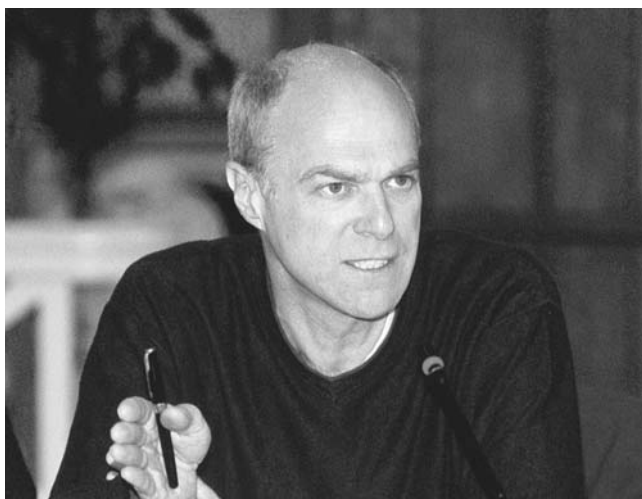


Colonel Gil Baldwin

¹³ David Marshall, “Reviving the Judicial and Penal System in Kosovo”, paper presented at the IPA meeting *Managing Security Challenges in Post-Conflict Peace-Building*, June 22-23, 2001, Ottawa.

With respect to the first point, the structures in Kosovo were initially at best ad hoc and reactive. A lack of appropriate resources at the local and international level during the start-up phase meant that Kosovo still must make do with an archaic justice system that fails to meet regional and international norms. Participants pointed to the inclination to rely overwhelmingly on police investigation instead of employing the laws of evidence, legal reasoning and defense counsel. As a consequence, it is not uncommon for some pre-trial detentions to last up to a year, a situation inconsistent with regional and international norms of arrest and detention.

The failings of the justice system have a broad adverse impact on the respect for human rights in the judicial process. Participants discussed the best means to ensure that human rights are integrated into the system – in the SRSG’s office, the legal office and the peacekeeping command structure – rather than being seen as an adjunct to it, or worse, as incompatible with an unsettled law and order situation. It was suggested that post-conflict situations be broken down into three phases: emergency; institution-building and self-government. Realistically, human rights compliance will not be perfect in the early emergency phase of an operation. Yet gaps that are tolerated during this phase must be remedied in the institution-building phase so that they do not persist when responsibility is transferred to local authorities during the final self-government phase. Human rights input is essential when drafting legislation. The international community’s role must be to assume those duties the local authorities cannot perform during the



Dr. Robert McRae

emergency phase, and then to assist in capacity-building, including training, while gradually involving local players prior to the self-government phase, where its role will be primarily one of monitoring. Local involvement is particularly important when drafting legislation and has been notably absent in Kosovo.

Training, mentoring and monitoring are all essential tasks for the international community. Training requires a thorough understanding of the skill levels and challenges facing local personnel and must be tailored accordingly; training in Kosovo has been of mixed use as it has frequently overlooked the pressing need for instruction at a very basic level, concentrating instead on more advanced matters. Mentoring – such as the pairing of local judges with international counterparts, or the use of mixed tribunals – is an excellent way to build capacity, but adequate international resources to establish such programs are rarely available. Monitoring should be constructive rather than condemnatory during the institution-building phase while in the self-government phase it can incorporate a sanctions element to punish violations.

The Kosovo and East Timor experiences demonstrate that development of a best practices checklist would be useful for intervention by the international community in similar “empty shell” situations, where little or no local expertise exists. Some concrete suggestions identified during the discussion included:

- support for a UN roster of international judges and prosecutors
- force detention management units (judge, prosecutor, defense and prison liaison) to deploy with the military as in East Timor, as a good interim solution to fill gaps in the local judiciary. There must be a coherent strategy for the unit’s replacement/renewal over the mid-term.
- mobile prison units should be considered for deployment in areas where prison facilities are lacking
- a legal planning capacity at the HQ level and on the ground would serve to assess needs in the judicial system
- ethnically motivated crimes require a specialized international court from the very beginning of the post-conflict situation and not a local court, as was the case in Kosovo.

UNMIK’s Pillar I, bringing together UNMIK police and the Department of Judicial Affairs, was examined as a

model for giving the security sector and law and order issues the priority they deserve in a peace operation and a good framework for the eventual transfer of these responsibilities to the local authorities. While combining judicial and police functions is a poor precedent in the sense that it blurs the line between the judiciary and the executive, much attention is given to the independence of each half of the pillar. The creation of Pillar I has allowed for better identification of gaps in the judicial and penal structures, and has also permitted better budget planning, for funding priorities.

While the Pillar I structure allows the international community to better address many issues, some serious problems, such as the lack of access to military intelligence, remain and hamper its ability to tackle organized crime. Though priorities are better identified, access to funding is still a problem as donors tend to seek quick and tangible results and are conscious of the public image of the projects they fund: few for example wish to fund a quick-build detention center, however badly required. Future gaps to be filled, particularly with respect to organized crime, include setting up a witness protection program, an anti-corruption unit and better integration of UNMIK with the customs service. Above all, as with other elements of the security sector, the way to a smooth handover to local control must be paved if Kosovo is to begin the long transition to some form of self-government, starting with province-wide elections in November 2001.

V. Conclusion: Staying the Course

Three principal observations concerning the management of security sector challenges in troubled parts of the globe arise from the discussions in Ottawa. First, while the conference stressed the critical need for better coordination among the principal external actors in post-conflict peacebuilding, such co-operation should also take on a preventive focus. The breakdown of law and order, as recently seen in the Former Yugoslav Republic of Macedonia, is often a harbinger of greater instability or armed conflict. International and regional organizations and influential state players should all coordinate their own efforts in providing positive, or even negative, incentives to states confronted with local security problems, seeking first to bolster locally initiated reforms of ineffectual or tainted security sectors before a law and order problem spirals into all-out civil war. The



Ms. Mette Kjuel Nielsen

Framework Agreement of 13 August 2001 together with NATO's weapons disposal mission - Operation Essential Harvest - seeks to provide a basis for peace in Macedonia. While this Agreement contains several provisions for addressing security sector problems, such as, seeking to ensure greater representation of the ethnic Albanian minority in the police force and judiciary, only its effective implementation is likely to ensure long term stability.

Second, much of the discussion in Ottawa focused on a range of flaws in the planning process that reflect the graver problem of the international community's persistent tendency to rely on best-case scenario planning and short-term commitments regardless of the complexity of a crisis. Inevitably, resource constraints and political obstacles arise when the crises, as often as not, deteriorate into worst-case scenarios and require more extensive international involvement. Recent events in East Timor offer an illustration: the UN Security Council, apparently influenced by the limited proclivity of some of its members for a prolonged engagement (not to mention financing), has now decided to "right size" its current Transitional Administration to an Assistance Mission, a move arguably divorced from the needs of the fledgling democratic state, which voted to become independent only a year ago.

An examination of the UN's experience in Cambodia would seem to suggest that such a move to shrink its commitment to East Timor might indeed be premature. In Cambodia, a hasty UN departure left behind a disorga-

nized coalition government and a people who continued to live under the threat of the Khmer Rouge. In July 1997, things came to a head with the ousting of the co-prime minister Prince Norodom Ranariddh, reversing many of the successes of a fairly well executed transitional administration.

Sustained engagements require, of course, the cooperation of the state involved. Macedonia initially insisted that NATO's involvement be limited to Operation Essential Harvest, but came to accept that further international presence would be necessary to guarantee stability once Essential Harvest's mandate expired. NATO troops will provide safety for monitors (EU and OSCE)

overseeing the implementation of the Framework Agreement.

Finally, no single organization operating in the European theatre, be it the UN, NATO, the OSCE or the EU, has the wherewithal to deal comprehensively with the broad range of demands posed by security sector reform, conflict prevention and security challenges in post-conflict peacebuilding. Broader and more intensive sharing of lessons learned, from past and current operations, involving the UN and regional actors within and without Europe might provide one approach to coordinating future responses to complex emergencies in Europe, Asia, Africa and Latin America.

Agenda

Working Group on
Managing Security Challenges in Post-Conflict Peacebuilding

22-23 June 2001, Willson House, Ottawa

PROGRAM CHAIRS

Dr. David M. Malone
President, International Peace Academy, New York

Mr. Paul Meyer
Director General, International Security Bureau
Department of Foreign Affairs and International Trade, (DFAIT), Canada

FRIDAY 22 JUNE 2001

- 08.30 *Departure from Novotel Hotel to Willson House*
- 09.00 - 09.30 *Breakfast and Registration*
- 09.30 - 10.00 Welcome address by Mr. Paul Meyer, Director General, International Security Bureau, DFAIT, Canada
- Opening remarks by Dr. David M. Malone, President, International Peace Academy
- “Institutional Responses to Post-Conflict Peacebuilding”*
Opening Address: General Maurice Baril
Chief of the Defence Staff, Canada, and former Military Adviser to the UN Secretary General
- 10.00 - 11.00 *“Coordinating Institutional Responses to Security Challenges in Peacebuilding: Kosovo in the Balkans Context”*
- Speaker: Mr. John Cockell, Research Associate, Conflict Analysis and Development Unit, London School of Economics and Political Science
Discussants: Dr. Robert McRae, Deputy Permanent Representative of Canada on the North Atlantic Council and Ms. Angela Kane, Director, Americas and Europe Division, Department of Political Affairs, UN

- 11.00 - 11.30 *Coffee Break*
- 11.30 - 12.30 Discussion on *“Coordinating Institutional Responses to Security Challenges in Peacebuilding: Kosovo in the Balkans Context”*
- 12.30 - 13.30 *Lunch*
 13.30 - 15.30 *“The Role of the Military Force in Managing Security Challenges After the Conflict: Lessons from Kosovo and East Timor”*
- Speaker: **Mr. Hansjoerg Strohmeyer**, Policy Advisor, UN Office for the Coordination of Humanitarian Affairs
 Discussants: **General (Ret.) Dr. Klaus Reinhardt**, Former Commander KFOR (October 1999-April 2000) and **Mr. Graham Day**, Senior Fellow, United States Institute for Peace
- 15.30 - 16.00 *Coffee Break*
- 16.00 - 18.00 *“Exploring Mechanisms to Strengthen the Indigenous Civil-Police Capacity and the Rule of Law in the Balkans: Prospects and Problems”*
- Speaker: **Dr. Annika Hansen**, Research Fellow, International Institute for Strategic Studies
 Discussant: **Mr. Halvor A. Hartz**, Chief Superintendent, Norwegian Police Directorate, and former Civilian Police Adviser, UN
- 18.15 *Departure from Willson House to Novotel Hotel*
- 19.45 *Departure from Novotel Hotel to DFAIT for Dinner Reception hosted by Mr. James Wright, Assistant Deputy Minister, Global and Security Policy*
- 22.30 *Departure from DFAIT to Novotel Hotel*

SATURDAY 23 JUNE 2001

- 08.30 *Departure from Novotel Hotel to Willson House*
- 09.00 - 09.30 *Breakfast*
- 09.30 - 10.30 *“Reviving the Judicial and Penal System in Kosovo”*
- Speakers: **Mr. David Marshall**, Chief of the Legal System Monitoring Section, UNMIK-OSCE Human Rights/Rule of Law Department
 Discussant: **Mr. Hansjoerg Strohmeyer**, Policy Advisor, UN Office for the Coordination of Humanitarian Affairs

10.30 - 11.00	<i>Coffee Break</i>
11.00 - 12.00	Discussion on “ <i>Reviving the Judicial and Penal System in Kosovo</i> ”
12.00 - 12.30	Closing Discussion on Program and Plans for subsequent working group and Closing Remarks by Program Chairs
12.30 - 13.30	<i>Lunch</i>
13.45	<i>Departure from Willson House to Novotel Hotel</i>

Participants

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About the Project

UN, NATO AND OTHER REGIONAL ACTORS IN THE 21ST CENTURY: PARTNERS IN PEACE?

This multi-year project, which began in the last quarter of 2000, aims to explore a constructive and sustained relationship between the UN, NATO and other European regional organizations in conflict management, in the context of past and present collaborative efforts in the Balkans. It also seeks to develop specific suggestions for future interaction between the UN and regional organizations and explore the implications of these interactions for other regional actors in Asia, Africa and Latin America in their ties to the UN. The project is designed to address these three themes over three working groups.

The project was formally launched at an **Opening Conference** titled *UN, Europe and Crisis Management*, which took place in Paris on 19-20 October 2000. The two-day conference helped to clearly outline the parameters of the project and also featured a keynote speech by Lakhdar Brahimi, the chairman of the Panel on United Nations Peace Operations setup by the UN Secretary General.

The **first working group** on *Cooperative Prevention and Management of Conflict in Europe* met in New York on 20-21 April 2001 and sought to clarify the evolving relationship between the UN and regional organizations in Europe, on the political, doctrinal and operational level with the objective of examining how this co-operation can be improved to make peace operations more effective in future. The role of the Russian Federation, a key actor in the region, was also examined to identify how best to enlist Moscow's support in peace operations.

The **second working group** on *Managing Security Challenges in Post-Conflict Peacebuilding* met in Ottawa on 22-23 June 2001 and examined how the UN's partnership with regional actors in Europe can be enhanced to promote post-conflict peace-building, particularly in the sphere of security-sector reform. Here special emphasis was placed on the normative and practical aspects of coordinating institutional responses to security challenges in peacebuilding; the role of the military force in managing security-sector challenges during and after the conflict; mechanisms to strengthen indigenous civil-police capacity and the rule of law; and reviving the judicial and penal system.

The **third working group** on *Regionalization of Peace Operations* will be co-hosted by the Stiftung Wissenschaft und Politik and IPA on 11-12 January 2002 in Berlin. It will explore how greater co-operation between the UN and regional actors in Europe would affect the peace and security roles and responsibilities of regional organizations in Asia, Africa and Latin America. In light of the increasingly complex peace, security and humanitarian crises requiring the contributions of multiple actors participants will consider how the experience of co-operation in Europe can contribute to the knowledge and tools of other regional actors. They will also explore whether the experience of co-operation between the UN and regional actors in Asia, Africa and Latin America is relevant for Europe.

The project will culminate with a high-level **Closing Conference**, which is expected to be held in Spring 2002 to present the principal conclusions of the working groups, provide recommendations for international institutions and governments, and explore further research and policy development projects.

This project has benefited from regular consultations with five partner institutions: The United States Institute for Peace (USIP), Washington D.C.; the International Institute for Strategic Studies (IISS), London; the Norwegian Institute of International Affairs (NUPI), Oslo; the Netherlands Institute of International Relations (NIIR), Clingendael; and Stiftung Wissenschaft und Politik (SWP), Berlin.

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