

BOOK REVIEW

H. Fischer and N. Quenivet (eds.), *Post-conflict Reconstruction: Nation- and/or State-Building*, Berlin, Berliner Wissenschafts-Verlag, 2005, ISBN 3830510039, 194 pp., €24.00.

doi:10.1017/S092215650600402X

The work under review represents the publication of a collection of papers presented at a conference on post-conflict reconstruction, initiated by Horst Fischer and Noëlle Quenivet, in May 2004. At this time the situation in Iraq was still in its infancy. The need for a serious long-term international commitment to reconciliation and reconstruction was obvious. However, there was still a hope that once a national government was established, peace and stability more conducive to reconstruction would arrive. In reality, although efforts at reconciliation and reconstruction persist, these are blighted by the equally persistent efforts of those set against the continued international presence. In the light of the situation in Iraq, the papers presented at the conference collectively sought to highlight the issues that often arise in post-conflict reconstruction. The publication of these papers provides an opportunity to reflect a little on the suitability for the Iraq context of the issues highlighted, and the broader value of the work for the ever growing literature on post-conflict reconstruction.

The contributors were asked to present papers on specific countries or on common issues that arise in post-conflict reconstruction. The work is split accordingly. There appears to have been no stress on a particular discipline and thus there is a mix of legal, political, and sociological contributions. This plurality reflects the breadth of issues that arise in post-conflict reconstruction. The range of disciplines accommodated in *Post-Conflict Reconstruction* is a major strength of the work. However, more effort could have been made to accommodate this plurality in the structure of the collection, which jumps between disciplines in what seems to be an ad hoc fashion. This failing is compensated for in the first half of the book through the common theme of nation- and/or state-building, which is prominent in each chapter, regardless of the discipline or angle pursued. However, this theme loses prominence in the second half, where the common theme of UN activity does not provide such a sophisticated link between the different disciplinary approaches and subject matter.

The important distinction between state- and nation-building addresses the question of whether the focus of international efforts should be on the fostering of a common national identity or the reconstruction of physical and institutional

infrastructure. The useful disciplinary link which this theme provides is most evident in the relationship between the chapters by Erica Harper and Brigitte Picquard. Harper examines the UN administration of East Timor, particularly the heritage of the judicial structures which were adopted. Picquard asks what engagement with the local population means in practice, from an anthropological and psychological perspective.

Harper describes the importation of law and methodology from other jurisdictions, which for her is evidence of a state-building approach. This approach is found to be largely ignorant of the local population's legal culture, and so carries the potential to isolate the locals from the process and consequently impede the prospects of reconciliation and reconstruction. Much more investigation would be required to confirm such a belief, but there is sufficient evidence to support Harper's call for a more nation-orientated approach. This would concentrate on accommodating cultural understanding of justice, and complements calls elsewhere for a 'fair enough' approach to trials in states emerging from conflict.¹

To confirm and implement Harper's suggestions requires moving beyond legal analysis. In this respect Picquard's account of how to interact with a conflict-ridden society holds important lessons. Picquard stresses the benefits of consideration of a people's past as a model for interaction, and so criticizes the apparent neglect of the heritage of conflict which the Afghan people have endured. Picquard suggests that, in order to improve, reforms should not be purely procedural but must also try to provide a societal link, potentially through the media and education. The general message is that attempts should be made to know and understand the population, so that the efforts at reconstruction can be more tailored to meet needs and consequently be more appreciated and successful.

Harper and Picquard both offer wise counsel, but their suggestions appear best suited to situations of peace and stability, where there will be more time to engage with and get to know the population. Picquard herself highlights how the lack of a stable peace in Afghanistan was a major hindrance to a more nation-orientated approach. And it is easy to imagine that this has been a major factor guiding the approach taken by the international actors involved in the reconstruction of Iraq.

The distance from a true peace is one of the main factors distinguishing Iraq from other post-conflict reconstruction efforts, and this makes it difficult to draw lessons from elsewhere. Another factor is the method by which the destruction came about. The fact of US and UK intervention, rather than civil war, as the cause of destruction, has meant that the element of transitional justice is much less than that found elsewhere. Also, the manner in which the intervention came about has led to the UN taking a back seat, in contrast to many other reconstruction efforts. Thus the emphasis in *Post-conflict Reconstruction* on the role of the UN – six of the ten chapters deal with aspects of the UN's role – lacks direct relevance for Iraq. Similarly, two chapters on justice in transitional administrations, from Harper and Carsten Stahn,

1 C. Warbrick, 'International Criminal Courts and Fair Trial', (1998) 3 *Journal of Armed Conflict Law* 45.

seem misplaced in a search for lessons for Iraq, but remain useful contributions to the broader discussion of post-conflict reconstruction.

Dirk Salomons's chapter warns that the benevolent intentions of the UN may lead to incorrect assumptions about its appropriateness as the institution for post-conflict reconstruction. He highlights the political dimensions which can undermine the credibility of the UN, in particular its selectivity, democratic mantra, and struggle for funding. These criticisms undermine the UN as an appropriate institution to some extent, but what would be more appropriate? Salomons makes no attempt to suggest an alternative. In view of the context it might have been useful to compare the appropriateness of the UN with that of the United Kingdom and United States acting independently. The difficulties encountered in Iraq dampen a possible argument that independent action, because of its cohesion and continued funding, may be preferable, and so strengthens arguments for UN involvement. Indeed, many of the difficulties encountered in Iraq might have been lessened if the UN, despite its failings, had been more involved.

The importance and variety of roles that the UN assumes in post-conflict reconstruction is highlighted in the other chapters on the UN. Peter van der Vaart's chapter charts the evolution of the role of the UN High Commissioner for Refugees (UNHCR) and sets out the parameters of their involvement in the return and protection of those displaced by conflict. Meaningful engagement with the local population, the call from earlier chapters, is likely to be difficult while a large proportion of the population remains displaced. The UNHCR has a vital role in this respect, but as Vaart highlights, there are many, often unseen, limitations to its involvement. Central to these, but not selected for attention by Vaart, is a common problem faced by most international actors, which is that they must work with the local government. This reality, which serves as a restraint, is absent from a lot of the literature, which instead concentrates on international transitional administration, where the issue does not arise because the international actors serve as the government.

In this respect *Post-conflict Reconstruction* manages to strike a good balance and includes accounts of a mix of situations. A strong example of this is Mohammed Salih's political analysis of state-building and its relationship with state collapse in Ethiopia, Kenya, Somalia, Sudan, and Uganda. Despite excellent accounts in each example of the issues at stake, the range of circumstances to be found makes the extrapolation of general lessons difficult. Salih stresses that in all the examples varying ranges of collapse and building coexist, and so indicates that state-building is never likely to be a project with a start and a finish. More specific lessons, of more relevance for the Iraq situation, might have been found had the samples been selected for similarities other than their East African location.

A strong tool to help encourage desirable policy choices is reference to international legal standards. Unfortunately, it is an over-dependence on such standards which contributors such as Harper, Piquard, and Stahn suggest may cause additional problems. It would therefore seem that a balance needs to be struck. This links with the overall lesson to be taken from the work, which is that, although there are common elements in post-conflict reconstruction, there is a huge range of contexts and so the balance struck will be different in every situation. The particular nature

of the Iraq example has made it especially difficult for commentators, in and beyond this work, to offer appropriate lessons from past practice.

Beyond Iraq, the work provides a useful overview of common problems faced by international actors in post-conflict reconstruction. It engages different disciplines which appear closely related and so is a call for more collaborative efforts. Post-conflict reconstruction is a subject on which relatively little continues to be written from a legal perspective. Therefore international lawyers may regret that policy considerations tend to dominate the work, and that those chapters which are more legally orientated tend to cover the already well-trodden ground of post-conflict justice. However, assessment of the policies which have been pursued may help to highlight whether, and to what extent, new international law in relation to post-conflict reconstruction is emerging. The international law issues remain contentious, but are at the heart of examples such as Iraq, and could serve in helping to determine the point at which the international reconstruction effort in Iraq actually ends.

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