

**Center on International Cooperation  
Project on Transformations in Multilateral Security Institutions  
Implications for the UN**

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**Introduction**

This is the second in a series of periodic reviews of recent scholarly writings on peace-keeping and related issues. This review focuses on a number of studies on post-conflict peace-building by political scientists, a common feature of which is an interest in rethinking the concept of sovereignty. In one way or another, all the authors suggest that traditional conceptions of sovereignty have to be reconsidered if reconstruction in the aftermath of civil wars is to be effective. Some of the ideas they put forward are controversial. As one of them states, the job of academic commentators who write on policy issues is to “question received assumptions and to put forward arguments that lie outside the contemporary political consensus”.

**I. Degrees of sovereignty**

**1) Robert Keohane, “Political authority after intervention: gradations of sovereignty”, in J.L. Holzgrefe and Robert Keohane eds, *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (2003).**

Robert Keohane is one of the US’ leading international relations theorists, and has been for many years. He does not normally write about peacekeeping or peacebuilding, but the school of thought he founded - neo-liberal institutionalism - has direct bearing on contemporary issues in the field.

This book chapter provides a theoretical framework for thinking about policy and political authority “after humanitarian intervention”. He stresses that decisions about whether to intervene in the first place should depend, to some extent, on prospects for institution-building after intervention.

His central argument is that the concept of sovereignty needs to be ‘unbundled’. The classical, unitary conception of sovereignty as the exclusive right to determine policy within a defined territory is an obstacle to effective post-conflict reconstruction. Instead, Keohane borrows from Stephen Krasner in positing four types or meanings of sovereignty:

- *Domestic sovereignty*: the effective organization of authority within the territory of a given state;
- *Interdependence sovereignty*: the ability of a state to regulate movements across its own borders;

- *International legal sovereignty*: the fact of recognition of an entity as a state, established by states;
- *Westphalian sovereignty*: the exclusion of external authority structures from the decision-making processes of a state.

Societies coming out of conflict should not aspire to all four types of sovereignty in an absolute sense. Rather, Keohane argues that policies should be designed on the understanding that there are “gradations of sovereignty”.

He elaborates on that argument in four steps. **First**, he claims that insisting on the restoration of full sovereignty in ‘troubled societies’ is inimical to both human rights and political stability (largely because the winners will seek to repress the losers). Moreover if restoration of full sovereignty is the exit strategy, that may take so long interveners will be reluctant to get involved in the first place.

**Second**, a state can accept some limitations on external (or Westphalian) sovereignty without giving up all sovereignty. The different types of sovereignty do not necessarily go together. Members of the European Union, for example, have lost some interdependence and Westphalian sovereignty, but they retain domestic and international legal sovereignty.

**Third**, even the most powerful states accept some limitations on their external sovereignty (as the US does by submitting to WTO dispute settlement). Thus ‘unbundling sovereignty’ is not only for troubled societies – it is a reality for all states. But there are variations across regions. In Western Europe for example, ‘unbundled’ sovereignty is the norm rather than the exception. In the EU, there are institutional arrangements that build limitations on sovereignty into authority structures that all the major players accept.

**Fourth**, intervention and reconstruction is likely to be more effective in countries that border ‘good neighborhoods’ than bad. In good neighborhoods, the boundaries of the region can be redefined to include the troubled societies. Thus for example, intervention in the Balkans has a good chance of success because European institutions can be extended to include those countries, and it is in the interest of the major European powers to do so. Intervention in ‘bad neighborhoods’ is more difficult. A policy implication is that one of the best ways to promote peace and stability in west and southern Africa, for example, is to reinforce democratic institutions and practices in Nigeria and South Africa.

Meanwhile, when intervention in troubled societies in bad neighborhoods is necessary, policy-makers should be thinking in terms of a phased process. It may be necessary to begin with a *denial of sovereignty* (trusteeship), then move to *nominal sovereignty* (where a country has international legal sovereignty but domestic authority is in the hands of the UN or some other outside actor), followed by *limited sovereignty* (where domestic governance is largely in the hands of local actors but the UN or other external authority can override their decisions), and finally *integrated sovereignty* (in which domestic authority is controlled by locals, but there are constitutional restrictions and supranational institutions which limit that authority).

The most radical feature of that phased process based on “gradations of sovereignty” is that Westphalian sovereignty is bypassed. Troubled societies go straight from limited sovereignty to integration in broader multilateral institutions with supranational powers, like the European Union. The EU, of course, is unique but “as good neighborhoods expand, along with institutions that reshape interests and provide the infrastructure to pursue collective goods, the areas in which intervention is likely to be politically successful can also expand”.

**2) Stephen Krasner, “Shared Sovereignty: New Institutions for Collapsed and Failing States”, *International Security* Vol. 29(2), Fall 2004, pp. 85-120.**

Stephen Krasner is also a leading American IR theorist, currently head of Policy Planning in the US State Department. In 1999, he published an influential book entitled *Sovereignty: Organized Hypocrisy*. The above article applies the theoretical framework of that book to the challenge of post-conflict reconstruction.

Krasner argues that existing policy tools for fixing ‘badly governed’ or collapsed states are inadequate because policy-makers in both powerful and weak states are reluctant to challenge conventional norms of sovereignty (defined as “the recognition of juridically independent territorial entities and non-intervention in the internal affairs of other states”).

In the above article, he divides conventional sovereignty into three concepts: 1) international legal sovereignty; 2) Westphalian sovereignty; and 3) domestic sovereignty. (These concepts, borrowed by Keohane, are defined above). Krasner observes that domestic sovereignty has faltered badly in many places and that honoring the first two forms sometimes makes it impossible to restore the third. His thesis is that new institutional forms that compromise Westphalian sovereignty must be devised in order to secure “decent domestic governance in failed, failing and occupied states”.

The existing policy tools -- governance assistance and transitional administration (broadly defined by Krasner to include most forms of civilian peacekeeping and peacebuilding) – often don’t work. Two new tools may have a better chance of success: ‘shared sovereignty’ and de facto trusteeship. ‘Shared sovereignty’ refers to arrangements under which foreigners share authority with nationals over some aspects of domestic governance. In de facto trusteeships, executive authority is vested primarily with external actors for an indefinite period.

Krasner claims that the effectiveness of governance assistance, in the form of foreign aid by bilateral donors or the lending policies of the international financial institutions, will always be limited. Some leaders will find exploitation of their own populations more advantageous than the introduction of reforms; the leverage of external actors is usually constrained; and those providing the assistance often do not understand local conditions.

Similarly, transitional administration (in which Westphalian and legal sovereignty are violated in the short term so they can be restored in the longer term) tends to work best in

the easy cases, where the key local actors have reached a mutually acceptable agreement and the task of the outsiders is primarily to monitor that agreement. But when the local actors disagree, the inherently temporary nature of the transitional administration makes it hard to create stable national institutions because local power brokers have no incentive to support those institutions.

The key difference between 'de facto trusteeship' as Krasner envisions it and transitional administration as currently practiced is that the former would be for an extended period. External actors would control many aspects of domestic sovereignty for an indefinite period, with no commitment to restore local authority quickly. Krasner wonders whether a set of principles and rules for this new trusteeship might be codified in a treaty, and concludes probably not. Neither the strong states that would have to implement it nor the weak states who might be subject to it would want such a treaty. The former want to be able to pick and choose where and how they intervene; for the latter it "would smell if not look too much like colonialism".

Krasner is more optimistic about 'shared sovereignty' arrangements. The idea is to engage outsiders in *some* domestic authority structures, based on *agreements* signed with recognized local leaders. "National actors would use their international legal sovereignty to enter into agreements that would compromise their Westphalian sovereignty with the goal of improving domestic sovereignty." (p.108). These arrangements would have to be self-enforcing, in the sense that all concerned must have an incentive to comply.

Krasner suggests that these arrangements would allow for 'organized hypocrisy' -- local political leaders could embrace (legal) sovereignty while compromising (Westphalian) sovereignty, obfuscating the fact that their behavior would be inconsistent with their principles. He lists four circumstances that might make shared sovereignty arrangements attractive for local political decision-makers:

- The ability to exploit natural resources, which may not be possible without some sharing of sovereignty;
- The desire to end a post-conflict military occupation, which may create incentives for such arrangements;
- Desperation for external resources, to fund education or health for example;
- Impending elections may be an incentive in 'illiberal democracies', as the promise of shared sovereignty contracts with outsiders could be an electoral strategy for dissident candidates.

Krasner concludes by suggesting that the menu of options for improving domestic sovereignty in collapsing states or those coming out of military occupation needs to expand. De facto trusteeships and especially shared sovereignty arrangements should be added to the list, but he believes the latter are more feasible and more likely to be seen as legitimate because they are based on the agreement of those exercising the target state's international legal sovereignty.

## **II. Sovereignty and peacekeeping strategies**

### **1) Roland Paris, “Peacekeeping and the Constraints of Global Culture”, *European Journal of International Relations*, Vol. 9(3), pp. 441-73 (2003).**

Paris draws on world polity theory to explain why peacekeeping organizations pursue some strategies and not others. World polity theory sees the world as possessing a “distinct global culture that comprises the formal and informal rules of international social life”. Paris’ argument is that peacekeeping mandates and practices emerge not only from prudential calculations about what works, but also from prevailing global norms that legitimize certain kinds of policies and delegitimize others.

In the Cold War years, there was a strong belief in the Westphalian state as the highest form of political organization, the best way of organizing political life. Peacekeeping in those years was firmly based on the principle of non-interference. In the post-Cold War era, there has been a normative shift in favor of liberal democracy, and the goal of peacekeeping has shifted accordingly: to remake shattered states as liberal democracies with market-oriented economies. In both eras, peacekeeping organizations have been unwilling to consider an alternative strategy, namely long-term trusteeship. Paris claims that the reluctance is not based only on prudential considerations of effectiveness and cost, but because long-term trusteeship is “normatively unacceptable”.

Paris points to evidence in the practices of international organizations during and after the Cold War to substantiate his claim that practice has followed the ideological reorientation of the organizations involved (for example, the UN, OAS, OSCE, and World Bank). Indeed, he goes further and says peacekeeping is not only shaped by global culture, it is the prisoner of it. “Hasty democratization” and “rapid liberalization” are the most common strategies and not always the most effective. He argues that trusteeship may be more effective but it is “normatively ruled out” as an option.

The problem with trusteeship is that it “smacks of colonialism” and therefore is not seriously considered in the UN or other agencies. Conversely, Paris argues that if it ceased to be seen as a throwback to colonialism, it might be given a fair hearing rather than dismissed a priori as a violation of global norms.

### **2) James Fearon and David Laitin, “Neotrusteeship and the problem of weak states”, *International Security* Vol 28(4), Spring 2004, pp. 5-43.**

Fearon and Laitin note that, despite its initial disdain for ‘nation-building’, the Bush Administration is increasingly drawn into a form of international governance they describe as neotrusteeship. They do not define the concept, but cite Bosnia, Kosovo, East Timor, Sierra Leone, Afghanistan and possibly Iraq as examples, all of which involve “a remarkable degree of control over domestic political authority and basic economic functions” by outside actors. Neo-trusteeship has elements in common with old-fashioned imperialism, but is different in two respects: today’s rule by foreigners is largely multilateral, involving a wide variety of states, international and non-governmental

organizations, and corporations; and the goal is to build self-supporting state structures and then leave as quickly as feasible.

Much of the article is devoted to describing UN peacekeeping and outlining the self-criticism contained in the Brahimi Report of 2000. They claim that the UN (and US) doctrine for post-conflict intervention fails to grasp the problem of ‘mission creep’ in weak states: “[w]hen past conflict or other factors have rendered the state apparatus too dysfunctional to provide domestic security, mission creep is highly likely” (p.21). Peacekeepers need to get involved in protracted state-building if there is to be any hope for an exit without a return to conflict. They add that empirical research suggests civil wars tend to drag on in conditions of low state capability, which lend themselves to insurgency and guerilla warfare. Thus the best strategies for ending civil wars are counterinsurgency and a long term commitment to rebuilding state institutions.

With that in mind, Fearon and Laitin identify four principal problems with the current peacekeeping/peacebuilding system:

- **Recruitment:** who should lead these interventions and who should pay? The authors argue that effective peacekeeping requires leadership by the major power or regional organization with the greatest national security or economic interest in restoring stability. Hence they favor sub-contracting to interested powers, with provisions for accountability built in (see below).
- **Coordination:** how can the efforts of the multiplicity of actors engaged in these interventions be coordinated? Here they have three suggestions: 1) lead state coordination; 2) replicating successful on-the-ground coordination mechanisms, like the US-led civilian-military operations center (CMOC) in Somalia; and 3) common military standards among the peacekeeping contributors.
- **Accountability:** if missions are to be lead by interested states or regional actors, who will oversee their actions and hold them accountable for abuses? Here they point to the Georgia model as a useful precedent, where UN and OSCE observers monitored the Russian-led peace operation. (They also speculate that the General Assembly could be the ultimate overseer of operations authorized by the Security Council)
- **Exit strategy:** how quickly should the neo-trustees leave and transfer authority to local actors? Fearon and Laitin argue that the search for an exit strategy is ‘delusional’ if this means handing full control of domestic security back to local authorities by a certain date in the near future. Long-term involvement is often necessary. They add that recovering peacekeeping costs from the state being reconstructed may create an incentive for local actors to create durable, legitimate institutions that can take over from the outsiders. Even so, in some cases, complete exit may never be possible. Here, Fearon and Laitin’s solution is like that of Keohane: integration of the neutrust territory into a plethora of international organizations. “The purpose is to provide continuous and unobtrusive monitoring of the peace and, in the longer run, to make the national level of government irrelevant for people in comparison to the local and supranational levels” (p. 40).

### **III. Rebuilding sovereignty through partnerships**

The next two pieces are short versions of two recently-published book length studies. While both are built on solid theoretical foundations, they are more explicitly policy-oriented than the other articles in this review.

#### **1) S. Chesterman, M. Ignatieff and R. Thakur, “Making States Work: From State Failure to State-Building”, International Peace Academy report, July 2004**

Chesterman, Ignatieff and Thakur oversaw a multi-author project, in which a range of cases and themes were examined with the goal of drawing general lessons about what it takes to “make states work”. Their central assumption is that the collapse of state structures does not lead to a vacuum of political power. Less formal mechanisms remain in place and local political leaders retain a degree of control over local populations; the challenge for outsiders is to engage effectively in such an environment. Local “ownership” is important, but in some cases that may mean strong leadership by local elites and in others it may mean broader participation. It may also mean engaging more actively with regional players, whose policies often have a profound impact on a state’s governance problems. And if “ownership” is not possible in the short term, due to the inability of local actors to work peacefully together or where institutions simply do not exist, it is better to acknowledge that “local ownership will be the end rather than the means”. This is not to suggest that imperialist policies should be resurrected. Ultimately, states cannot be made to work from the outside. International action should be seen as first and foremost facilitating local processes and breathing life into responsive, robust and resilient institutions.

#### **2) R. Caplan, “Partner or Patron? International Civil Administration and Local Capacity Building”, *International Peacekeeping* Vol 11(2), Summer 04, pp. 229-47.**

Caplan’s thrust is that a better balance must be struck between external civil administration and local capacity-building. He reviews a number of recent cases in which varying degrees of international administration were exercised: Bosnia, Eastern Slavonia, East Timor and Kosovo. He argues that the ultimate objective of international administration is “the establishment of effective public administrative bodies and practices, and the training of local individuals capable of sustaining them when the international authorities withdraw”. He observes that international administrators are under considerable pressure to achieve demonstrable results quickly and therefore, in the absence of local capacity, have a tendency to take too much of the administrative burden on themselves. The result is a legacy of weak states. The solution is earlier and more serious commitment to capacity building through greater local participation in planning, co-administration and extensive training programs. Assessing the various mechanisms and practices employed in the above cases, Caplan’s conclusion is that while there were some notable successes, authority needs to be delegated to locals at an earlier stage and co-administration/mentoring/training needs to occur over a longer period. Capacity-building is a developmental process that takes time. And if political will and resources do not provide much time, all the more reason to lay the foundation for indigenous administrative institutions early on.