

# Brokered Democracy-Building: Developing Democracy through Transitional Governance in Cambodia, East Timor and Afghanistan

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*This paper examines the attempts of the international community to build democratic political systems in post-conflict countries, focusing on the “transitional governance” approach of the United Nations to working with domestic political factions to establish democratic institutions in Cambodia (1992–93), East Timor (1999–2002) and Afghanistan (2002–04). The transitional process is intended to develop local institutions and administrative and political capacity, while attempting not to reify the static balance of power in place at the end of the conflict. The idea of transitional governance may be seen as a pragmatic stepping-stone in a democracy-building process. It defers to elected representatives all-important decisions about the specific institutional architecture of democracy, including the question of what forms of power-sharing make sense given the domestic political context. The transitional governance process appears to be fairly effective in the initiation phase of the democracy-building process: administering a peace settlement through to a first national election and facilitating the writing of a constitution. Yet democratic consolidation after the transition point has been stunted to some extent in each of the countries considered. The very mechanisms of transitional governance – particularly the designation of a semi-sovereign body to act as a UN counterpart – act at cross-purposes to the impulse to allow a dynamic democracy-building process to take root.*

**T**he international community has made a number of explicit attempts to construct democratic political systems in post-conflict developing countries since the end of the Cold War. The United Nations, in particular, has increasingly taken on the responsibility for collaborating with domestic elites in designing constitutional structures and holding elections as part of broader state-building efforts in several post-conflict nation-states. In undertaking these peace-building

exercises, the UN has adopted a transitional governance model of what I term “brokered state-building” in post-conflict interventions that is intended to assist countries in transitioning to legitimate and effective domestic government. The hallmark of this model is that the UN works with domestic elites simultaneously on two aspects of state-building: it administers the country in collaboration with domestic counterparts during the transitional period; and it simultaneously works with domestic elites in building a democratic political system and reconstructing long-term state capacity.

Here I examine the attempts of the international community to build democratic political systems in post-conflict countries, focusing on the “transitional governance” approach of the UN to working with domestic political factions to establish democratic institutions in Cambodia (1992–93), East Timor (1999–2002) and Afghanistan (2002–04).<sup>1</sup> In each case, as in other post-conflict countries, the UN made the construction of a democratic political system an explicit goal of a peace-building intervention.<sup>2</sup> Post-conflict countries are probably the least favourable environments in which democracy can take hold and flourish: they are usually quite poor and have lost years of economic growth and development; they have low institutional and human capacity that has been further attenuated by decades of conflict; and they are home to populations with sociopolitical cleavages that have led to and become hardened by violent civil conflict. Yet the international community, led by the UN, acts on the belief that a democratic political system is best suited to managing political conflict and presumes to be able to build democratic institutions in these post-conflict countries. It is instructive, therefore, to empirically examine the institutional outcomes of these brokered democracy-building interventions, both in terms of the formal institutional architecture put in place as a result of the transitional governance process, and in terms of subsequent democratic consolidation.

The reasonable null expectation for these hard cases for democracy-building is that the UN-led transitional governance process will have no real impact whatsoever. Yet the evidence from Cambodia, East Timor and Afghanistan, as I demonstrate, tells a more nuanced story. Remarkably similar transitional governance processes

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<sup>1</sup> Throughout I refer to and discuss the country case studies in the sequence in which the state-building interventions occurred.

<sup>2</sup> For the purposes of this paper, I leave aside the two other major dimensions of these (and other) comprehensive peace-building initiatives mounted by the international community: (1) internal security guarantees; and (2) the rebuilding of administrative or state capacity. Both these dimensions are essential for maintaining peace and leading post-conflict countries on the path to political and economic recovery; and both dimensions interact with the democracy-building component to some extent as part of the dynamic transitional process. Indeed, the common assumption that state-building and democracy-building are mutually reinforcing endeavours ought instead to be problematised, an approach I take elsewhere. Nevertheless, my premise is that the democracy-building dynamic can be analysed in isolation in order to illuminate the prospects of achieving democratic consolidation through a transitional governance process.

in each case were surprisingly successful in enabling local elites to come to some form of agreement on an electoral system and constitutional order resulting in the transition to a democratically elected national government. Elites in each of the three countries, guided by the UN, made a series of core institutional choices to reach consensus on a suitable democratic architecture for the local context, and held free and fair democratic elections to mark the end point of the transitional phase.

Despite those successes in transition and initiation of the democracy-building process, however, each country has subsequently faced significant challenges to democratic consolidation. I suggest that these hurdles are a result, in part, of the transitional governance mechanisms themselves. The transitional process is intended to prevent carving in stone the static balance of power at the end of conflict, by allowing some time to dynamically develop local administrative and political capacity and institutions. But no matter what the formal institutional choices are in terms of democratic architecture, the very mechanisms of transitional governance pose a problem for democratic consolidation. In particular, the short transitional timeframe and the need to designate a semi-sovereign body to act as a counterpart to the UN entrenches certain groups in power and prevents a dynamic democracy-building process from taking root. The United Nations Transitional Authority in Cambodia (UNTAC) found that it was unable to prevent the previously reigning regime from holding onto the organs of the state and appropriating political power. The United Nations Transitional Authority in East Timor (UNTAET) saw a process intended to build political participation come up short against one party's domination of the legislative and executive branches of government. And the United Nations Assistance Mission in Afghanistan (UNAMA) played kingmaker only to find that alternative loci of power to the centre continue to thrive and threaten democratic consolidation.

These conclusions are not intended to mount a jeremiad against the UN and its state-building efforts. On the contrary, in each country, the political settlement has successfully prevented the return to full-scale violent conflict, a major achievement considering that post-conflict countries face a very high risk of renewed civil war in the absence of intervention.<sup>3</sup> Each country has recovered some measure of political stability and has held at least one democratic election. The point, rather, is to note the extreme difficulty of implanting democracy in developing post-conflict countries within a short timeframe, even given the elite consensus brokered by the UN and its facilitation of institutional choices somewhat tailored to local contexts.

Technocratic approaches to democracy-building in post-conflict countries must be problematised as taking place within a dynamic and hyper-political environment. I

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<sup>3</sup> The rule-of-thumb estimate from Collier (2000) and others' work on the causes of renewed conflict is that approximately half of countries emerging from civil war return to violent conflict within five years.

argue that transitional governance mechanisms are valuable and probably necessary in initiating a democracy-building process as part of a peace settlement in these cases because they provide political space for elites to agree on a new institutional architecture. Yet the exigencies of the process as it has been implemented have subsequently stunted democratic consolidation. I demonstrate this by assessing the experiences of the transitional governance approach to democracy-building in Cambodia, East Timor and Afghanistan. First, I lay out the transitional governance process and specify the outcomes I am interested in examining. In this context, I situate my work theoretically, and discuss research design and the analytical leverage provided by the three cases. Second, I discuss the role of elites in post-conflict settlements and reconstruction, emphasising their importance in thinly institutionalised environments. Third, I outline the major implications of the literature on power-sharing and democracy for post-conflict democracy-building interventions. The question of power-sharing is central to each of these cases because the international community has come to believe that a political solution to stalemated conflict cannot be all-or-nothing, and that institutional design is the major policy instrument available for reconciling previously warring segments of a population. Fourth, I present three brief case studies of the transitional governance processes implemented by the UN in Cambodia, East Timor and Afghanistan, to illustrate successes in the initiation of the democracy-building processes there and the ongoing challenges in each for subsequent democratic consolidation. I conclude with some insights generated from these cases for the practice of international interventions in building democratic political systems in post-conflict countries.

## **1. Transitional Governance and Democracy-Building**

The UN has pursued a “brokered state-building” approach by establishing transitional authorities in five post-conflict countries (all since 1992), a small universe of cases. Transitional authorities fall under the broader mandate of the United Nations Department of Peacekeeping Operations.<sup>4</sup> Peacekeeping is intended to help conflict-torn countries create the conditions for sustainable peace. Assistance comes in many forms, including ceasefire monitoring, humanitarian assistance, military demobilisation, power-sharing arrangements, support for elections, and operations to strengthen the rule of law and economic and social development. By my analysis, only in Afghanistan, Cambodia, Croatia (Eastern Slavonia), East Timor and Kosovo has a transitional governance model been put in place in which the UN takes over some or all day-to-day administration of the country in question for a period of time. Transferring sovereignty to a legitimate domestic government requires a functioning state capable of providing order. Thus,

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<sup>4</sup> For further discussion of the department’s mandate and role in post-conflict countries, see Ratner (1995), Brahimi et al. (2000), Durch (2003), Fearon and Laitin (2004), Jones (2004) and Dobbins et al. (2005).

these transitional authorities must assist in reconstructing state capacity and building basic institutions for security and political stability so that a democratically elected domestic government can assume responsibility for administration.

In this paper I focus on the UN's brokered democracy-building efforts in Cambodia, East Timor and Afghanistan.<sup>5</sup> They are a set of "most different systems" cases in terms of potential national-level explanatory variables, including: the nature of the conflict; the configuration of competing groups and elites;<sup>6</sup> and the nature of sociopolitical cleavages and macro-historical context. In Cambodia, three major coherent factions fought a civil war against the backdrop of Cold War geopolitics and a period of auto-genocide. The peace settlement of 1991 was the result of a mutually hurting stalemate between still-hostile groups. East Timorese independence in 1999 marked the end of a twenty-five-year resistance struggle against Indonesian occupation. The revolutionary front served as an umbrella group that, albeit quite incoherent, dominated the political landscape in the transitional phase. Afghanistan emerged in 2001 from almost twenty-five years of conflict that saw an anti-imperialist struggle morph into civil war among many fairly coherent ethno-tribal groupings. The victors – the Northern Alliance aided by the United States military – controlled only one locus of power in a country in which political, financial and armed resources are spread widely across hostile groups.

The cases thus provide an opportunity to draw structured, focused comparisons while developing within-case analysis using process induction and verification (case-intensive methodological insights are from, *inter alia*: George and McKeown 1985; Bennett and George 1997; Mahoney 2000). Democracy-building through transitional governance follows a similar logic in each case, despite the many differences between the cases. My argument here thus emerges from the method of agreement: the shared experience that all three countries go through is the transitional governance process, thus any similarities in outcomes that result from that process should be more compelling, given their differences.<sup>7</sup> With respect to

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<sup>5</sup> The two remaining countries in which UN transitional authorities have led a state-building process – Croatia and Kosovo – are somewhat different; they are both more wealthy and institutionally developed than the three developing nations considered here. Nevertheless, the transitional governance process itself remains similar in important ways in both Croatia and Kosovo, and these cases should provide the opportunity for further testing of the hypotheses generated in the work here. NB: UN peacekeeping and capacity-building activities in Bosnia do not qualify as a transitional governance process as defined here, as the UN has not shared any dimension of sovereignty or civil administrative responsibilities with the domestic government.

<sup>6</sup> In outlining the nature of political group competition in each of the cases I build, in part, on Doyle's insightful definition of "ecologies of transitional politics", a typology based on the number of factions, how coherent those factions are, and whether they are hostile or reconciled in the transitional phase (Doyle 2001: 547–50).

<sup>7</sup> While the comparative case material presented here generates a causal logic, it cannot rigorously demonstrate validity. I have explicitly selected three cases that share the transitional governance

building democratic political systems, the hallmarks of the UN transitional governance approach are as follows:

1. A UN transitional authority is mandated to assist with the implementation of a peace settlement over a transitional period of two to three years.
2. During the course of the transitional period the UN relies on a semi-sovereign domestic counterpart, often a body that explicitly shares power among competing local groups, which is intended both to assist with governing over the transitional period and to provide some form of domestic political participation in the process.
3. The transitional period culminates in a national election for a constituent assembly, the writing of and agreement on a constitution – including core choices about institutional architecture – by the constituent assembly, and the transition of the constituent assembly, upon ratification of the constitution, into the national legislature.

The precise organisational scope and range of responsibilities of the transitional administrative components in Cambodia, East Timor and Afghanistan varied considerably. Different external stakeholders also played important and varied roles in each of the peace processes. But the process of democracy-building through transitional governance followed the pattern outlined above very closely in each case, and the analytical leverage in this study emerges from that shared experience.

Scholars have delved into a relatively new theoretical space at the intersection of international relations, comparative politics and public administration in order to examine the increasingly regular and significant phenomenon of UN and other post-conflict state-building initiatives since the early 1990s. Analysts have approached the processes and implications of peacebuilding in a variety of different ways. The peacekeeping literature – on both interstate and civil wars – focuses for the most part on peace settlements and the implementation of peace agreements through the end of the transition phase as described above (excellent examples of this approach are Durch 1996; Fortna 2004; Paris 2004). The outcome it is most concerned with is the maintenance of peace, that is, the prevention of a return to conflict. Another line of analytical inquiry focuses on the machinery and processes of transitional governance itself. Such work elaborates and compares the

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experience to examine the links between that form of intervention and its stated objective of democracy-building. Complementary research could examine a set of cases of indigenous state-building in which the international community did not implement a transitional governance process. Weinstein (2005) has embarked on this research programme, examining the state formation dynamic in cases of what he names “autonomous recovery”.

various mechanisms through which the international community has attempted to build state capacity in weak, failed and post-conflict states.<sup>8</sup>

Nevertheless, analyses of post-conflict state-building efforts have yet to venture into systematic assessments of how state-building interventions achieve their stated objective of democracy-building and democratic consolidation after the transitional phase is over. These are extremely difficult institution-building efforts to sustain over time, but are necessary for continued conflict management and political stability. It comes as no surprise, therefore, that conventional cross-national quantitative measures of democracy identify none of the three cases examined here as fully free or democratic.<sup>9</sup> Yet such measures are necessarily blunt and cannot capture the more finely grained details of nascent democracy-building processes. Furthermore, as they focus on the institutional architecture of democracy, it seems intuitive that they rate newly institutionalising democracies poorly.

In examining transitional governance and its outcomes, I aim to capture the wider and equally significant dimensions of the democracy-building dynamic in post-conflict environments that centre on elite political behaviour and public attitudes towards democracy, as well as the institutional architecture dimension. Hence, I rely on the widely used working definition of a consolidated democracy developed by Linz and Stepan (1996: 6). Briefly, a democratic regime is consolidated:

1. Behaviourally, when no significant actors attempt to create a non-democratic regime or turn to violence or secession;
2. Attitudinally, when a strong majority of public opinion believes that democratic procedures and institutions are the best way to govern their collective life; and
3. Constitutionally, when governmental and non-governmental forces alike are subjected to and habituated to conflict resolution within the specific laws, procedures and institutions laid out by the new democratic process.

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<sup>8</sup> Among others, Chesterman (2004) details the history of United Nations transitional administrations; Fearon and Laitin (2004) and Krasner (2004) examine the complicated and varied combinations of international and domestic governance – that they term “neo-trusteeship” and “shared sovereignty”, respectively – that have evolved recently; Paris (2004) assesses the major peacebuilding initiatives of the 1990s to learn about the effectiveness of their strategies; Fukuyama (2004) discusses the problems associated with institution-building in weak states; and Chesterman et al. (2005) discuss the delicate balance that must be struck between local, regional and international actors in state-building processes. This type of deeper discussion of different types of transitional governance and their potential impact on outcomes is beyond the scope of this paper.

<sup>9</sup> Freedom House 2006 scores identify Cambodia as “not free” and Afghanistan and East Timor as “partly free;” the Polity IV 2003 dataset identifies post-civil war Cambodia and East Timor as “anocracies” and does not have data for post-Taliban Afghanistan.

In short, consolidated democracy is a political situation in which democracy has become “the only game in town” Linz and Stepan (1996: 5; quoting Giuseppe DiPalma 1991).

The peacekeeping literature’s analytical focus to date on the peace settlement stage and the mechanisms of peacebuilding is partly a result of the very recent nature of externally assisted state-building exercises. Only now has enough time elapsed in enough cases to begin the process of examining brokered democracy-building efforts and outcomes in terms of democratic consolidation. In this paper I attempt to generate some initial conclusions and hypotheses for further empirical investigation. Attention to post-conflict state-building efforts reminds us that as important as the decisions about the format of democratic institutions themselves is the very transitional process through which those institutions are agreed upon. This transitional governance process structures the initiation of the democracy-building exercise by facilitating choices about institutional architecture by domestic political elites. The subsequent course of democratic consolidation takes place through those agreed institutions. In the next two sections, I discuss the role of elites and institutional engineering in post-conflict political arenas.

## **2. Elites and the Institutional Landscape**

Following much of the democratisation and democracy consolidation literature, I emphasise the role of elites in the democracy-building experience. The solutions to the challenge of holding post-conflict elections centre around the relationships among political elites, political institutions and civil society (Bermeo 2003: 166). I explicitly emphasise the hyper-political and contested nature of the state-building process by focusing on the agency of political elites in determining the institutional outcomes of externally supported reconstruction efforts. A necessary criterion for success in transitional state-building is a general consensus that new and rebuilt democratic institutions are legitimate, reflecting broad socio-political inclusion and representation in the formal structures of the polity and state. Domestic elites are central in building the necessary social consensus for successful post-conflict recovery, and hence they play an essential – and yet under-theorised – role in shaping the institutions that are put in place with the aim of transferring sovereignty to a domestic government.

While much of the democratisation literature explicitly focuses on elite pacts and settlements (Rustow 1970; Karl 1990; DiPalma 1991; Bermeo 1997), the peacekeeping literature has been less agent-centred. My analysis rests on the view that peace agreements themselves are elite settlements, and that the subsequent transitional process is dominated by elites designated in various ways by the UN as counterparts and legitimate contenders to power. Furthermore, the nature of the transitional governance process is that the UN, its own agents, and the political legitimacy it confers are inserted into negotiations among domestic elites. This



heavily elite-driven political dynamic is often a direct result of the conflict period itself: during civil war all forms of political participation become militarised and the institutions of civil society and institutional channels for non-violent political participation wither away. The most central long-term challenge of post-conflict reconstruction is the (re)building of precisely those institutions that will mediate political conflict and regularise the resolution of intra-group competition in the political arena. Without a long-term institution-building process geared towards this goal, the resumption of violent conflict between groups is always a threat.

In most contemporary post-conflict states the political landscape is dominated by elites who are attempting to solve the practical puzzle of protecting their own power bases while guaranteeing universal political inclusion in an institutional vacuum. The nature of these elites and their resource bases can vary dramatically. In Cambodia, leaders of the major political factions that fought the civil war were the key power-holders in society, supported by their factional armies and, in the case of what became the dominant Cambodian People's Party, by the institutional power vested in their control of the state. In East Timor, the organisational backbone of the guerilla front stepped into the power and institutional void left at the nation's independence, bolstered by the powerful shared symbology of a widespread national resistance movement. In Afghanistan, the United States and United Nations played kingmakers, installing a compromise choice from the Afghan diaspora as the core leader who was hamstrung by the diffuse loci of power – resting on control of revenue and militias – throughout the country.

The three countries examined here thus vary in terms of the types of political competition among domestic elites, their claims to authority, and their power resources. Yet each set of political elites, themselves constrained by macro-historical context and international norms concerning state-building (represented by the UN presence), influence the institutional outcomes implemented and the subsequent domestic power balance in discernible patterns. Doyle observes:

Bargaining, and hence both will and capacity, are crucial aspects of a peacekeeping agreement. A peace treaty is a binding legal contract, granting rights, specifying duties, and – when it mandates a peacekeeping operation – establishing institutional capacities. But signing it does not end the political bargaining. After the parties agree to the creation of a peacekeeping operation, they continue to compete for advantage. The agreement becomes, as do so many other constitutional texts, an invitation to struggle (Doyle 1995: 66).

In other words, the transitional governance process itself shapes the interactions of elites and the processes of peace-building and democratic consolidation. In post-conflict negotiations where there is no clear winner, the impulse towards some form of non-zero-sum political arrangement makes sense. Various power-sharing arrangements embedded in transitional governance mechanisms might help to achieve the right mix of institutional incentives to prevent elites from derailing peace settlements over time. Moreover, domestic elites might choose to build some

forms of power-sharing into the institutional architecture for democratic governance, in order to ensure their own access to power and their group's political inclusion over time.

### 3. Power-Sharing and Institutional Engineering

Scholars and practitioners are agreed that institutional engineering is the major policy instrument available to stack the deck in favour of democracy and hence mediate conflict in peaceful, indeed productive, ways (see especially Barnes 2001; Belmont et al. 2002; Horowitz 2002; Norris 2002). An assessment of the externally supported effort to build democratic institutions and the subsequent consolidation of democracy in post-conflict developing countries benefits from a brief look at the extensive comparative politics debate on democracy and power-sharing. The power-sharing literature for the most part centres on the need to provide institutional guarantees and protections to ethnic groups within ethnically fragmented, indeed multinational, states. In this paper, I attempt to generalise from a literature that focuses on ethnicity as the core political cleavage in a country, by asking what light the institutional prescriptions of power-sharing can shed on post-conflict rebuilding efforts that are not primarily dogged by the problem of ethnicity. Cambodia, East Timor and Afghanistan are linked in that the post-conflict democracy-building process centres on elites attempting to maintain their grip on power and their relationship to popular participation, rather than the salience of the ethnic group identity in politics. In each case, the transition to democracy and its subsequent consolidation have centred around inter-elite struggles, rather than competition among ethnic groups worried about their security and political power post-conflict. Nevertheless, the literature on power-sharing yields an insight into how legitimate governance systems can be constructed in political systems that will not tolerate all-or-nothing solutions.<sup>10</sup>

The literature on power-sharing and democracy is rich with both theoretical debates and empirical material. For the purposes of this paper, I follow Sisk (1996: 4) in defining power-sharing systems inclusively as the practices and institutions that foster broad-based governing coalitions generally inclusive of all major mobilised groups in society.<sup>11</sup> Understanding power-sharing in this manner illuminates the point that institutions and practices can be assembled in different

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<sup>10</sup> Bermeo points out that elections are often idealised as arenas in which conflict is resolved, but they can exacerbate conflict as well. Thus, "[in] a situation where electoral opponents have fought a civil war democratizers must make sure that elections are not all-or-nothing propositions" (Bermeo 2003: 165).

<sup>11</sup> Sisk's definition elides the distinction between, and the long-standing debate on, the merits of Lijphart's (1977) consociational democracy and Horowitz's (1985) integrative democracy and treats them both as variants of power-sharing approaches intended to form an inclusive approach to government. Together they are distinct from purely majoritarian first-past-the-post parliamentary systems of democratic governance.

ways to promote democratic conflict management. Within this general constellation of power-sharing institutions, there are three core choices in institutional design that are particularly applicable to post-conflict nations. In delineating these choices, I draw from the different typologies of conflict-regulating practices developed by Sisk (1996), Barnes (2001), Belmont et al. (2002), and Rothchild and Roeder (2005b):

1. *Centralism versus the territorial division of power.* Federalism has been widely analysed for its potential in regulating political conflict among distinct regional groups. Devolution of power to territorial regions can give groups that are in a minority at the national level some degree of power over their own affairs at the subnational level. It can also thwart excessive concentration of power by distributing it in the hands of subnational entities and elites. On the other hand, it can empower those local institutions and strongmen at the expense of central government, diffuse political power and scarce administrative and executive capacity in a thinly institutionalised system, and create unnecessary tension between the centre and regions. (Decentralisation can be pursued as a softer form of territorial power-sharing that privileges the centre.)
2. *Electoral system structure.* Much has been written about the impact of electoral systems on politics.<sup>12</sup> Scholars who disagree on the outcomes of different institutional architectures are agreed that electoral systems represent the most powerful tool available for institutional engineering. In practice, moreover, there is a general belief that “[a]n appropriate electoral system in a divided society is arguably the most important mechanism through which parties in conflict can adopt a democratic conflict-regulating process” (Sisk 1996: 58). For post-conflict societies, the choice has centred on whether majoritarian systems, plurality systems, or some type of proportional representation system is best, along with more detailed analyses and prescriptions of specific voting rules.
3. *Decision-making rules, institutions and informal practices.* Formal rules specifying the division of responsibilities between executive and legislature have important implications for power-sharing among competing elites. Inclusive decision-making can also be pursued in the executive and administrative arenas through informal mechanisms such as national unity cabinets and roughly proportional senior administrative representation.

Table 1 briefly captures how some of these choices have been made in Cambodia, East Timor and Afghanistan.

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<sup>12</sup> See Reynolds (2002) for a recent survey of theories of electoral systems and constitutional engineering and their impact on the practice of democracy.

**Table 1:** Core Institutional Choices in Cambodia, East Timor and Afghanistan

	<b>Core Institutional Choices</b>		
	<b>Level of centralisation</b>	<b>Electoral system structure</b>	<b>Decision-making mechanisms</b>
<b>Cambodia</b>	Administrative and political power highly centralised.	Parliamentary system. Proportional representation in mostly multi-member districts; closed party list for each province.	Two-thirds majority legislative rule has necessitated a series of informal coalitions that ostensibly share power.
<b>East Timor</b>	Decentralisation a formal objective, but provincial powers remain weak.	Semi-presidential system. Parliament elected by combination of first-past-the-post district representation and national party list proportional representation.	Head of government (leader of parliamentary majority) constitutionally more powerful than head of state.
<b>Afghanistan</b>	Formally a centralist, unitary state model; provincial governors powerful in practice.	Presidential system. Parliamentary elections on single non-transferable vote (SNTV) basis in multi-member districts.	Informal “national unity” cabinets reflecting need for power-sharing across ethno-regional groups.

In Cambodia, administrative structures are highly centralised, and constitutional arrangements empower the executive. A two-thirds legislative majority rule, however, has necessitated informal coalition governments that ostensibly share power. In East Timor, one party dominates the political and administrative landscape and provincial powers and responsibilities remain weak. A semi-presidential system empowers the head of government (the leader of the parliamentary majority) over the popularly elected head of state. In Afghanistan, strong executive powers are vested in the president in a formally centrist and unitary state model. Yet provincial governors remain powerful in practice and the exigencies of ethnic heterogeneity in the country necessitate informal power-sharing arrangements at the centre such as a “national unity” cabinet.

Out of a universe of possible arrangements for legitimate and effective democratic governance, there are some similarities in institutional choice across the three cases, but there are also some remarkable differences in formal institutional architecture and the subsequent domestic power balances. The differences indicate that in each case local political elites have interacted with the UN in the transitional governance process to develop institutional systems that reflect political reality.<sup>13</sup> In each case, nevertheless, the institutional choices were made by domestic elites both empowered and constrained by a transitional governance process implemented by the UN that has a number of key characteristics. In this context, an examination of the dynamic political processes created by the institutional mechanisms of transitional governance is instructive. I argue that the transitional governance process itself constrained institutional and political outcomes and the potential for democratic consolidation in discernible patterns.

#### **4. Case Studies: Transitional Governance in Practice**

The idea of transitional governance itself, as represented by the UN's transitional authority approach, can be seen as a pragmatic stepping stone in a democracy-building process. It defers to elected representatives all-important decisions about the specific institutional architecture of democracy, including the question of what forms of power-sharing make sense given the domestic political context. The transitional process is intended to develop local institutions and administrative and political capacity, while attempting not to reify the static balance of power in place at the end of the conflict. It is intended to allow the generation of indigenous forms of democratic governance and institutions for consensus-building, accountability and political participation. Transitional institutions are intended to "pave the way for more lasting mechanisms for participation and decision-making" (Brown 2003: 144).

Yet the cases presented here illustrate that the very mechanisms of transitional governance – particularly the designation of a semi-sovereign body to act as a UN counterpart – act at cross-purposes to the impulse to allow a dynamic democracy-building process to take root. I structure my case comparison in this paper by looking across Cambodia, East Timor and Afghanistan at the peace settlement, the transitional governance period and the initiation of the democracy-building process and prospects for the subsequent consolidation of democratic governance in each country. In brief, we see that the UN's need for a local counterpart empowered the State of Cambodia within the Supreme National Council, Fretilin within the East Timor Transitional Authority, and Hamid Karzai and a small group of Northern Alliance leaders in the Interim and Transitional Administrations in Afghanistan.

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<sup>13</sup> Note that this provides some contrary evidence to the common – and perhaps correct in nuance but often overstated – criticism of UN state-building that it does not pay enough attention to local political and institutional contexts.

These groups dominated the transitional governance process, including the all-important constitution-writing process and institutional design phase. The UN-legitimated groups were then, in turn, the presumptive winners of the first national elections before they were held in each case, and have since governed with varying degrees of legitimacy in the eyes of the rest of the country. In each of the cases, some measure of democratic consolidation – behavioural, attitudinal and/or constitutional – has thus been attenuated in the aftermath of the transitional governance process.

#### *4.1. Cambodia: reifying entrenched interests*

The Cambodian peace agreement included specific power-sharing provisions and provided a roadmap for building democracy and the transition to an elected government. The transitional process, however, came up against two hard constraints: mutual hostility among groups that were far from reconciled; and the resilient power of the particular group – now the Cambodian People’s Party (CPP) – that was entrenched in the country’s administrative structure. Elections were indeed held successfully, but the political landscape has since been dominated by the powerful CPP even though the vast majority of the country believes that democratic procedures are the appropriate way to govern collective life. The CPP regime has managed to thwart behavioural and constitutional democratic consolidation over time by governing autocratically, crushing dissent, and refusing to subject itself or its actions to agreed democratic procedures.

From 1970 onwards, Cambodia underwent two decades of political instability, auto-genocide and civil war. Four political factions and their armies fought for control of the country: the Vietnamese-backed People’s Republic of Kampuchea (PRK), and the loosely aligned exile coalition made up of the radical communist Khmer Rouge, Prince Norodom Sihanouk’s royalist Funcinpec (National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia); and the non-communist Khmer People’s National Liberation Front (KPNLF). The conflict for political control over Cambodia developed out of the collapse of the legitimacy of the Cambodian state, which began under the Khmer Rouge’s violent regime from 1975–79<sup>14</sup> and continued under the Vietnamese-installed PRK regime. Although the UN seat and therefore the country’s sovereignty was held by the exile coalition, the PRK government controlled the country from 1979 onwards, led by Heng Samrin and then Hun Sen. This regime “developed out of the devastation inherited from the Khmer Rouge an effective (albeit dictatorial) authority over

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<sup>14</sup> The Khmer Rouge strategy systematically dismantled and destroyed the very fabric of Cambodian society. It targeted the most educated and trained sectors of society, destroyed civic and religious institutions, prohibited normal family life, and crushed dissent.

more than 80 per cent of the territory” (Doyle 1995: 18), yet it continued to lack both international and domestic legitimacy.<sup>15</sup>

As Soviet support for the Vietnamese-installed regime began to wane in the mid-1980s, the factions began negotiations for a political compromise. These talks broke down, deadlocking over the issue of power-sharing and the nature of the interim control mechanism when Hun Sen’s faction rejected Khmer Rouge participation in an interim quadripartite government. In 1989, Viet Nam removed its troops, leaving behind Hun Sen’s government, now known formally as the State of Cambodia (SOC). Cambodia lost much of its geostrategic importance as a proxy battlefield with the end of the Cold War, but the civil war continued, with the Khmer Rouge making territorial advances at the end of the 1980s. Finally, in 1990, the Permanent Five members of the UN Security Council – China, France, the Russian Federation, the United Kingdom and the United States – drafted a peace plan that called for an interim administration made up of the four factions to run the country under UN supervision. The Paris Peace Agreement of 23 October 1991 was the genesis of the United Nations Transitional Authority in Cambodia (UNTAC), mandated to implement the peace accords, and its parallel domestic counterpart, the Supreme National Council (SNC), a quadripartite body endowed with Cambodian sovereignty. The Paris Agreement was an inflection point in the Cambodian civil conflict, but it did not mark a final resolution to the civil war. In many ways, subsequent Cambodian reconstruction occurred within a political process that was a continuation of the war by other means.<sup>16</sup>

Scholars agree that the Cambodian factions did not sign the Paris peace accords from their own desire for peace, but did so unwillingly due to the pressure applied to them by their external backers (Doyle 1995: 68; Ratner 1995: 158). Indeed, the SOC believed itself in control of 90 per cent of the country, and the Khmer Rouge thought it could continue to mount a guerilla war and in fact later did. Although the factions were likely not intent on violating the peace accords even as they signed them, “they had competing conceptions of how the accords would affect them and undermined the consent critical to peacekeeping” (Ratner 1995: 158). The SOC and the Khmer Rouge in practice actively resisted UNTAC whenever it sought to implement its mandate in a manner against their interests. Perhaps most significantly, the Khmer Rouge refused to comply with the second phase of the ceasefire in June 1992, which included the partial demobilisation of the factional armies. The SOC seized on this refusal to disarm as its own justification for

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<sup>15</sup> Support from the Cambodian population was not forthcoming, and few Cambodians returned from the diaspora to assist the regime. While the PRK was nowhere near as brutal as the Khmer Rouge, “it was nonetheless a hardline one-party state under rigid Vietnamese control”, that brooked no dissent, tortured and killed its opponents, and made no moves towards establishing the hallmarks of a free society such as an independent judiciary or a free press (Shawcross 1994: 10–11).

<sup>16</sup> This is an inversion of Clausewitz’s famous insight that war is a continuation of politics by other means.

resisting UNTAC and soon both parties were again engaged in violent conflict even as the 1993 election neared.

This translated directly into problems for the institutional mechanisms of transitional governance. Each of the domestic factions had different views on the relationship between UNTAC, the SNC and the SOC. The latter continued to emphasise its own authority under the accords, relying on its control over the apparatus of government even as the SNC officially embodied Cambodian sovereignty. The Khmer Rouge, and the other members of the exile coalition, saw the SNC – the quadripartite, power-sharing body they had aimed for over ten years of negotiation – as the only national entity with their participation and therefore the only legitimate source of political power in Cambodia. In their view, UNTAC would act on behalf of the SNC, and the SOC would be powerless. UNTAC, in line with the initial design of the arrangement, envisioned the SNC as an important reconciliation body that would help it with important decisions.

By the end of 1992, UNTAC essentially stopped trying to implement the comprehensive Paris Agreement and reformulated its mandate to creating a legitimate Cambodian government. A series of UN Security Council resolutions formally effected this change (Shawcross 1994: 15). UNTAC subsequently achieved modest success in implementing this circumscribed mandate including, most notably for many, the holding of Cambodia's first democratic national election in May 1993. Many analysts assessing UNTAC close to the end of its tenure in 1993 concluded that its electoral component was probably the most successful of its various dimensions (Doyle 1995; Shawcross 1994). Yet while this may have been true in a technical sense – in terms of registering voters and holding a relatively conflict-free, high-turnout election – UNTAC's legacy has been much more contested with the clarity of hindsight.

Subsequent problems of democratic consolidation can be traced back to conditions at the time of the first election. The Khmer Rouge withdrew from the elections, mounting instead an increasingly futile insurgency against other Cambodian parties and UNTAC. The separation of the SOC and its political party, the CPP, was in name only and hardly enforceable, and the SOC tried continuously to interfere with the campaigning of other parties and practiced widespread voter intimidation and buyoffs. Indeed, to those who controlled the CPP and the apparatus of government, defeat was unimaginable. Yet the election's results were unambiguous: Funcinpec won 45 per cent of the vote and Hun Sen's CPP only 38 per cent. What followed was the type of opaque political manoeuvring that has continued to characterise Cambodian democracy, leaving UNTAC essentially a bystander in the game. The CPP refused to acknowledge Funcinpec's victory and took an elaborate series of steps to entrench itself in power, including roping in Sihanouk and blackmailing the opposition with a short-lived secession and increased violence. Funcinpec was forced to compromise with the CPP, in a deal brokered by Sihanouk, and agreed to



share power in the new interim government that was to draft and adopt a new constitution before turning itself into a legislative assembly. Funcinpec's leader, Prince Norodom Ranariddh, calculated that the CPP would never hand over full administrative power, and thus agreed to accept parity with the CPP in the interim administration.

While many – including international officials – were dismayed that the final arrangement did not reflect Funcinpec's electoral victory, “the compromise aptly reflected the administrative, military, and even financial muscle of the CPP” (Shawcross 1994: 29). Sihanouk and Ranariddh even agreed to the CPP's demand that all votes in the new assembly be passed by a two-thirds majority, which ensured that the CPP would maintain its grip on government. In practice, the CPP retained control of all the provinces, even those it had lost in the election. In many central ministries, furthermore, personnel and policies remained unchanged from those of the SOC. A Constituent Assembly committee drafted a constitution in almost total secrecy, with barely any consultation with either UNTAC or Cambodian civil society groups, ending up with a document written and favoured by the CPP.<sup>17</sup> The new permanent government would include two co-prime ministers and the two-thirds majority was also retained, both at the demand of the CPP against Funcinpec's wishes. The continued control of the SOC (and hence CPP) over the bureaucracy, army and police was a locus of political power that simply outweighed Funcinpec's electoral victory. In terms of democratic consolidation and how power was distributed across the political system, the elite bargaining over the interim and then permanent arrangements was more important than the elections themselves. It is, in hindsight, not surprising that the CPP had the leverage to get a power-sharing compromise and stack the institutional architecture in its favour. It then waited out its chance to seize power outright.

The power-sharing coalition created legislative and executive gridlock. Funcinpec's power was weak in ministries; although it appointed many party functionaries to senior ministry positions, it simply lacked the bureaucratic capacity to have the necessary presence further down the hierarchy. Until 1993, Funcinpec had been a resistance movement rather than a political party, and it failed to quickly develop institutional strength. Thus, despite the election and negotiation results, Funcinpec's power was restricted to the cabinet level and administrative power remained in CPP hands. Moreover, Funcinpec made no real inroads into the police or army. Continuing factionalism has prevented the development of national institutional capacity to this day. By the mid-1990s, Gottesman concludes, “Pluralism in Cambodia did not evolve into a democratic exchange of ideas but into a tenuous compact among competing patronage systems. ... Hun Sen and the CPP leadership could tolerate the multiparty system

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<sup>17</sup> Personal interviews with Cambodia legislators and donor officials; Phnom Penh, Cambodia, May 2005.

imposed on them by the international community so long as the other parties did not directly challenge their interests” (Gottesman 2003: 353).

Hun Sen consolidated his own power within the CPP, emerging as the dominant figure within the party. Soon thereafter, in early 1996, tension mounted between Hun Sen and Ranariddh when the latter began to complain about inequality in the coalition. In 1997, as word spread of a coalition forming between Funcinpec, the Buddhist Liberal Democratic Party and the new Sam Rainsy Party (SRP), violence erupted in the charged political atmosphere. In July 1997, troops loyal to Hun Sen and the CPP staged a coup d'état, moving tanks into the streets of Phnom Penh, skirmishing with royalist troops, and chasing Ranariddh, Sam Rainsy and other non-CPP politicians into exile.<sup>18</sup> This coup marked the breakdown of a system of power-sharing between distinct elite groups.<sup>19</sup> In subsequent coalitions, the ostensible role in power-sharing of Funcinpec has been not much more than window-dressing for the emergence of a de facto one-party system led by the hegemonic CPP.

The CPP's grip on the political system has subsequently thwarted any meaningful measure of democratic consolidation in Cambodia. After almost a year of negotiations, a new election was held in 1998, with the exiled politicians returning to Cambodia to participate. The CPP controlled this election, dominating institutions such as the Election Committee and restricting the media access of opposition politicians. In the announced results, the CPP won a plurality, while Funcinpec and SRP split the majority. In another ostensibly power-sharing coalition, Hun Sen became prime minister and Ranariddh president of the National Assembly. The July 2003 elections repeated a now-familiar pattern: after an electoral process marked by electoral fraud and violence, the CPP won over half the seats in the national assembly but fell short of the two-thirds majority needed to form a government. One year of absolute stalemate followed; only in July 2004 did negotiations to form a government begin, culminating in yet another deal with Funcinpec. In terms of governance and democratic consolidation, however, Cambodia had people governing “whose monopoly on power has remained mostly untouched since 1979” (Gottesman 2003: 356).

Although the Paris Peace Agreement's precondition of a neutral political environment did not exist for the first elections in 1993, peaceful, free and fair elections were held nevertheless. Yet international pressure on the signatories to reach a peace settlement meant that their actual reconciliation was incomplete. The

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<sup>18</sup> The official rationale for Hun Sen's action was that Ranariddh was about to strike a reintegration deal with the Khmer Rouge. Ashley (1998) argues that this was a pretext for Hun Sen's desire to see the end of Ranariddh as his own popularity was declining and that of the opposition coalition rising.

<sup>19</sup> I am indebted to an anonymous peer reviewer for this and the subsequent insight. Brown and Timberman (1998) concur with the assessment.

UNTAC mandate was designed on the premise that what was needed was coordination of the parties, but assuming good faith and reconciliation was inaccurate (Doyle 1995: 69). Hence the institutional mechanisms of transitional governance embodied in the relationship between UNTAC and the ostensibly power-sharing SNC did not work. Many agree that had UNTAC originally stood up to the State of Cambodia regime – had it effectively prized the reins of administrative apparatus from the SOC and not instead relied on the SOC to administer the country before the elections were held – it may have prevented the first power-sharing compromise, and then the later dominance of the CPP.<sup>20</sup> Yet UNTAC continued to rely on the semi-sovereign SNC, which was in turn dominated by the powerful reigning SOC. An emphasis on exit through quick elections compounded the problem. Some have gone so far as to argue that UNTAC's emphasis on the elections as an end point increased pressure on itself to compromise on the election results, ending in "complicity in the betrayal of the real winners of the UN supervised elections" (Thakur 2001: 121).<sup>21</sup> Postponing elections may have ushered in a sequence that allowed democratic consolidation to occur, rather than the truncated and thwarted process seen instead.

#### *4.2. East Timor: dilemmas of political participation*

Until the destabilising events of April 2006, East Timor had the most consolidated democracy of the three cases considered here. It was considered the most successful of the UN's transitional administration efforts, and many observers found cause for cheer when it passed the five-year mark without renewed violence. At that point, the country had achieved a relatively high degree of behavioural and attitudinal democratic consolidation, with all major political actors and public opinion agreeing on the benefits of democratic procedures and institutions. But challenges on the constitutional front became more pronounced, most notably as a result of the dominance of the Fretilin party over the legislative and executive branches of government and its reluctance to open political participation in managing conflict. In April 2006, political violence leading to serious instability and the prime minister's forced resignation left analysts asking whether the enormous international investment and involvement of UNTAET had failed.

On 30 August 1999, the East Timorese voted in a national referendum overwhelmingly against a special autonomy relationship with Indonesia and hence in favour of independence.<sup>22</sup> The country was finally allowed the act of self-determination it had been promised in 1974 by a withdrawing Portuguese colonial

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<sup>20</sup> Personal interviews with Cambodia legislators, scholars, NGO and donor officials; Phnom Penh, Cambodia, May 2005.

<sup>21</sup> Thakur cites Reginald Austin, director of UNTAC's electoral component, in pointing out the problematic emphasis on elections as an end point.

<sup>22</sup> The vote was 21.5 per cent in favour and 78.5 per cent against the proposed special autonomy relationship, with 98 per cent of registered voters participating.

administration. In the intervening twenty-five years, occupied by Indonesia, a large proportion of the East Timorese population had been engaged in a guerilla resistance movement for independence. Mere hours after the results of the referendum were announced, pro-autonomy militias that had favoured a special relationship with Indonesia – organised, armed and assisted by the retreating Indonesian military forces – conducted a pre-planned, systematic scorched-earth campaign intended to leave the small country in ruins and largely depopulated.<sup>23</sup> In perhaps the swiftest response in the history of UN peacekeeping, the UN sent in a multinational blue-helmet force headed by Australia. Within two months, the Security Council authorised a mandate (Security Council Resolution 1272 of 25 October 1999) for the United Nations Transitional Authority in East Timor, which became the virtual government of the territory until a transitional governance process culminating in national elections and the writing of a constitution could take place.

East Timor was thought by many at the UN and in wider international intervention circles to be a *tabula rasa* upon which to prove the effectiveness of externally assisted reconstruction initiatives. In many respects, the country was the perfect environment for success: violence was effectively over after the Indonesian troops left and there was remarkable political accord and goodwill in the country, with no real dissent over appropriate leadership. Yet UNTAET has subsequently come in for much criticism about the manner in which the political timetable and process was implemented (see for example Chopra 2002; Goldstone 2004; Surkhe 2001). The state-building challenge in East Timor was, and remains, in many ways very different from Cambodia and Afghanistan. Unlike most other UN peacekeeping missions, the political dimension in East Timor did not need to adjudicate between warring factions. As Goldstone points out, that adjudication process had already occurred with the national referendum in August 1999: “Instead, the political task was the relatively straightforward one of working through a political timetable that had the uncontested goal of independence as the final end point” (Goldstone 2004: 85). A set of interrelated challenges arose in the course of this process, however, that have proved problematic for subsequent democratic consolidation: UNTAET’s slow incorporation of East Timorese participation; the emergence of one party’s dominance as political participation was increased; and the overall timing and sequencing of the political process.

UNTAET found, upon its arrival, a natural group to act as its local counterpart: the National Council of Timorese Resistance (CNRT), which had acted as the umbrella pro-independence organisation during the course of the decades-long resistance.

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<sup>23</sup> Dunn (1983, 2003) provides details of the collaboration between the Indonesian military (TNI) and pro-autonomy militias. Three-quarters of buildings in the country were demolished in the retreat, and over a quarter of a million refugees forcibly deported into neighbouring West Timor. Estimates of how many were killed are unreliable: some mass graves remain unexamined and reports abound of bodies being dumped at sea.

The CNRT enjoyed considerable legitimacy due to the symbology of a popular and successful national resistance front, and had been the organisational driving force behind the pro-independence victory in the referendum. It was led by Xanana Gusmao, the leader of the guerilla resistance (now President of East Timor), a man with tremendous charisma and popular support. It also benefited from the extensive non-military network that was developed throughout the towns and villages of East Timor during the course of the resistance. The CNRT's survival had depended on this network, which now translated into a formidable organisational presence reaching throughout the country. After Indonesian provincial administrators left East Timor in the wake of the referendum, the CNRT was the one organisation with nationwide political reach in an institutional vacuum, and acted in many areas as a *de facto* government authority.<sup>24</sup> Furthermore, as Goldstone points out, there was a natural political affinity between UNTAET and a major wing of the CNRT, in that both favoured a "national unity" approach to politics and government that reflected their nervousness about open political competition (Goldstone 2004: 89). Many CNRT leaders, in particular, opposed political party development, fearing a return to the brief but violent civil war of 1975, which followed a period of nascent party development in East Timor and provided a pretext for Indonesia's invasion.<sup>25</sup> Yet while the CNRT did become UNTAET's *de facto* interlocutor in a number of different ways, the relationship was complicated and never formalised.

The UN Security Council mandated to UNTAET an end state of independence for East Timor, yet provided no roadmap (such as the Cambodian Paris peace accords) for how to proceed or how to incorporate East Timorese participation over the process. UNTAET was designated the repository of East Timorese sovereignty until independence, in a mandate that to date represents the most executive, legislative and judicial authority that a UN mission has exercised in a post-conflict nation. UNTAET defenders have argued in retrospect that the process adopted gradually increased levels of East Timorese political participation over time. Yet the Special Representative of the Secretary-General (SRSG), Sergio Vieira de Mello, himself acknowledged that it was a process of "false starts and hard-won political accommodations" (Goldstone 2004: 86). The timing and sequencing of the process that resulted created some immediate challenges for future democratic consolidation.

UNTAET's formal collaboration was with the newly created National Consultative Council, a small body composed of an East Timorese majority and a small group of senior UNTAET staff. This morphed into the larger and entirely Timorese National Council, intended to operate as a national legislature even though it was appointed

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<sup>24</sup> Personal interviews with East Timorese, UN and other donor officials; Dili and Viqueque, East Timor, April 2005.

<sup>25</sup> Karol Soltan, the Deputy Director of UNTAET's Department of Political, Constitutional, and Electoral Affairs, remarks in his account of the political challenge that he came to think of the fear of 1975 "as the greatest enemy of democracy in East Timor" (Soltan 2002).

rather than elected and the SRSG retained his absolute veto. This change was accompanied by the creation of a coalition cabinet of transitional government, the East Timorese Transitional Authority (ETTA), with Timorese proto-ministerial counterparts for the core UNTAET executive staff; four posts were assigned to Timorese (Internal Administration, Infrastructure, Economic Affairs, Social Affairs) and four to international staff (Police and Emergency Services, Political Affairs, Justice, Finance).<sup>26</sup> Together, the coalition government and the National Council were intended to provide “democratic institutions before democracy that could be the setting of democratic learning-by-doing at the national level” (Soltan 2002). While this process took place at the national political level, the development of parallel community empowerment political institutions at the district level faltered.

Factionalisation within the CNRT eventually led to the defection of its largest component, Fretilin. This splinter party was dominated by members of the East Timorese diaspora who had remained active in the resistance movement from afar (from Mozambique, in particular). Fretilin was the organisational backbone behind the CNRT’s ability to step into the institutional vacuum created by the attenuation of political and institutional development under Indonesian rule, during which no political, administrative or professional class developed in East Timor.<sup>27</sup> Fretilin scored a large victory in the Constituent Assembly elections of August 2001, winning fifty-five of the available eighty-eight seats. This Constituent Assembly replaced the National Council, and a new Transitional Government, with a fully “Timorised” cabinet, was chosen to reflect Fretilin’s victory. Fretilin was subsequently successful in pushing through its draft constitution for approval, with minimal attention to the results of the popular consultation conducted.<sup>28</sup> The Fretilin-controlled proto-legislature thus defined the scope of its own powers, particularly vis-à-vis the other organs of government (Chesterman 2002: 69). The constitution was designed to subordinate the president to the government, essentially neutralising the non-affiliated Xanana Gusmao’s overwhelming mandate (82 per cent of the vote) in winning the presidency in April 2002. Finally, Fretilin was also instrumental in transforming the Constituent Assembly into the

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<sup>26</sup> The National Council and coalition cabinet were established by regulation on 14 July 2000. Another Timorese leader, José Ramos-Horta, was sworn in as cabinet member for foreign affairs in October 2000.

<sup>27</sup> Fretilin, self-consciously taking on the CNRT mantle as a political umbrella organisation, shares some characteristics with other independence movements that morphed into political parties, such as India’s Congress Party or South Africa’s African National Congress. Perhaps most significantly, these umbrella political fronts mediate national sociopolitical cleavages internally rather than allowing them to play out in an electoral arena.

<sup>28</sup> Personal interviews with East Timorese legislators and donor officials; Dili, East Timor, April 2005.

National Parliament on independence, obviating the intended second election that other parties had anticipated would increase their own showing in the legislature.<sup>29</sup>

Fretilin's domination of the political process – facilitated by UNTAET's indecision over political participation and the sequencing of the "Timorisation" of government – is probably the outcome most problematic for the long-term consolidation of democracy in East Timor. Fretilin has, in essence, "placed the new National Parliament in clear subordination to a government intent on using its majority to push through its ambitious legislative program" (Goldstone 2004: 84). Although the Fretilin party organisation continues to dominate throughout the country, its goals are not necessarily shared by the population at large. In a problematic twist, the Roman Catholic Church has taken on a troublesome political role in opposition to the government on certain pieces of legislation.<sup>30</sup>

Moreover, Fretilin's own institutional legacies have compromised its political legitimacy. The proximate cause of the April 2006 violence and leadership change was tension between factions in the armed forces and police. This tension, in turn, resulted from the complicity of the Interior Minister Rogério Lobato and Prime Minister Mari Alkatiri in setting up loyalist groups inside the armed forces as a counterweight to forces loyal to Gusmao.<sup>31</sup> Observers subsequently criticised Gusmao for compromising the constitution by demanding that Alkatiri leave office; yet there is no legal process in East Timor for determining the constitutionality of his actions. This recent series of setbacks stemmed from a reversal of some degree of earlier behavioural democratic consolidation among core political elites. It has thrown the country into a serious constitutional and political crisis that must be resolved to prevent the country from backsliding into failure. Yet public attitudes towards democracy remain encouraging. In a more promising development over time, smaller parties are proliferating and growing in strength, capitalising on the frustration of young, urban, and educated East Timorese with the older, Portuguese-speaking, conservative leaders of Fretilin. Presidential and parliamentary elections must be held by May 2007, and renewed political institutionalisation is needed in order to be able to channel the political participation of all East Timorese and rebuild the country's nascent democratic institutions.

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<sup>29</sup> Personal interviews with East Timorese legislators and journalists; Dili, East Timor, April 2005.

<sup>30</sup> In April 2005, the Roman Catholic Church trucked in tens of thousands of unemployed youths from the provinces to Dili in order to stage a demonstration against the government's plan to make religious education in schools optional rather than mandatory.

<sup>31</sup> A UN Security Council assessment mission found that former Minister of the Interior Rogério Lobato supplied an irregular paramilitary group involved in the violence with arms intended for the police and instructed the group to use the weapons against political opponents, and also found that former Prime Minister Mari Alkatiri was complicit to some degree (UNSC 2006: 4, 18).

### 4.3. *Afghanistan: will the centre hold?*

The reconstruction of Afghanistan is still very much under way, with a great deal to achieve in basic internal security and humanitarian work. Yet even at the nascent stages of its democracy, Afghanistan's central political challenge in terms of democratic consolidation clearly comes from the power of local strongmen with alternative resource bases from that of the central government. The obstacles to democratic consolidation in the country are behavioural, attitudinal and constitutional: some significant actors – a resurgent Taliban and regional warlords – continue to practise violence against the democratic regime; some segments of society do not believe that democratic procedures and institutions are the most appropriate way to govern collective life; and regulation of political conflict through constitutionally agreed institutions and procedures remains truncated.

When the Northern Alliance and the US military liberated Kabul from the Taliban in November 2001, Afghanistan had suffered over two decades of war. Often called the last Cold War proxy battleground, the country saw its anti-imperialist war against the Soviet Union morph into a civil war among *mujahedin* (freedom fighter) factions that continued into 2001 even as the Taliban had consolidated power over most of the country. Afghanistan in 2001 was considered by many to be the classic “failed state,” an institutional vacuum in which state-sponsored terrorism could flourish. The Bonn Accords of December 2001 provided the roadmap for Afghan reconstruction. Afghan factions and the diaspora political leadership meeting there, under the supervision of the UN, agreed to the creation of an Interim Administration, endowed with Afghan sovereignty and charged to represent it in its external relations.

Hence the Interim Administration would be the main counterpart of the UN and other donors in reconstruction efforts, acting as a semi-sovereign body during the course of a transitional governance period. The composition of the Interim Administration was agreed at the conference: Hamid Karzai was the choice for chairman, and the rest of its members represented a carefully assembled mosaic of different Afghan ethnic and tribal leaders. Reflecting the final outcome of the civil war, the Interim Administration had a high – critics would say too high – representation of Tajiks from the Northern Alliance. As is the fate of most losers in civil war, the Taliban, a force with considerable support and power in some parts of the country, stood no chance of being included in a power-sharing arrangement

In June 2002, within six months of the establishment of the Interim Administration, as stipulated in the Bonn Accords, an Emergency Loya Jirga (grand council meeting), a traditional consensus-building political institution, was held in Kabul to appoint a Transitional Authority. This was to include “a broad-based transitional administration, to lead Afghanistan until such time as a fully representative government can 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” (Bonn



Agreement, 2001). The Interim Administration and the UN adhered to the timetable, staging a remarkable Loya Jirga that proved both optimistic about the future of the country and refreshingly contentious, particularly over the role of the warlords. [While the political dimension of reconstruction was progressing, however, state capacity-building was foundering in the absence of a robust, functioning Afghan administrative apparatus to guide reconstruction work.<sup>32</sup>] The assembled leaders reached agreement on the Transitional Authority, the new semi-sovereign body that would lead the country and its reconstruction. Hamid Karzai was named the Transitional President, as expected, and much of his cabinet remained the same from the Interim Administration, again reflecting the exigencies of informal power-sharing in an ethnically fragmented and centrifugal country.

Yet regional warlords have remained a serious obstacle to democratic consolidation in Afghanistan. Large areas of the country remain dominated by private militias under the control of various anti-Taliban commanders, particularly those of the Northern Alliance. Many warlords and local strongmen have won key posts in central and regional government, while resisting the demobilisation of their personal forces and continuing to enrich themselves with customs revenues and illegal flows.<sup>33</sup> Karzai has tried to neutralise their independent power by incorporating them into his cabinet, a strategy that has worked with some (such as Ismail Khan from Herat) and not with others (such as the Uzbek Rashid Dostum).

The political timeline, including some of the mechanisms of informal power-sharing, has worked towards a measure of democratic consolidation. The Transitional Authority was to rule until a new constitution was adopted within eighteen months, followed by national elections. A Constitutional Loya Jirga met in December 2003 and January 2004, as planned, to draft and ratify a new Afghan constitution. The presidential elections of October 2004 (which returned Hamid Karzai to the presidency) and the parliamentary elections of September 2005 were a success by almost any measure. Yet analysts have argued that the favouring of “broad-based government” in the course of the political sequencing in Afghanistan had the drawback of setting aside federalism, which would have been a natural fit for the ethno-regionally diverse country (Goodson 2005: 30). Federalism proponents argue that political contestation could have been transferred to places other than Kabul, recognising the true loci of power – both military and economic – in the country. In attempting to create a strongly centralised national-unity government, growing out of UN efforts to solve the civil war dating to the 1990s,

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<sup>32</sup> Personal interviews with officials of the Afghanistan Assistance Coordination Authority (AACAA), United Nations Development Programme and World Bank; Kabul, Afghanistan, June 2002.

<sup>33</sup> Joel Migdal (1998) has asked how states in the developing world can have such a great deal of penetration into society and yet fail to implement policies successfully, answering that strong elites continue to dominate society and to be capable of thwarting state policies.

critics argue, the international community fell prey to wishful thinking rather than designing appropriate institutions for the fissiparous reality of Afghan politics.<sup>34</sup>

One of the key aims of the broad-based coalition idea was to ease fears that Pashtuns, with a two-fifths ethnic plurality in Afghanistan, would grow too strong and abuse their powers. Pashtuns, on the other hand, have felt that broad-based government was “code for rule by non-Pashtun figures from the old anti-Taliban coalition, the Northern Alliance” (Goodson 2005: 31) and that the Interim Administration and Transitional Authority too heavily represented these other groups. Thus an ethnic dynamic was set in place, precisely the pattern that national unity government proponents were trying to avoid:

Pashtuns, with the encouragement of their co-ethnic Hamid Karzai, began to reassert themselves within the process at the [Constitutional *Loya Jirga*], thereby arousing predictable suspicions among Tajiks, Uzbeks, Hazaras, and other minority groups. This process would continue throughout 2004 and culminate during the October presidential balloting (Goodson 2005: 31).

There were significant ethnic patterns in the presidential elections, with Tajik, Hazara and Uzbek leaders leading the vote in provinces dominated by their own ethnic groups.

Yet in a promising sign, some of these leaders – the Tajik Yunus Qanooni and the Uzbek Rashid Dostum foremost among them – later formed political parties in the run-up to the September 2005 parliamentary elections in order to broaden their appeal across ethnic lines. Despite the reluctance of Karzai and other senior officials to see parties form for fear that they will deepen ethnic divisions, more than fifty parties had registered prior to the parliamentary elections. A few months ahead of the parliamentary elections, Qanooni announced the formation of an opposition front to compete in the elections, intended to forge a serious opposition bloc to Karzai’s government (Gall 2005a). The single non-transferable vote (SNTV) electoral system chosen was much criticised, particularly for leading inexorably to a fragmentary parliament full of non-aligned legislators at the expense of established parties.<sup>35</sup> Many guessed that this result was what Karzai intended: the elections led to three roughly equal blocs in parliament, one pro-government, one unaligned, and one supporting opposition parties (*Economist*, 2005). Yet the Afghan parliament has since managed to assert itself vis-à-vis the government: in May 2006, the legislative body approved most of Karzai’s

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<sup>34</sup> Andrew Reynolds, presentation at the American Political Science Association Annual Meeting, September 2005. Others have argued that the solution to state collapse in Afghanistan is indeed a centralised state that is effective and maintains a credible monopoly on violence; and that decentralised or federal systems create insurmountable centre-region tensions (Cramer and Goodhand 2002).

<sup>35</sup> See Reynolds (2006) for an excellent summary of the choice and consequences of the SNTV system in Afghanistan.

proposed cabinet, but only after refusing to rubberstamp the whole body and insisting on individual hearings for each member.

Power tussles with parliament aside, Karzai appears to have made the cabinet more his own than ever before. He has dropped each of the Panjshir Valley troika that dominated the political and military scene after the Taliban's defeat, finally freeing himself from accusations that his government was under the control of the Northern Alliance faction. Analysts saw the move as another step away from the "compromise government" that Karzai had to date used as an informal power-sharing mechanism (Gall, 2005*b*). The new cabinet contains both technocrats and some remaining members of ethnic and political groups from around the country. It remains to be seen whether this will be a stable arrangement that is capable of governing without deadlock. Clashes with a newly resurgent Taliban have further emphasised the central government's challenges in broadcasting legitimate authority throughout the country. The need to neutralise or incorporate alternative loci of power in the political system continues to be the major obstacle besetting democratic consolidation in Afghanistan.

## **5. Conclusions: In Search of a Dynamic Democracy-Building Process**

International intervention in post-conflict countries is predicated on the belief that the assistance of third parties can help to alter the internal balance of power and help to transform that balance into a stable political system.<sup>36</sup> Moreover, brokered state-building efforts introduce and create new actors on the domestic political scene, including the electorate, a fledgling civil society and free press, and a continuing international presence. Doyle points out: "[S]uccessful contemporary peace-building not only changes behaviour but, more important, also transforms identities and institutional context. More than reforming play in an old game, it changes the game" (Doyle 2001: 544). The UN, in the cases examined here, changed the political game by facilitating a process of institutional engineering by domestic elites and setting the countries on the path to democratic consolidation via national elections and the writing of a constitution. This conclusion is contrary to the null expectation that the UN transitional governance process would have no impact towards democracy-building in post-conflict developing countries. While democratic consolidation on behavioural and constitutional fronts has suffered setbacks in Cambodia and East Timor, and remains attenuated on all fronts, including attitudinal, in Afghanistan, few would deny that some success in democracy-building has been achieved in each case.

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<sup>36</sup> Indeed, nation-building as part of a peace process has become one of the most important and distinctive portfolios of the United Nations, even when its efficacy has stalled on other major contemporary issues such as non-proliferation of nuclear weapons and prevention of genocide.

Yet the evidence from Cambodia, East Timor and Afghanistan indicates that the mechanisms used in external intervention can freeze the internal balance of power in an unstable disequilibrium that threatens future democratic consolidation. Perhaps the most problematic transitional governance pattern is the development of ad hoc semi-sovereign bodies to both aid with governing and provide some political participation in the transition period. Proponents argue that these semi-sovereign bodies are created at a moment of temporary consensus, and therefore allow that consensus to be formally incorporated into a regular consultative body that can build political support and legitimately adjust the external mission's mandate if necessary (Doyle 2001: 543).<sup>37</sup> These entities are thus intended to dynamically manage a peace process and mobilise local cooperation in an inclusive manner. Yet the three cases discussed here demonstrate that the semi-sovereign bodies created – Cambodia's Supreme National Council, East Timor's National Council and Afghanistan's Interim Administration – had the opposite effect: they froze the domestic political arena by endowing certain groups with static power. These bodies were in practice dominated by organisationally powerful groups that then effectively cut off the participation of other political groups in decisions about institutional architecture and subsequently consolidated their own holds on power. In turn, these domestic political processes powerfully constrained the institution-building efforts of external actors, who seemed to have more limited leverage than anticipated at the beginning of reconstruction efforts. Thus the transitional governance model itself and its exigencies – particularly the need for a local counterpart and the short timeframe in the rush to elections – perhaps adversely affected the prospects of longer-term democratic consolidation and political participation.

A number of scholars have recently pointed out that the problem with power-sharing solutions such as those attempted in the forms of institutional engineering in the cases presented here is that they are necessary for the *initiation* of a peace settlement, but adversely affect the *consolidation* of peace and democracy.<sup>38</sup> The paradox is that power-sharing may be necessary to reach agreement at the time the initial settlement is being negotiated; subsequently the dominant political group's impetus to share power is much lessened. Institutional engineering is undertaken with the intention of making politics a non-zero-sum game in stable democracies. In the unstable, disequibrated reality of post-conflict states, however, these choices of institutional architecture can freeze a stalemated and potentially somewhat arbitrary political balance over the longer term. The transitional

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<sup>37</sup> Doyle does go on to say that the design of these semi-sovereign bodies should "preview" the peace sought – in Cambodia, seeking "pluralist democracy" should have meant supplementing the Supreme National Council with other bodies, including one for civil society.

<sup>38</sup> Rothchild and Roeder make the distinction between the initiation and consolidation phases in discussing the merits of power-sharing in post-conflict societies. They conclude that while power-sharing institutions can facilitate the initiation of a peace settlement, they "thwart the consolidation of peace and democracy" (Rothchild and Roeder 2005a: 12). Licklider (2001) concurs.

governance process in each of the cases examined – albeit to varying degrees – facilitated the entrenchment of already powerful groups rather than ensuring the dynamic political contestation over time that is the hallmark of a consolidated democracy.

We know from both the peace-building and democratisation literatures that the transition to democracy in post-conflict states is inherently more destabilising than stabilising. Thus a gradual course of democratisation seems most desirable, together with processes of political accommodation and institution-building to strengthen political and governance arrangements at national and subnational levels. Among the core decisions that have emerged over time for externally brokered state-building efforts is the allocation of finite resources to the many urgent needs of a post-conflict country. The decisions in this arena are tactical and practical in terms of how aid flows, which programmes are developed, what donor technical assistance is offered, and so on. But they also reflect broader strategic and normative judgements prioritising various post-conflict goals over others, and choosing among trade-offs in the inherently complex endeavour of institutional engineering.

An optimal path towards one key objective may in fact compromise the achievement of other important objectives. For the goal of building a better political accommodation process, for example, Roeder and Rothchild suggest that “power-dividing” solutions are better placed to ensure democratic consolidation in post-conflict countries than the typical power-sharing solutions favoured by the international community (Roeder and Rothchild 2005a). One of the hallmarks of the power-dividing approach they advocate is the elevation of civil liberties rather than a state-centric orientation, along with the support of civil society and bottom-up governance mechanisms. There is certainly much to recommend this approach. Building in the opportunity for dynamic, issue-specific majorities to form, it moves to address the problems of static power freezes and the reification of ethnic cleavages (or whatever other dimension power-sharing is predicated on). Yet the utility of the power-dividing approach is hampered in post-conflict state-building efforts because it is, to some extent, predicated on degrees of state capacity, rule enforcement and norm-adherence that do not often exist in many developing countries, let alone those that have undergone violent conflict.

Others have advocated strengthening the central state before holding elections and focusing on civil society. Following Huntington, such analyses argue that democracy can only serve constructive participatory and integrative ends following political stabilisation and institutional consolidation (Huntington 1968). In this view, an emphasis on fostering civil society – such as would be necessitated in a power-dividing approach – at the expense of state institutions could have a negative impact on reconstruction attempts by perpetuating conflict. In the Afghan case, for example, Wimmer and Schetter argue that the parties present at Bonn did

not represent political interests, but were “rather individuals tied to one another on the basis of temporary obligations of loyalty or kinship” (Wimmer and Schetter 2003: 530). They advocate, in post-conflict situations like Afghanistan, institutionalising traditional consensus-building systems – such as the Loya Jirga – among bureaucrats, warlords and tribal chiefs over the medium term, rather than just for a short transitional governance period. In their view the Emergency Loya Jirga in Kabul certainly helped to stabilise the political situation and found a balance among competing political groups. Finally, they advocate a federalism that leads to the decentralisation of power, but not on an ethnic basis. State-building, in this perspective, is the right tool to trump political fissures, rather than relying on an artificial transitional governance process that privileges organisationally powerful political groups.

Nevertheless, approaches that favour greater “institutionalization before liberalization”<sup>39</sup> are also problematic, because an extended trusteeship period attenuates political participation while also failing to build in a dynamic process to local political development. To provide better results in this respect, the transitional governance process could be extended to enhance state capacity and institution-building with an emphasis on concurrently generating various forms of political participation. The practical limitation facing suggestions to lengthen the process is simple: most external actors are simply unwilling or unable to accept the enormous human and financial responsibilities of extended transitional support. The desire of foreign stakeholders to disengage from the Cambodia civil conflict was instrumental in reaching the Paris Peace Agreement, but also meant that there was no will to extend the UNTAC mandate. Yet the costs associated with premature international exit have become all too clear, not least in the attenuated democracy-building experiences discussed here. The international community must develop pragmatic mechanisms through which to remain constructively involved in recovering post-conflict states. Baskin, for instance, encourages the substitution of the idea of “engagement” for that of “exit”, to prevent “domestic spoilers [from exploiting] the threat of international exit through minimal compliance, delays, and resistance” (Baskin 2004: 135). In his view, a strategy that emphasises international engagement could lengthen the shadow of the future, allowing the evolution of combined international-domestic forms of authority in which institutions are responsible for those tasks they can implement effectively.

Other modifications to the precise sequence and design of the transitional process itself could have salutary effects. The UN could, for example, mandate a genuinely participatory constitution-writing process before holding national elections.<sup>40</sup> The benefits would be twofold: preventing powerful groups from dominating decisions

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<sup>39</sup> The phrase belongs to Roland Paris (2001); others advocate forms of extended trusteeship (Fearon and Laitin 2004) or shared sovereignty (Krasner 2004).

<sup>40</sup> See Hart (2003) on the potential role of participatory constitution-making for peacemaking in divided societies.

about institutional architecture; and encouraging a nascent democratic participatory culture. A corollary strategy would be to emphasise and foster subnational political participation during the transitional process, rather than relying simply on a semi-sovereign body at the centre to provide local input. In East Timor, the UN failed to incorporate political participation at the provincial level by capitalising on an ambitious community empowerment project, paving the way for the Fretilin core to consolidate its power at the centre without reaching out and building support throughout the country.

Another possible, albeit difficult, adaptation of the transitional governance model would be to ban elites central to the transitional process and institutional decisions from taking elected office in the first five years post-transition. As demonstrated in the cases above, elections can reinforce the strength of the already powerful. Thus considerable care must be taken at the outset in designing democratic procedures. Enforcing uncertainty rather than inevitability about who will take the reins of power at transition can provide a window of opportunity: elites may be able to agree on institutional arrangements that do not lock in a specific balance of power but rather provide for meaningful elite alternation through elections and overall political inclusion and participation. Indeed, uncertainty can actually align competing elite incentives towards moderation in institutional design.<sup>41</sup> External interventions at state-building should be aimed at allowing a political dynamic to take hold in which cross-temporal and cross-issue compromises can be made across slowly institutionalising political groups. The challenge of post-conflict brokered democracy-building is in determining the institutional solutions and sequencing that can facilitate both the initiation and consolidation of that healthy democratic dynamic.

## **Note**

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<sup>41</sup> Weinstein (2002) argues that in an excessively centralised and therefore zero-sum political system, Mozambican elites unsure of the results of the next election should have supported electoral decentralisation that would have diffused political power away from the elected government and made some degree of power-sharing possible.

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