

## BOOK REVIEWS

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### **YOU, THE PEOPLE**

#### **The United Nations, Transitional Administration and State-Building**

SIMON CHESTERMAN

Oxford University Press, New York, 2004

This excellent book by Simon Chesterman, executive director of the Institute for Law and Justice at New York University, School of Law, is essential reading for any serious student or practitioner of peacekeeping, peace-building and current debates around post-conflict reconstruction. The book was completed in late 2004 when peacekeeping practice in Afghanistan (2002–) had departed from the expansive political functions in Kosovo (1999–) and East Timor (1999–2002), presenting a philosophical challenge to the increasing aggregation of sovereign powers exercised in United Nations (UN) peace operations since the 1990s. This became known as the 'light footprint', in which Lakhdar Brahimi sought to rely on as limited an international presence and as many Afghan staff as possible.

Transitional administrations represent the most complex operations attempted by the UN. The missions in Kosovo and East Timor are commonly seen as unique in the history of the UN. But they may also be seen as the latest in a series of operations that have involved the UN in 'state-building' activities. Here the UN attempted to develop the institutions of government by temporarily assuming some, or all, of those sovereign powers – but with very different levels of success.

Chesterman eschews the dead-end street of many analysts who use the framework of first-, second- and third-generation peacekeeping as the lens through which to understand UN missions. His view is that unpredictable events demanded new forms of missions with practice running well ahead of theory and that this will continue to happen. For him the focus must be on the local political context within which the various operations function – that is, the core function or purpose of the peace mission rather than its technical mandate in terms of Chapter VI or VII of the UN Charter. This is akin to approaches adopted by other noted scholars such as Michael Doyle and Jarat Chopra, who have proposed categories of transitional authority, and indeed of peacekeeping.

The first two chapters survey the brief history of transitional administrations, starting with the League of Nations and touching on colonialism and military occupation, then moving on to discuss the evolution of UN Security Council practice since World War II. Chesterman takes a refreshingly candid look at colonialism and the Trusteeship System – the former now condemned as an international crime and the latter untenable in today's politically correct world – by arguing that: "An age less attuned to political sensitivities also provides a clearer-eyed assessment of the requirements of such administration, challenging the conventional wisdom that 'ownership' on the part of the local population is essential to the process" (p 6). He returns to this theme in a separate chapter, arguing that contemporary transitional administrations might benefit from being more, not less, 'colonial' at the outset of their mission. Other key and forceful arguments are presented eloquently but similarly provocatively and with irrefutable logic. For example, he takes a pragmatic view, based on his interpretation that the UN Security Council traditionally "provides legal authorization only for those enforcement actions that coincide with the willingness of certain key states to lead a military operation" (p 49). Hence his view that the reality of how UN peace operations happen is the reverse of prescribed theory: "[M]ember states determine what resources they are prepared to commit to a problem and a mandate is cobbled together around those resource – often in the hope that a political solution will be forthcoming at some later date" (p 98).

Much of his argument on this issue refers to the fact that the UN Security Council had not explicitly authorised transitional administration-like powers in the three most complex and challenging instances, namely Congo (1960–1964), Somalia (1992–1995) and Sierra Leone (1999–).

Chapters 3 to 7 examine five key issues that have posed the greatest political and practical challenges to transitional administrations: peace and security, the role of the UN as government, judicial reconstruction, economic reconstruction, and exit strategies. On the first, he argues, persuasively, that the "single most important aim of any peace operation is to establish the conditions for sustainable security for the civilian

population” (p 112) – a task that inevitably falls upon the military in the absence of a readily deployable UN civilian police force and one that will have to be accepted by military peacekeepers for years to come. But Chesterman goes beyond the provision of protection. In an immediate post-conflict environment lacking a functioning law enforcement and judicial system, rule of law functions may have to be temporarily entrusted to the military. Furthermore, when it comes to the administration and enforcement of the rule of law and order, he argues that sustainability (that is, local support and relevance) should generally take precedence over its international ‘quality’. Basically then, “... an appropriate balance of short-term measures to assert the (re-)establishment of the rule of law, and longer-term institution-building that will last beyond the life of the mission and the fickle interest of international actors” (p 182).

While peacemakers often speak of getting combatants to buy into a peace process, Chesterman argues (Chapter 6) that the dominant factor affecting how assistance is allocated and spent is the politics of the donor countries themselves. This is music to the ears of critics of donor politics, who would generally agree with his assessment that “[h]umanitarian and development assistance remains, therefore, a voluntary and essentially ad hoc enterprise” (p 203) where there is astonishingly little interest in assessing whether aid achieves what it is intended to do.

Beyond the requirement for civilian protection, Chapter 4 looks at the nature of governance (provocatively entitled ‘Consultation and Accountability: Building Democracy Through Benevolent Autocracy’) where Chesterman presents his view that local ownership may be the desired end state – indeed part of the exit strategy – of a transitional authority, but that it cannot be the means. Much of what Chesterman argues is base logic – hence it is difficult to fault his blunt view that the international community is too reluctant to accept that the legitimacy of a transitional administration stems, in large part, from military occupation and that the emphasis is too often on form (such as the technical prowess in running elections instead of measuring what elections are meant to achieve in themselves (local legitimacy and process). “More often than not,” he argues, “elections may simply be a short-term tactic that is used to encourage actors to buy into a peace process – or they are staged because they are part of an accepted template of what typically happens towards the end of a peace operation” (p 206). Inevitably the question of the proposed elections in Iraq (in October 2005) and the Democratic Republic of Congo (in 2006) comes to mind – although Chesterman does not deal with the prospects for either.

Some themes stand out in this book. One is the issue of political clarity about the purpose and end-state of any transitional administrative system – and realism about what is practically achievable. A second is the responsibility that inevitably accrues to military peacekeepers to protect civilians and provide law and order and how important this is to make an early impact. A third is the utility of elections, not as is often seen as an end in itself, but merely as an important step in a process where the ultimate criteria of success may not be to transpose democracy and impose international human rights standards, but to set a country off on a different path and break a cycle of conflict. A fourth is simply that of practicality – that the judgement of a new constitution is not in the ‘objective’ (or Western) quality of its human and international rights standards, but in its improvement on a previous situation and the genuine ownership of new laws and institutions by an oppressed and abused public. It is both inaccurate and counter-productive, he argues, to assert that transitional administration depends upon the consent or ownership of local populations. “It is inaccurate because if genuine local control were possible than a transitional administration would not be necessary. It is counter-productive because insincere claims of local ownership lead to frustration and suspicion on the part of local actors” (p 239). A final theme is the requirement for predictability, relevance and local control (either by the mission or through engagement with the affected population) of relief and reconstruction funds.

This being said, some of Chesterman’s prescriptions may themselves be too dirigiste, such as his view that local elections should precede national elections, and his disdain of the impact of ‘gender-mainstreaming’ in peace operations. Yet throughout Chesterman buttresses his arguments and views with a razor-sharp analysis of the characteristics of past and current peace missions – reflecting a profound understanding of peacekeeping in all its permutations and forms. At a time that the US (the unaware imperial power, in his view) is contemplating not an insurgency, but civil war in Iraq in the run-up to the October elections, one cannot but conclude with the logic that “[s]tate-building after a war will always take years, perhaps decades, and it is disingenuous to suggest otherwise to domestic publics ... Elections may prove evidence of this transformation, but they are only a small part of what is required to realize it” (p 235).

This is a gem of a book.  
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