

The Role of the United Nations in Reconstruction

- 5.1 Chapter 3 discussed some of the issues leading up to the deployment of a peace operation. This chapter will discuss some of the prerequisites necessary for the United Nations to leave behind a functioning, peaceful and secure state after a period of transitional authority. It will also examine these issues in relation to the United Nations' efforts in East Timor. While it may be possible for an outside force to stop the fighting between parties to a conflict, there is every likelihood that fighting will start again as soon as the force leaves or tensions re-emerge. Reconstruction of the basic infrastructure of a nation, both physical and institutional will be necessary to prevent this occurring.
- 5.2 The success of a peace operation is not easy to judge, but successful peace operations tend to be characterised by:
- a high level of cooperation by the parties to the conflict;
 - support from regional powers;
 - support for the operation within the Security Council; and
 - the existence of a comprehensive settlement agreement.¹
- 5.3 A comprehensive settlement agreement serves several purposes. Such an agreement provides a legal military mandate for peacekeepers, including rules of engagement for the use of lethal and non-lethal force. It formalises and legalises the consent of parties to a conflict, providing an impartial basis on which the UN can operate. As a corollary, a comprehensive agreement should describe the roles of the parties to the conflict, including their obligations, especially to refrain from fighting. Finally, a comprehensive agreement should spell out how a territory will
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1 Bratt, Duane, 'Explaining Peacekeeping Performance: The UN in Internal Conflicts' in *International Peacekeeping*, Autumn 1997, vol. 4, no. 3.

be governed during the period of transition including its legal system and specify future power structures to resolve disputes.

- 5.4 Thus, as part of any UN peace operation, an attempt should be made to reach agreement between the parties to a conflict. In so many cases, this is easier said than done – after all, if the parties to a conflict could resolve their differences without resorting to violence, there would be no need for a peace operation. While the agreement should be comprehensive, it should not be restrictive, but should spell out the obligations of, and benefits to each party to the conflict, including the UN itself. By the UN making specific commitments under the agreement, the parties to the conflict could be encouraged to see them as a partner to its solution, rather than as either an autocracy or a temporary administration quickly undone after it leaves. In this way, the parties can be shown not only the consequences of breaking the agreements, but the tangible benefits of abiding by them as well. Realistic goals and commitments are preferable to optimistic ones, or else these expectations are not likely to be met.

Performance Indicators

- 5.5 Comprehensive settlement agreements will create a set of expectations which need to be met by the parties to the conflict, the UN and its partners. In order to gauge the success of a peace operation greater use needs to be made of measures of effectiveness or performance indicators. Examination of the elements of the operation against specific goals and objectives will help to reveal which are working and which need review during the operation itself. Such measures of effectiveness can determine whether the original agreement is succeeding or failing to reach the desired end-state. They also assist in planning, in order to determine which elements of an operation need to cooperate in order to reach each measure of effectiveness.
- 5.6 In devising measures of effectiveness, it is useful to consider the state of at least seven sectors of society: political resolution, demilitarisation, basic needs, public security, governance, economy and civil society. The rehabilitation of these sectors will be necessary but not always sufficient conditions for the success of an operation.²
- 5.7 While there should be an overall goal associated with the peace operation, namely the planned transition to the host nation of all functions

2 Centre of Excellence in Disaster Management and Humanitarian Assistance. 'Transition and End State in Complex Emergencies' presentation during International Peacekeeping Seminar at Australian Defence Force Warfare Centre, November 2000.

performed on its behalf by peace operation forces, there need to be individual goals for each sector of the operation. Additionally, it is important to realise that while measures of effectiveness are most useful to determine the progress of an operation, they should be modified if they do not accurately reflect the situation in the field.

- 5.8 The individual measures which are developed for each of these sectors need to be focused on the tangible outputs they are to produce. For some sectors, these measures will be easy to devise and survey – for example, the percentage of refugees resettled, the number of crimes reported or the amount of aid reaching its destination. Others, such as progress towards political resolution will not be so easy to measure, though this need not prevent the creation of end-state criteria and measures of effectiveness to gauge the progress of political resolution.

Civil-military Operations

- 5.9 Unity of effort between the military and their civilian counterparts is of the greatest importance for the success of a peace operation. During previous peace operations, this relationship has not always been well defined or understood by either partner.
- 5.10 The role of aid providers, both government and non-government is of cardinal importance to the success of a peace operation. Such organisations bring vital expertise and experience in managing humanitarian relief operations. For many NGOs, their very *raison d'etre* is to provide specific kinds of humanitarian assistance. Indeed, without the provision of humanitarian assistance, any peace operation bears more resemblance to war rather than peace.
- 5.11 From the military perspective, civil-military operations consist of several types of activities, such as ensuring the security of the populace, civic action such as developmental projects, humanitarian assistance and civil defence. These operations help to improve relations with the local populace, to gather and disseminate information, and in these ways, to improve the coordination of the peace operation's efforts. Importantly, the military has access to the logistical capacity necessary to move sufficient material into an operational area and to protect it.
- 5.12 The advantage to the military from the civil-military relationship derives from at least two sources – cooperation between the military and their civilian counterparts will lead to improved performance, along with the development of a positive disposition of the local population towards the

peace operation itself. The latter point was made by the Australian Defence Association:

... the command and the individual troops must pay close attention to the welfare of the ordinary people who are not only the principal victims of the fighting, but whose support for the overall peace process is crucial. Moreover, in crude military terms, the local population is a prime source of tactical intelligence.³

- 5.13 Managing these operations involves the identification of important stakeholders within an area of operation, and where possible using and coordinating their resources to meet the mission's common outcomes. This will require the military interacting in the field with not only NGO personnel and the civilian populace they are to assist, but also with media organisations, religious leaders, local administrations and others. All of these relationships need to be managed in ways that are sensitive to cultures of the individuals and groups involved. Typically, these important relationships can be best managed on the ground through a central location within operational areas – more commonly known as a Civil-Military Operation Centre (CMOC). A CMOC, set up by the military, provides a safe and well-known area where civilian elements can meet and coordinate their activities with the support of the military.
- 5.14 For its part, the Department of Defence suggested that the distinctions between military and humanitarian assistance was not distinct, and describes the use CMOCs to coordinate assistance and logistical support:

It is becoming less important to maintain a clear demarcation between military and humanitarian assistance. The military by its very nature will have assets – personnel, vehicles, engineer plant, communications, aircraft, warehousing etc – essential for the conduct of its primary function that can also be used for humanitarian assistance. The military may be deployed to areas where there are no humanitarian agencies operating and there is an obligation to assist the affected population. A balance needs to be found between the level of support provided for this purpose and the quintessential task of security. A means to finding this balance is through the establishment of a Civil – Military Operations Centre (CMOC) for the purpose of coordinating the military contribution and personnel trained in the art of humanitarian assistance response. CMOCs cooperate with their civilian counterparts, UN Humanitarian Operations Centres

3 Australian Defence Association. Submission No. 5, p. 43.

(UNHOCs). The INTERFET operation has provided valuable practical experience in that area.⁴

- 5.15 However, ACFOA's submission raised problems that many NGOs have working with the military, especially in getting access to the logistical and other equipment necessary for large scale operations:

ACFOA member agencies also have serious concerns about the blurring of lines of responsibility when humanitarian workers/agencies work alongside military units of make use of military resources (e.g. transport). The logistic demands created by large-scale population displacement can normally only be met by the military, e.g. earthmoving equipment and heavy lifting capacity (especially planes and helicopters). Urgent consideration needs to be given to ways of making such equipment available to humanitarian agencies.⁵

- 5.16 The difference between the two cultures, military and civilian was reiterated by Ms Janet Hunt:

There is a deeper issue here, and that is how the culture of the military is different from that of the NGOs and the humanitarian effort generally. There needs to be more understanding on both sides of how the different players operate and what the particular standards are that we are trying to work towards. There were some suggestions, for example, that when the military went into parts of East Timor and said, 'It's all right, there's food', they had really no professional ability to judge that in terms of this charter and standards that the humanitarian actors are trying to work towards.⁶

- 5.17 By way of response, Ms Ali Gillies of AusAID described the relationship between military and civilian actors as a 'work in progress':

This is an area where the cooperation between the NGOs and the military—in fact all humanitarian actors and the military—is a work in progress. There has been a lot of learning done in pretty tough circumstances, absolutely on the cutting edge when things are at their most dramatic, and the story is not a hopeless one. I think the history of interventions in complex emergencies over the last decade or so shows that the actors, both military and civilian

4 Department of Defence. Submission No. 108, p. 1334.

5 ACFOA. Submission No. 101, p. 1107.

6 ACFOA. Transcript, 14 August 2000, p. 394.

humanitarian, bilateral partners and the multilaterals are all capable of learning.⁷

- 5.18 Despite the involvement of the military in humanitarian operations, the point must be made that militaries are generally very specialised institutions, more suited to war fighting than peace keeping. Although personnel in the ADF undertake additional training for peace operations, the primary task of the ADF is not humanitarian in purpose. This point was made clear by the ADF in its submission to the inquiry:

With few exceptions, the military is not the most appropriate organisation for post-conflict reconstruction. Given an appropriate security situation, the task of rebuilding should rest with the relevant national government, UN, non-government organisations and contractors. The use of military forces in reconstruction is an expensive option and one that most countries would prefer not to exercise. There has, however, been a limited role for the military in some UN Development Projects. For example, mine clearance and mine clearing training are important skills which the military can offer in such situations.⁸

Non-government Organisations

- 5.19 Because of their place within civil society, NGOs have certain abilities which make them invaluable partners within both humanitarian relief and peace operations. UNICEF submitted that:

NGOs' strengths lie in their flexibility, size and ability to react quickly in humanitarian crises. NGOs frequently have a strong on-the-ground presence in local communities and have the capacity to draw on their local expertise, including proficiency in the language, knowledge of customs and traditions.⁹

- 5.20 In particular, NGOs emphasise the role of local communities in reconstruction and aid work. Using local labour in this way provides employment for those in the area, either as payment in cash or in kind; it allows communities to tailor individual projects to their needs; it provides a sense of ownership of those projects; and it frees skilled UN or NGO personnel for other tasks.

7 AusAID. Transcript, 14 August 2000. p. 382.

8 Department of Defence. Submission No. 109, p. 1335.

9 UNICEF. Submission No. 84, pp. 826-7.

- 5.21 The United Nations Youth Association described the different way NGOs approach the issue of reconstruction and development:

NGOs are generally committed to long-term involvement with local populations, reflecting a belief in the importance of grass-roots participation in transition and reconstruction. UNYA believes that NGOs monitored and coordinated by the UN can thus offer a unique and important contribution to the process of reconstruction and urges the Australian Government to support the work of international NGOs and to provide financial assistance to domestic-based NGOs to carry out this vital task.¹⁰

- 5.22 Although the work performed by NGOs is indispensable, there is also a need to ensure that the staff of NGOs act responsibly, appropriately and in an accountable fashion when participating in peace operations. In particular, some actions by aid providers have unintended consequences which may exacerbate in the long term the very situations they are trying to correct. However, evidence received during this inquiry indicated that within Australia, the NGO sector did have standards which govern their activities, such as ACFOA codes of conduct for NGOs, the Sphere Project's agreed minimum standards in humanitarian disaster relief, and the 'do no harm' approach to providing development assistance.

Code of Conduct

- 5.23 ACFOA's Code of Conduct for NGOs sets out the basic requirements which NGOs need to meet in order to be accredited by ACFOA. The code sets standards for NGOs in areas of financial probity, organisational structure and complaint handling. Without this accreditation, NGOs are unable to receive funding from AusAID to carry out development projects. ACFOA's submission to this inquiry described concerns about the accountability of the NGO, and described the code of conduct to maintain high standards in the sector:

Concerns about the skills and mandates of some NGOs which have arisen as a consequence of the rapid growth in NGO numbers are being met by the NGO sector through the NGO Code of Conduct and training programs. ACFOA is playing an active role in developing and upholding NGO standards embodied in the Code of Conduct.

- 5.24 The United Nations Fund for Children (UNICEF) described their support for the role of NGOs, but also called for adequate accountability on their part:

10 UNYA. Submission No. 47, p. 317.

UNICEF supports the participation of NGOs in emergency and humanitarian relief programs. It is important, however, that the use of NGOs be met with corresponding requirements for their accountability. UNICEF supports the Australian Government's requirements that all NGO's receiving funding from the Government demonstrate adherence to the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Government Organisations in Disaster Relief.¹¹

- 5.25 The committee believes that the code of conduct developed by the Australian Council for Overseas Aid has been a valuable addition to the process of accountability for domestic NGOs operating from Australia. The committee notes that similar efforts are being made in the international sphere. These are described below. It urges the United Nations to continue these efforts at greater NGO accountability.

The Sphere Project

- 5.26 The Sphere Project's *Humanitarian Charter and Minimum Standards in Disaster Response* was created during 1997 to create minimum standards for humanitarian assistance operations. The purpose of the Project's Charter and minimum standards is to increase effectiveness and accountability of NGOs working in situations of disaster response.
- 5.27 The Sphere Project provides great detail for minimum standards in water supply and sanitation, nutrition, food aid, shelter and site planning and in health services. Importantly, each standard sets key indicators which provide information on the quality of the delivery of these humanitarian needs. Mr Graham Tupper of AusAID described the Sphere standards in more detail:

One other instrument which is going to become much more useful and effective in the future are these Sphere standards, because this is the first time that, broadly, a body of NGOs, as well as the UN bodies UNICEF and UNHCR, have endorsed and adopted these standards whereby they can go in and know exactly what is expected of each other player. Whatever action is necessary to coordinate activities within a country—and each country is a bit different because of the complex nature of the emergency—these standards represent quite a move forward in progress. And just to give you a very brief flavour, they are not general standards—when it talks about water supply it talks about a standard in terms of an indicator of at least 15 litres of water per person per day, the

11 UNICEF. Submission No. 84, p. 827.

maximum distance being 500 metres from any nearest shelter.
They are very clear standards.¹²

- 5.28 Although the circumstances of individual humanitarian relief operations will always be unique, the standards that the Sphere Project sets are constant. These are minimum standards for the maintenance of life and as such, should apply in all humanitarian operations. In particular, the committee is heartened by the commitment of many NGOs to meet these standards, especially as the resources available to NGOs for humanitarian relief will always be finite.

'Do No Harm'

- 5.29 While there is a great need for humanitarian assistance during conflict, its provision may allow the parties to continue fighting for longer. This can occur through the theft and subsequent sale of aid or by the way aid agencies provide services during the conflict which the factions would otherwise provide, thus freeing up resources for fighting. Similarly, these agencies sometimes pay taxes to allow the delivery of aid to areas controlled by factions in the fighting.
- 5.30 During the last decade, the international community has learned that not all aid is good for a developing state. Corruption, theft or mismanagement can all thrive on aid provided simply to meet an arbitrary aid target. Similarly, sometimes developing states cannot absorb the volume of aid directed at them, either because its infrastructure has reached its capacity or because there are few projects which will actually bring benefit for those it is intended.
- 5.31 In recent years, the NGO community have taken steps to review and correct the ways in which their efforts can lead to negative unintended consequences. In its submission to the inquiry, World Vision Australia described the 'do no harm' approach to the provision of humanitarian assistance:

An important additional component for training modules would be the 'do no harm' approach to humanitarian intervention. This approach (as proposed by Dr Mary Anderson) makes field staff aware of the impact of their programs and actions on the local socio-political, economic and cultural environment. It cautions against actions that may increase local tensions and instructs on recognising and strengthening those linkages or 'connectors' which can bring people (enemies) together – being grounded in

12 AusAID. Transcript, 14 August 2000, p. 397.

the old principle that 'development' (or peace) occurs when people come together in their own interests.¹³

Law Enforcement and Justice

Civilian Policing

5.32 Civilian policing is among the aspects of peace operations which has received the most focus during recent years, because of the much broader nature of UN peace operations. The demand for competent civilian police for a peace operation arises because of their utility: apart from regular policing duties, civilian police have also been used for monitoring election sites, disarmament and demobilisation, and for the training of new civilian police forces. Civilian police can ensure security during a peace operation without resorting to military force.

5.33 The Australian Defence Association's submission to the inquiry described the difference between military force and law enforcement, and suggested a greater reliance on the latter:

... the use of military force in peace operations should be driven more by concepts of law enforcement than of defeat of a designated enemy. It may also suggest that, in the context of traditional peacekeeping, the use of military forces should be kept to the absolute minimum with more reliance being placed upon police or gendarmerie.¹⁴

5.34 Federal Agent Andy Hughes informed the committee that Australia's support for civilian policing within peace operations has been extensive. In particular, the Australian Federal Police make the most valuable contribution by providing specialist skills to peace operations:

Australia, being a developed country, has much to offer in the UN peacekeeping efforts in general with civilian policing. It is our view that we can provide far more than simply numbers on the ground, the arms and legs. We have got particular skills, which other developed countries share—we are not unique in that regard—but we see that we can play a far more effective role in certain targeted positions. Examples are training positions, such as in East Timor, where we are trying to develop an East Timorese police force, or in operationally focused positions, intelligence

13 World Vision Australia. Submission No. 99, p. 1007.

14 Australian Defence Association. Submission No. 5, p. 42.

positions and command positions, rather than just providing numbers. So I am talking about targeting key roles.¹⁵

- 5.35 The training provided to Australian Federal Police prior to deployment on a peace operation included a program to build on their existing skills, although the committee was informed that new arrangements were in preparation:

We are currently developing a more extensive program of training, which will be associated with our peacekeeping reserve. At the present time, however, we ensure that anyone being deployed overseas undertakes a specific pre-deployment training program. That builds on the core skills that they learn in other police training programs, particularly in community policing, and it is specific to the mission.¹⁶

- 5.36 The issue of whether civilian police in a peace operation should be armed was also raised with the committee. Federal Agent Andy Hughes described the AFP's position on the matter:

The AFP's philosophy and policy on this is that it can frequently be an aggravation to factions in these strife-torn states to see foreign police armed. We do not want to become part of the problem; we see ourselves very much as part of the solution. We rely more on negotiation and engagement with the community rather than being seen as an aggressor. Being armed, in many instances, can present that image.¹⁷

Justice

- 5.37 An issue closely related to civilian policing is that of the justice and legal systems which are used during peace operations, and for the period following a peace operation. It is an issue which was brought to the committee's attention within submissions and within the UN's own Brahimi report.

- 5.38 Ms Dallas Adair from the Key Centre for Ethics, Law, Justice and Governance at Griffith University informed the committee about research within the field of law and justice during peace operations:

Some interesting research has been done on this and there seems to be two schools of thought. One is that you simply go in with a justice system, a rule of law, and you plonk it in place and

15 Australian Federal Police. Transcript, 21 March 2001, p. 444.

16 Australian Federal Police. Transcript, 21 March 2001, p. 443.

17 Australian Federal Police. Transcript, 21 March 2001, p. 443.

everything will automatically work. This is a bit of a residual approach from the post-colonial period. Primarily Anglo-American legal advisers go in and they install a system and it works. The World Bank, on the other hand, has a slightly different approach which says, 'Fine, you need a rule of law and a justice system, but you also need to somehow keep the people occupied, otherwise you are going to have division between the haves and the have-nots and you are going to get consolidation of power with those within the justice system—the in-crowd as it were. The rest of the people have nothing to do and resent them.' So there are two camps on this.¹⁸

- 5.39 The Brahimi report remarks on the difficulty of adapting legal systems to individual missions, and notes that UN staff operating the legal system would have to learn an individual legal system for each new mission. The report notes new research being undertaken on a method of establishing a legal system for use during peace operations:

Such research aims at a code that contains the basics of both law and procedure to enable an operation to apply due process using international jurists and internationally agreed standards in the case of such crimes as murder, rape, arson, kidnapping and aggravated assault. Property law would probably remain beyond reach of such a "model code", but at least an operation would be able to prosecute effectively those who burned their neighbours' homes while the property law issue was being addressed.¹⁹

Elections

- 5.40 The principle of self determination has always been central to the ideals of the United Nations, identified in Article 1(2), 73(b) and 76(b) of the Charter. The creation of the UN was partly in order to facilitate the decolonisation of new states throughout the world.²⁰ More recently, however, the UN has been making greater use of elections and referendums within peace operations. This has followed an acceptance within the UN and its member states that successful resolutions to situations of conflict can require the establishment of democratic institutions. An increasing emphasis on good governance practices by

18 Key Centre for Ethics, Law, Justice and Governance. Transcript, 4 July 2000, p. 92.

19 *Report of the Panel on United Nations Peace Operations*. 2000. United Nations, New York, p. 14.

20 AEC. Submission No. 79, p. 699.

international financial institutions, the UN, donor governments and NGOs has reinforced this trend.

- 5.41 While democratic elections can be flawed by corruption, by non-participation or by violence and intimidation, free and fair elections have unique qualities which can make them an essential part of peace operations. Democratic elections provide legitimacy to an elected group or individual, which also provides for acceptance of that state's sovereignty by other states. Legislatures can promote peace and stability by allowing a society to resolve disputes through negotiation, rather than fighting. They are also important for the protection of human rights, by providing representation to the various groups within a society.
- 5.42 UN participation in election monitoring can operate on several different levels – from the conduct and counting of ballots, to the certification of results, logistical support or merely observation of a state's electoral processes. Election monitoring by the UN can provide additional legitimacy by certifying that an election is indeed free and fair, or alternatively can bring to light those discrepancies within an electoral process.
- 5.43 Two of the elements most important to electoral operations are a secure environment for voting, and a requirement for significant logistical capabilities in order to conduct such operations. These two factors tend to be provided by the military components of an operation requiring close cooperation described above.
- 5.44 Mr Michael Maley of the AEC speculates on the reasons why some electoral operations succeed where others fail. Some of the key reasons are:
- a general acceptance of the validity of the state;
 - war weariness;
 - lack of political alternatives;
 - withdrawal of outside patronage;
 - the international legitimacy of a free and fair election; and
 - the use of incentives to participate.²¹

21 AEC. Submission No. 79, pp. 708-9.

East Timor

- 5.45 Members of this committee visited East Timor on two occasions, once as a committee in December 1999 and later as a Parliamentary Delegation during February 2001. This provided us with an opportunity to compare and contrast the state of the reconstruction efforts in East Timor, both under INTERFET and later under UNTAET. In the report of our initial visit in December 1999, we noted that:

Without exception, members of the Committee were shocked by the level of systematic devastation evident in both Dili and Suai. Dili has been left with little remaining infrastructure and many of the buildings have been reduced to burnt out shells.²²

- 5.46 The follow up report of the Parliamentary Delegation suggested that while reconstruction was proceeding, for most East Timorese, it was not happening quickly enough:

Now East Timorese are slowly rebuilding their lives with the support of Australia and the UN, and taking control of the governing of their newly independent country. While delegation members are concerned over the pace and priority of the UN effort, there is no doubt that major change has been effected in a relatively short period of time.²³

Criticisms of the UN

- 5.47 Following the transfer of authority from INTERFET in February 2000, the United Nations Transitional Authority in East Timor (UNTAET) has been criticised for the slow pace of reconstruction and the great disparities of wealth between UN staff and the local populace.

Slow Pace of Reconstruction

- 5.48 Members of this committee have expressed significant concerns about the lack of reconstruction and development progress in East Timor. Mr Peter Nugent MP of the committee described his experience in East Timor as it related to the UN's reconstruction efforts:

Putting it simply, we went there 14 months apart and I would have expected on the second visit to see an awful lot more reconstruction to have occurred than we actually saw, given the

22 JSCFADT. *A Visit to East Timor*. December 1999. Canberra, pp. 13-14.

23 Parliamentary Delegation to East Timor. *Report of a Parliamentary Visit to East Timor*. March 2001. Canberra, p. 33.

resources that the world has put in there ... But there is very little evidence that substantial reconstruction has gone on. There is no agreed law, no agreed language, no agreed currency and all the rest of it ... the Public Service is extremely lacking, as is the physical reconstruction. Given that there is so much manpower available—untrained and unskilled in large measure—that could be put to actually rebuilding physical infrastructure, I would have expected to see much more happen in more than 12 months, given the amount of attention, resources and money it has got.²⁴

- 5.49 In response, Mr Scott Dawson of AusAID noted that the United Nations was responsible for transitional administration, and should not be seen as a panacea for employment problems within a territory:

It is neither the function of the United Nations nor the East Timor transitional administration to employ people; its function is to get a job done. It should employ as many people as it needs to do that job. I do not think we can say the fact that there may be a very large number of people who are out of work in Dili and who are not gainfully employed is the responsibility of the United Nations. What needs to happen to reduce that employment problem is for private sector activity to begin.²⁵

- 5.50 Mr Dawson also noted that the employment situation within East Timor was not necessarily better and was not sustainable under the administration of Indonesia:

We must remember, I suppose, that we are looking at a situation where there was always a very high residual degree of unemployment. Much of that unemployment under the Indonesian administration was soaked up by a very heavily overstaffed public sector. As you have noted, since the crisis there has been a very large drift of people to Dili. It is not the responsibility of the United Nations to solve the unemployment problem.²⁶

- 5.51 However, as part of the UN's reconstruction efforts in East Timor, OCHA uses Quick Impact Projects (QIPs) to rehabilitate public facilities rapidly on the basis of priorities established by East Timorese in each community. QIPs are designed to demonstrate the ability of UNTAET to respond in a timely fashion to pressing local needs. Mr Dawson described the use of these short-term, temporary employment projects:

24 Nugent, Peter. Transcript, 22 March 2001, p. 571.

25 AusAID. Transcript, 22 March 2001, pp. 571-2.

26 AusAID. Transcript, 22 March 2001, pp. 571-2.

... I think there was a concerted effort, and an effort which still goes on, to create as many jobs as quickly as possible in activities which were basic reconstruction activities. So there was a lot of work which went on in terms of simply clearing up the rubble out of the streets, clearing drains, cutting grass on the sides of roads—those sorts of things. A number of donor funding from Australia, the United Kingdom, the United States as well as funding through the World Bank and UN agencies was devoted to those sorts of temporary employment programs.²⁷

- 5.52 The Director-General of AusAID, Mr Charles Tapp admitted that as an exercise, the East Timor operation was not perfect:

Certainly there were aspects of the East Timor operation that could have been improved on—for example, management of the shelter program, the overall challenge of involving local counterparts and displaced people themselves in planning and managing relief activities. But in the circumstances, and given the scale of the disruption to communities and basic infrastructure, the UN response in East Timor provides some very positive lessons learnt which can be built on in determining approaches to other complex humanitarian emergencies. We will certainly be working to build on those lessons learnt.²⁸

- 5.53 A significant problem is that an emphasis on centralisation and efficiency can detract from the principles of local participation. This fact is recognised by the United Nations in an *Interim Report of the Secretary-General on the United Nations Transitional Administration in East Timor*. The report notes that despite some US\$35 million spent from the Trust Fund for East Timor 'A policy of using maximum labour and inputs has been followed to create employment and build the local economy and capacity, even if, in some cases, it has resulted in slower delivery'.²⁹

Disparities of Wealth

- 5.54 An aspect of reconstruction which has been common, especially during peace operations in developing nations is the contrast in wealth between the local populace and UN and other international workers. Ms Sue Downie compared the situation which she experienced in Cambodia with the situation in East Timor:

27 AusAID. Transcript, 22 March 2001, pp. 571-2.

28 AusAID. Transcript, 14 August 2001, p. 373.

29 United Nations. 'Interim report of the Secretary-General on the United Nations Transitional Authority in East Timor' posted on 2 May 2001. www.un.org/Docs/sc/reports/2001/436e.pdf, visited on 22 May 2001.

The ... problem experienced in Cambodia, and which I think is being repeated now in East Timor, is resentment from the local population towards the UN. Firstly, there is resentment from the local leaders that the UN is taking or controlling their positions, especially in administration; and, secondly, resentment from the general public because the UN staff have better resources, salaries, cars, houses, access to restaurants, while unemployment remains at 70 per cent to 80 per cent in East Timor. These matters are cause for resentment. We saw the same thing in Cambodia but I think it is more dramatic in East Timor. The gap between the two is wider in East Timor.³⁰

- 5.55 Ms Downie described her experiences of the differences between the rich and poor she witnessed in Cambodia:

There was not enough interaction. It was almost like two worlds. There is them and us. Some of the UN international staff would be driving around in their big four-wheel drive vehicles taking up parking spaces that the Cambodians were used to having and driving excessively fast and dangerously. They killed Cambodians on the road and there was a huge report on this and how many accidents there had been. It is an attitude thing.³¹

- 5.56 Ms Downie had several suggestions to make as to an improved approach to reconstruction and development:

One of the key elements of a development program is participatory development—including the local people so they make the decisions. First, they recognise the needs and they make the decisions on what is going to happen and they implement it and evaluate it. They own the program, and in that way it is much more sustainably ... The test of sustainability is when the patrons withdraw, when the UN leaves and when the international community leaves. Unless the foundations are solid it is going to fall in. One way of making that solid is to involve the local people—participatory development.³²

- 5.57 Participation by the indigenous population during the period of transition is vitally important to ensure that the system does not simply collapse again upon the withdrawal of the UN. Methods such as individual training and shadowing arrangements for smoothing this transition necessarily imply greater costs and effort. However, it is not always possible to find some specialist skills needed for the mission in country. It

30 Downie, Sue. Transcript, 6 July 2000, p. 299.

31 Downie, Sue. Transcript, 6 July 2000, p. 301.

32 Downie, Sue. Transcript, 6 July 2000, p. 301.

may be possible where a nation's social infrastructure has been so badly run down that it would not be possible to staff some positions without years of additional education or training. Mr Charles Tapp of AusAID described the problems associated with local participation in reconstruction in these terms:

... the engagement of the local communities and local population at a very early stage ... is a particularly difficult issue when you are working in an environment—what one might call a failed state environment—where there is a limited array of institutional mechanisms or what have you within which you are actually able to mobilise the local community support.³³

5.58 Professor Stanley Johnston described the dilemma facing the UN during peace operations in attracting qualified and experienced staff willing to leave their homes and families and relocate to the area of the operation:

... in order to attract people of sufficient calibre to come and work in another country, in a mission, the UN has to pay decent salaries. I do not think that is going to change. I do not think there is any way around it, but the UN must keep in mind this enormous gap between what its people are earning and what the locals are earning.³⁴

5.59 On the one hand, the salaries of UN and international employees are a vital part of a region's economic reconstruction, distributing vital foreign currency throughout the economy. However, the problems associated with such a sudden and dramatic influx of foreign currency are significant: the inflation in price of basic goods; the great disparities of wealth between the local population and international workers; and resentment towards UN and NGO staff. Of perhaps even more concern is the effect on the local economy during the UN's withdrawal, depressing previously inflated prices, reducing economic growth and generally lowering the amount of money available in the economy. Both these aspects of reconstruction – inflation and deflation will necessarily be better managed over a longer period of time.

Refugees

5.60 The violence which followed the result of the referendum in 1999 caused many East Timorese to leave their homes, some driven to other parts of East Timor, some into Indonesian West Timor. The repatriation of these refugees remains a concern for both the UNHCR and UNTAET.

33 AusAID. Transcript, 22 March 2001, p. 570.

34 Downie, Sue. Transcript, 6 July 2000, p. 299.

- 5.61 While some 180,000 refugees have returned already, and though there are refugees returning to East Timor from West Timor almost daily, there are estimated to be some 100,000 still in West Timor. Misinformation and intimidation by militias against refugees who may want to return has made this process more difficult. It was further complicated, the committee was told, by the fact that most of those who wanted to return may already have done so.
- 5.62 Following the killing of three UNHCR workers, that organisation withdrew from activities in West Timor, to the great detriment of those refugees remaining.

Justice

- 5.63 As part of UNTAET's mandate to provide security and maintain law and order throughout East Timor, the operation has been authorised to deploy up to 1,640 civilian police. As of 31 March 2001, there were 1,375 civilian police deployed in the territory. The current civilian police component in East Timor was armed, unlike the earlier experience of officers serving under the UNAMET mission.
- 5.64 Mr Andy Hughes of the Australian Federal Police explained that 99 AFP officers were currently serving in East Timor for which the AFP receives A\$25 million supplementary funding.³⁵ In accordance with its responsibilities to support capacity building for self government, UNTAET established a police force in April 2001, and is training some 3,000 civilian police by April 2003.
- 5.65 Several internal security incidents have been reported since the arrival of UNTAET in February 2000. In the initial stages of the operation, these centred mainly around the lack of employment. More recent incidents have involved violence between members of the Popular Committee for the Defence of the Democratic Republic of East Timor (CPD-RDTL) and the East Timor National Liberation Front (FRETILIN). This involved the destruction of 40 houses and the displacement of 600 people, and required the use of tear gas and police reinforcements to restore control to the situation.³⁶

35 Australian Federal Police. Transcript, 21 March 2001, p. 448.

36 United Nations. 'Interim report of the Secretary-General on the United Nations Transitional Authority in East Timor' posted on 2 May 2001. www.un.org/Docs/sc/reports/2001/436e.pdf, visited on 22 May 2001.

Political transition

- 5.66 In the case of East Timor, power was originally concentrated in the hands of the Special Representative of the Secretary-General, but has since been devolved downwards. The 15 member National Consultative Council (NCC), a fledgling legislative body was created on 8 December 1999 in order to consult with East Timorese through their representatives and thereby improve communication with UNTAET. On 13 July 2000, the NCC was disbanded and replaced by a larger, 33 member National Council. The Council was again expanded on 23 October 2000, and is comprised of 36 members - 13 from political parties, 13 from individual districts in East Timor, 7 from civic organisations, 3 from religious groups and 13 of the representatives are women.
- 5.67 Other power sharing arrangements have included the creation of a transitional cabinet of nine portfolios. Five of these nine transitional cabinet positions are occupied by East Timorese: Foreign Affairs; Internal Administration; Infrastructure; Economic Affairs; and Social Affairs. The remaining four portfolios are occupied by UN-appointees: Police and Emergency Services; Justice; Political and Constitutional Affairs; and Finance.

Elections

- 5.68 While the referendum of 30 August 1999 established the basis for East Timorese independence, the creation of a legitimate, democratic nation will require the conduct of elections, which is one of the UN's functions in East Timor.
- 5.69 East Timor's first election of an 88 member Constituent Assembly is scheduled to occur on 30 August 2001, two years after the initial referendum on independence. The Assembly will elect a single representative from each of East Timor's thirteen districts, and will elect the remaining 75 through proportional representation.³⁷
- 5.70 Mr Michael Maley of the AEC discussed concerns about the timing of the election in the following terms:
- The question of the choice of timing for a poll as part of a broader political development process which has been going on in East Timor now for much of the time that UNTAET has been deployed is really a very ticklish one. It reflects not just the mechanics of running an election but also how they see it fitting into a timetable for constitutional development for having developed the

37 United Nations. 'East Timor Schedules First democratic elections for 30 August 2001', posted on 16 March 2001. www.un.org/peace/etimor/news/N160301.htm, visited 22 May 2001.

administrative structures of the East Timor transitional administration that has been set up to the point where they will be ready for some sort of handover from the UN to the domestic authorities once an election has taken place.³⁸

- 5.71 In order to ensure that the elections are free and fair, the UN will supervise the work of a newly created Independent Electoral Commission within East Timor. A program of civics education has also been established, promoting the Constituent Assembly election, human rights, peace, stability, security and democracy.
- 5.72 Mr Michael Maley described how the international community would provide assistance to the electoral process, but would leave its administration to the Independent Electoral Commission:

... we are conscious of the fact that it would not be helpful to the Timorese in the long run if international people were to come in and actually do all of the electoral and related tasks, because then the Timorese people themselves are not going to have the experience of running an election and learning how to do it themselves. Our focus this time is not so much on providing direct support to the election process. They are supporting this capacity building, which they will get the Timorese themselves involved in.³⁹

- 5.73 The AEC has provided training in order to support the ability of local officials to conduct the elections, as described by Mr Paul Dacey:

The AEC accordingly worked with the UN over a period of weeks in August and September 2000 to develop a proposal for an AEC capacity building project based on the course to be implemented in East Timor in 2001 in the closest cooperation with UNTAET. AusAID indicated at an early stage that it was interested in funding the proposal and such funding was subsequently approved by the Minister for Foreign Affairs.⁴⁰

- 5.74 However, Mr Dacey of the AEC informed the committee that:

... the AEC stands ready, subject to funding and to the approval of the Minister for Foreign Affairs, to explore how the AEC might be able to assist the United Nations Transitional Authority in East Timor with the implementation of its electoral mandate in the coming years.⁴¹

38 Australian Electoral Commission. Transcript, 21 March 2001, p. 452.

39 Australian Electoral Commission. Transcript, 21 March 2001, p. 453.

40 Australian Electoral Commission. Transcript, 21 March 2001, p. 451.

41 Australian Electoral Commission. Transcript, 21 March 2001, p. 451.

Western Sahara

One example of the United Nations' inability to resolve international conflict successfully has been its involvement in the decolonisation process in Western Sahara. It demonstrates that despite the continuing commitment of outside powers, including the permanent members of the Security Council, the existence of a settlement agreement including a referendum, no resolution can be achieved unless the parties are committed to a resolution through compromise.

The dispute over the sovereignty of Western Sahara is rare in that it was subject to a decision of the International Court of Justice (ICJ) in 1975. The ICJ was asked to rule on whether Western Sahara was 'terra nullis' prior to Spanish occupation and if not, whether there were ties to the Kingdom of Morocco and the country of Mauritania.

The Court found that while there were ties between these countries and some tribes in Western Sahara '...the Court's conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity'. Despite the assertions of Morocco in particular, neither country could claim territorial sovereignty over Western Sahara under international law.

The conflict which continues today has its origin in 1975 when Spain, the former colonial power of Western Sahara withdrew. The neighbouring Kingdom of Morocco took administrative control of Western Sahara from Spain, and soon fighting began with the Popular Front for the Liberation of Saguia el Hamra and Rio de Oro (Polisario) a movement supported by Algeria. Western Sahara's third neighbouring country, Mauritania joined the conflict against Polisario in 1975, but withdrew from the conflict four years later.

A settlement plan was initiated by the Security Council in 1988, to include a cease-fire, the organisation of a referendum, the repatriation of refugees, and exchanges of prisoners of war. The cease-fire took effect in 1991, and the United Nations Mission for the Referendum in the Western Sahara (MINURSO) was formed. However, the slow implementation of the plan meant that voter identification did not start until 1994. The position of the Kingdom of Morocco on this issue was described to the committee by Morocco's Ambassador to Jakarta, H E Omar Hilale in these terms:

Morocco...hopes fervently that this issue, which has mobilised a great deal of its energy, and prevented our region from devoting more attention to development...will find a lasting and just solution within the framework of the international legality and the UN Security Council resolutions.

Some acknowledged problems of the process have included accurately identifying those voters eligible to participate in the referendum, the exclusion of some voters by Polisario, undue influence by the Moroccan Government and a lack of transparency of the process. One of the only positive aspects of the process is the retention of the cease-fire of 1991. The situation has all the signs of a stalemate, unable to please both parties, and seemingly without possible resolution, as a recent report of the Secretary-General noted:

...further meetings to seek a political solution cannot succeed unless Morocco...is prepared to offer or support some genuine and substantial devolution of governmental authority for all inhabitants and former inhabitants of the Territory.

Lessons Learned

- 5.75 The committee accepts that there are compromises which have to be made during the reconstruction of an administered territory. The most obvious complaint – that reconstruction is a lengthy process – cannot be easily remedied. The very complex nature of establishing a fledgling administration from scratch is necessarily a process which will require much time. The economic impacts of reconstruction, while positive overall, also have negative consequences in the short term.
- 5.76 The experiences of the UN in attempting to create or reconstruct states has not been good. The failure to successfully conclude the UN mission in Somalia showed that more carefully considered outcomes are required. Some of these problems are improving – for example, the absolute necessity of consulting with the local populace in a genuine way, and to accommodate their concerns as much as possible. Mr Scott Dawson told the committee that he believed the UN had learned the need for greater participation with local populations as a result of its experience in East Timor:

A lesson which I think is perhaps more broad than simply Australia's experience was the way in which humanitarian operations relate to local partners. I think one of the criticisms which has been made of the initial humanitarian response was that

it did not do enough to identify competent East Timorese partner organisations at an early date to identify how to work with them, to give them authority and really to empower them to be organising communities and to carry out humanitarian relief work at an early stage. I think that is something which, clearly, has come through in the United Nations' own assessments of performance.⁴²

5.77 Another element of cooperation which has been improved has been that between the military and civilian arms of a peace operation. Mr Charles Tapp suggested that AusAID had also learned from its experiences in East Timor, and had further developed already good relations with the ADF:

... we have taken much of the lessons we have learnt out of Timor into some of the way that we are developing our programming in a number of other countries in the Pacific and Indonesia within the arc of insecurity that we often talk about. We have also looked to be further developing what were already, I think, very good relations that we had with the Australian Defence Force.⁴³

5.78 There are a number of phases of peace operations, ultimately leading to the planned transition to the host nation of all functions performed by a peace operation. In order to achieve this end state, the phases of peace operations are demarcated as:

- peace enforcement and emergency;
- peace building and reconstruction; and
- transition to host nation and development.

5.79 Moving towards an end-state through these phases is complicated. Some reconstruction activities, such as the restoration of security, distribution of emergency food aid or provision of emergency shelter are most relevant at the outset of a peace operation. However, as the peace operation progresses, it will become necessary to undertake other priorities, in many cases while the earlier operations continue. Thus, while reconstruction efforts may begin to rehabilitate infrastructure for transport, peace operations do not stop providing emergency aid or shelter where it is needed during this period. As the operation progresses even further, the development of institutions such as a justice system, a police force, a civil service and a legislature should be integrated into existing efforts, rather than approached anew. Mr Rod Barton believed that planning for peace operations needed to take account of this ambiguity:

42 AusAID. Transcript, 22 March 2001, p. 5.64

43 AusAID. Transcript, 22 March 2001, p. 563.

Whilst it is inevitable that in any peacekeeping operation the emphasis of activity changes as peace is restored and the State's priorities shift to the restoration of civilian infrastructure, it is desirable that these are not conducted as distinct phases. I believe it is important that planning and preparation of nation re-building activities begin with the start of peacekeeping operations and be properly integrated with the military elements of peacekeeping: in effect, the adoption of a holistic approach.⁴⁴

- 5.80 Just as it is not possible to separate security from reconstruction, nor is it possible to separate the provision of aid from either security or reconstruction. Security through preventive action and the provision of development assistance is the subject of the next chapter.

44 Barton, Rod. Submission No. 25, p. 160.

