



Kosovo between War and Peace

**Nationalism, Peacebuilding
and International Trusteeship**

Edited by

Tonny Brems Knudsen and Carsten Bagge Laustsen

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Kosovo between War and Peace

Peacebuilding and reconstruction of war-torn societies have increasingly taken the shape of *de facto* trusteeship arrangements, with the ongoing administration of Kosovo being the primary example. This book examines the obstacles to reconciliation and social reconstruction in Kosovo, and discusses the potential and problems of the revived trusteeship institution.

Bringing together international scholars such as Michael Pugh, Mark Baskin and Arne Johan Vetlesen, the book presents the latest empirical knowledge alongside detailed theoretical analysis. After a re-examination of the background factors that continue to hamper the attempt to administrate and reconstruct the society of Kosovo, primarily the nationalist ideologies and the still growing record of ethnic violence, the book analyses the key challenges local parties and the international community have encountered in the country including the ones associated with the reconstruction of local governance, the educational system and the economic sector as well as the question of Kosovo's status.

More generally, the volume asks whether the revived international trusteeship institution is the way forward for international society when faced with reconstruction challenges of the scale of Kosovo, Bosnia, East Timor, Afghanistan and Iraq. In this perspective, it discusses the underlying liberal aspirations as well as the ramifications of the increasing securitization, militarization and great-power domination of international trusteeship arrangements indicated by the examples of Afghanistan and Iraq. Fundamental questions concerning the relationship between trusteeship and sovereignty, national self-determination and the potential of world organization are raised as well.

This book will be of great interest to all students of Balkan politics, peace-keeping, intervention, the UN, international relations and security studies in general.

Tonny Brems Knudsen is Associate Professor of International Relations at the University of Aarhus. He has published a number of books and articles on international intervention and conflict resolution, international law, UN, and IR theory including *Humanitarian Intervention: Contemporary Manifestations of an Explosive Doctrine* and co-edited with Knud Erik Jørgensen *International Relations in Europe: Traditions, Perspectives and Destinations* (both Routledge, 2006). **Carsten Bagge Laustsen** is Associate Professor at the University of Aarhus where he teaches political theory, international relations theory and sociology. He has published numerous articles and books including *The Culture of Exception: Sociology Facing the Camp* (Routledge, 2005) and *In the Shadow of Terror* (Samfundslitteratur, 2004, in Danish), both with Bülent Diken.

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**Edited by Tonny Brems Knudsen and
Carsten Bagge Laustsen**

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Preface and acknowledgements

As this book has taken shape, the challenges and pitfalls of the new international trusteeships in Kosovo and beyond have become more and more evident.

In Kosovo, the pattern of nationalism, mythmaking and revenge has taken on a seemingly permanent character. At the same time, the difficulties associated with societal reconstruction in the absence of clarity concerning future status have become all too clear. In addition, there are increasing doubts as to whether the western model of liberal democracy and capitalism can and should be transferred to war-torn societies like Kosovo without damage-controlling measures and a sensibility towards local traditions and circumstances.

In the more recent examples of Afghanistan and Iraq, the revival of international trusteeship has become securitized to a hitherto unseen degree: military trusteeships designed for an imposed liberal-democratic transformation of dictatorships as a means in the 'war on terror' instead of United Nations (UN) trusteeships which – although hardly innocent when it comes to purposes of ideology and security – have been designed as a follow-up to humanitarian intervention as in Kosovo and East Timor. Finally, the return to international trusteeship has given rise to some critical political, normative and theoretical questions concerning the consistency of the institutional framework of international society.

In critical and constructive analyses of the return to trusteeship in Kosovo and beyond, the essays in this book shed further light on these specific and general challenges in an attempt to uncover their causes and point to possible ways forward for international administrators, local authorities and international society as a whole. It is our hope that these endeavours will prove to be of value to the practitioner as well as the theorist, to the student as well as the researcher.

It has been a great pleasure to work with the contributors who have taken on board several rounds of our comments, in spite of the fact that their contributions were already skilled and inspiring as first drafts. We would also like to express our warmest thanks to general editor Michael Pugh for supporting this project, and to secretary Helle Bundgaard for invaluable assistance with the manuscript. Our biggest debt is to Chris Freeman, who has provided strong linguistic assistance and many helpful comments on the book as a whole as well as on a number of draft chapters including the opening one.

Tonny Brems Knudsen and Carsten Bagge Laustsen

Acronyms and abbreviations

AAK	Alliance for the future of Kosovo
UNAMA	United Nations Assistance Mission in Afghanistan
CoE	Council of Europe
CIM	Chief of the Implementation Mission
DESK	Developing an Education System for Kosovo
DOS	Democratic Opposition
DSR	Deputy Special Representative
EU	European Union
EUA	European University Association
FRY	Federal Republic of Yugoslavia
ICG	International Crisis Group
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDEA	International Institute for Democracy and Electoral Assistance
KEWR	Kosovo Early Warning Report
KLA	Kosovo Liberation Army
KFOR	Kosovo Force
LDK	Democratic League of Kosovo
MEST	Ministry of Education, Science and Technology
NATO	North Atlantic Treaty Organization
NDI	National Democratic Institutions
NGO	Non-Governmental Organizations
OHR	Office of the High Representative
OSCE	Organization for Security and Cooperation in Europe
PDK	Democratic Party of Kosovo
PIC	Peace Implementation Council
PISG	Provisional Institutions of Self-Government
RAE	Roma, Ashkallia and Egyptians
SCR	Security Council Resolution
SMES	Serbian Ministry of Education and Sports
SRSG	Special Representative of the Secretary-General
UNAMI	United Nations Assistance Mission for Iraq
UNDP	United Nations Development Programme
UNESCO	United Nations Educational Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIK-DoES	UNMIK Department of Education and Science
UNTAET	United Nations Transitional Administration in East Timor
UNTAES	United Nations Transitional Administration in Eastern Slavonia
USAID	United States Agency for International Development

1 The politics of international trusteeship

Tonny Brems Knudsen and Carsten Bagge Laustsen

At the beginning of the twenty-first century, the practices of international intervention, peacebuilding and the reconstruction of war-torn societies have reached a stage of ambitious *de facto* trusteeship arrangements with the ongoing international administration of Kosovo as the primary, but by no means exclusive, example.¹ This book examines the obstacles to reconciliation and social reconstruction in Kosovo in the context of what is neither war nor substantial peace. It also discusses the potential and problems of the revived trusteeship institution more generally, as well as its ramifications for the institutional machinery of international society. The resultant collection of essays is thus an attempt to combine practical knowledge and theoretical analysis.

At the practical level, the book discusses a number of the major problems, challenges and dilemmas that the local parties and the international community have encountered in Kosovo including how to develop effective, inclusive and accountable local government; how to construct an educational system capable of stimulating integration and development instead of ethnic separation and exclusion; how to accomplish the partly opposed goals of reconstructing the province while avoiding renewed ethnic and international strife over its future; how to counter crime and the dysfunctional aspects of liberal economic reform, and how to handle the specific challenge of Kosovo's future status. The book also re-examines the background factors that continue to influence and hamper the attempt to administrate and reconstruct the province, most importantly the nationalist ideologies, the myths and the record of ethnic violence.

At the more general and theoretical level, the book asks whether international trusteeship is the way forward for the international community, when faced with reconstruction challenges of the scale of Kosovo, Bosnia, East Timor, Afghanistan and Iraq. In perspective, it also discusses the ramifications of the increasing securitization, militarization and great-power domination of international trusteeship arrangements indicated by the examples of Afghanistan and especially Iraq. The book thus contains discussions that span two markedly different periods and contexts of international trusteeship arrangements, namely the internationalism of the 1990s on the one hand, and the 'war on terror' following 11 September 2001 on the other.

Finally, the book asks how the institution of international trusteeship – a set of principles and practices which are highly interventionist and ambitious in their political nature and strongly solidarist in their moral aspiration – can be incorporated into the still predominantly Westphalian institutional foundations of international society. With its temporary transferral of authority from the national to the super-national level and with its almost inevitable opening of the question of self-rule, international trusteeship cannot be separated from difficult questions of state sovereignty and national self-determination. In the present collection of essays, these more fundamental and institutional aspects of the move from comprehensive peacebuilding to international trusteeship are addressed in terms of the specific problem regarding Kosovo's future status, and the general question of trusteeship as a midway-station to independence for secessionist nations and territories.

These questions and ambitions are reflected in the structure of the book which includes: two chapters on the importance of nationalism, myths and atrocious conduct as the seemingly almost inescapable background and context of the peacebuilding endeavours of the UN-trusteeship in Kosovo; four chapters on key aspects of the ongoing reconstruction of the province including the performance of UNMIK, local governance and democracy, the educational system and crime and capitalism; and three chapters on key issues regarding the relationship between international trusteeship and international society including the regulation of sovereign membership of international society, national self-determination and future status and the role of liberal ideology in contemporary international trusteeship arrangements.

This introductory chapter opens with a general discussion of trusteeship as an emerging institution of international society before moving on to a brief presentation of the main themes covered by the contributors.

Trusteeship as an institution of international society

The tendency that agents acting in the name of international society – most notably the UN but also other international organizations like the EU, NATO and the OSCE, non-governmental organizations and states – take on a far-reaching responsibility for war-torn societies can be traced at least as far back as UN Secretary-General Boutros Boutros-Ghali's ambitious plan for a comprehensive reconstruction of war-torn, starving and generally failed Somalia in his report to the UN Security Council of 3 March 1993, and the ensuing UN Security Council Resolution 814 of 26 March. In the latter, a number of tasks were defined for the UN operation including humanitarian relief, the maintenance of peace, stability, law and order, and assistance with respect to political reconciliation and the re-establishment of a national police force and civil administration throughout the country.²

Although the humanitarian intervention in Somalia has generally been seen as a failure,³ the UN was soon engaged in other comprehensive peacebuilding activities, some of them amounting to *de facto* international trusteeships. The clearest

examples of such operations include Bosnia (1995) and Eastern Slavonia (1996) following the Balkan Wars; East Timor following the vote for independence in the 1999 referendum and the ensuing international intervention to bring an end to the anti-secessionist atrocities and ensure that the Indonesian government would stick to its promise regarding independence; and Kosovo following the uprising, the atrocities and the NATO intervention in 1998–9.⁴

For a number of reasons, it is useful to dwell a moment on other less obvious cases, which can and should be considered in the debate over the revival of international trusteeship as well: Afghanistan following the US-sponsored toppling of the Taleban regime in 2001 and, more controversially and problematically, Iraq following the US-led attack on and occupation of the country in 2003.⁵ As for the international involvement in the reconstruction of Afghanistan, it seems to be more correct to say that this has taken the character of a strong ‘helping hand’ rather than an international trusteeship or protectorate. This distinction was made by the International Crisis Group (ICG) at an early point in the debate, but with reference to Bosnia and Kosovo respectively.⁶ However, given the far-reaching powers of the UN High Representative in Bosnia not only to guide, but also to overrule the Bosnian authorities, and considering also the increasing will of the High Representative to use these powers from 1998 onwards, it is more correct to characterize Bosnia following the 1995 Dayton Peace Agreement as a *de facto* trusteeship, although Kosovo remains the clearest example along with East Timor. In contrast, the UN-sponsored peacebuilding assistance to post-Taleban Afghanistan, following the December 2002 Bonn meeting, with respect to security, the formation of a new government, and technical, humanitarian and financial assistance could adequately be seen as a helping hand, or as something in between ‘partnership’ and ‘control’ to use the categories that have been proposed by Jarat Chopra.⁷

This restricted level of engagement compared to cases like Bosnia, Kosovo and East Timor have prompted writers like Roland Paris and Richard Caplan to ask whether the UN involvement in the reconstruction of Afghanistan should in fact be interpreted as a retreat to the model of a ‘light footprint’.⁸ However, as also indicated by these writers, the main reason for the less ambitious and more cautious UN approach in Afghanistan (as well as in Iraq) might very well be found in the colossal operational challenges involved and in the internationally controversial backgrounds of full-scale war in these two cases rather than in a retreat from the trusteeship model as such. It should be added, in any case, that neither Paris nor Caplan seem to believe that the light UN footprint and the associated great-power unilateralism is the way forward for international society in complex peacebuilding.

Turning to the administration of Iraq following the fall of Saddam Hussein, this has a background of full-scale war and a highly doubtful legal justification as evident from the widespread resistance to the resort to force in and beyond the UN Security Council in the winter and spring of 2003.⁹ Since the post-war administration of Iraq has, on top of that, involved great-power dictate, occupation (which formally ended 30 June 2004)¹⁰ and the temporary rule of a US governor,

it might preferably be referred to as a 'military trusteeship' or a 'military governorship' to underline the differences compared to trusteeship arrangements authorized, orchestrated and run by the UN.

Given the relatively modest involvement of the UN and other representatives of the international community in Iraq, there is also a justification for arguing that such cases are not examples of any kind of international trusteeship or protectorate at all.¹¹ The preamble of UN Security Council resolution 1483 of 22 May 2003 formally and expressively stipulated that the US and the UK had the status of occupying powers under international law (formulated as a statement of a fact and not as an authorization), and the role, or anticipated role, of the UN since then has been one of supporting the occupying authorities and the new Iraqi authorities rather than one of administrating the country on a mandate from the international community.

On the other hand, UN Security Council resolution 1483 (paragraphs 8 and 9) also envisaged a potentially far-reaching UN-organized assistance to the reconstruction of Iraq (and so did resolution 1511 of 16 October 2003) including civilian administration, police and law. As argued by the UN Secretary-General's Special Representative to Iraq at the time, Sergio Vieira de Mello, who was killed in the terrorist attack on the UN headquarters in Baghdad on 19 August 2003, resolution 1483 was sufficiently unclear to allow the UN's role in Iraq to develop with the situation.¹² Although de Mello added that the UN could not replace the Coalition Provisional Authority it is not inconceivable that the UN could have assumed administrative functions and authorities approximating a *de facto* international trusteeship for a transitional period, if the position of the Authority (meaning essentially the US) and the security conditions in the country had been more conducive.

It did not turn out this way, but there is a point in reserving the terms of a military trusteeship or a military governorship to describe Iraq following the war in 2003 (at least until the formal end of occupation on 30 June 2004)¹³ in order to bring attention to the risk that the revived trusteeship institution associated with UN-sponsored examples like especially Kosovo and East Timor will increasingly be taken over and run by great powers: actors who will be motivated more by security concerns than by humanitarian concerns, who will be thinking and acting more along unilateral than along collective lines, and who will be organizing their presence more as an occupation preparing the society in question for the 'right' kind of rule than as a transitional administration preparing a people for self-rule or self-determination. In the present volume, this actual and potential development in the contemporary revival of international trusteeship is put into critical perspective by Michael Pugh (Chapter 7), who sees some of these tendencies already in the case of Kosovo as for the economic and the ideological aspects, and Chris Freeman (Chapter 10), who discusses the securitization of the trusteeship institution as such with a number of examples, and also including Afghanistan and Iraq.

This is a timely and highly relevant critique since cases like Kosovo, Afghanistan and Iraq have demonstrated that there is not necessarily any entirely clear and consistent line¹⁴ between unauthorized war and occupation on the one

hand and UN-authorized intervention and trusteeship arrangements on the other, just as it is sometimes very difficult to separate the goals of humanitarianism and international order from the goals of national security and national interest. UN-authorized trusteeship and peacebuilding arrangements may follow upon an unauthorized resort to force (no matter whether force was used for humanitarian reasons as in the case of Kosovo or for a mixture of national and international security as in the case of Afghanistan) and military occupation may continue alongside a UN-authorized and UN-orchestrated peacebuilding operation which could possibly even amount to an international trusteeship, although the foreign presence in Iraq has not been taken that far into grey-zone complexity.

These reflections may lead to the following observations concerning the politics of the revived trusteeship institution: First, it is helpful to distinguish between military trusteeships (or governorships) in which the governance and reconstruction of the society in question is dominated by (formally or *de facto*) occupying powers as in the case of Iraq, and UN trusteeships where these tasks are in the hands of UN administrators and (in varying degrees) their local, organizational and state partners as in the cases of Bosnia, Eastern Slavonia, Kosovo and East Timor.

Second, in their ideal forms both of these models of outside administration are unlikely to be found very often in reality. On the one hand, great powers are also likely to play a central role in UN trusteeship arrangements as evident in the case of Kosovo. On the other hand, great powers will rarely want to do completely without the expertise, the resources and the legitimacy of the UN in the administration of war-torn or contested societies as indicated even in the divisive case of Iraq, where the US asked the UN to take part in the reconstruction of the country despite the fact that the invasion had been widely deplored in the UN Security Council and the General Assembly, and by Secretary-General Kofi Annan.

Third, although each case is unique, most academic and political observers would presumably agree that all other things being equal, the legitimacy of an international trusteeship is going to be higher, the greater the involvement of the UN, the clearer the original legal case for interventionist measures, and the clearer the humanitarian and international security concerns. If this is a correct observation, we are likely to witness bigger legitimacy problems concerning the establishment and running of trusteeship arrangements under the current anti-terror agenda than under the neo-internationalist agenda associated with the 1990s.¹⁵ Since '9/11', the 'war on terror' has conquered ground from the doctrines of human rights and humanitarian intervention, and in spite of some Third World scepticism towards the latter, the former is likely to be seen as a more controversial point of departure for peacebuilding and trusteeship projects, unless the case for intervention is, at the very least, as legally and politically clear as in Afghanistan following the attacks on New York and Washington on 11 September 2001.

Arguably, an anti-terror case for military intervention and political reconstruction like the one of Afghanistan in 2001 is likely to enjoy as much support as a humanitarian case like the one of Kosovo in 1999. However, in the context of the

'war on terror', the US has launched and so far not withdrawn two doctrines that remain unlikely to command widespread international support and approval, namely the doctrine of preventive use of force and the doctrine of the coalition of the willing as the heart of multilateralism.¹⁶ Whereas humanitarian intervention is by definition a matter of extreme urgency and necessity (unless the right is simply abused), any preventive use of force is bound to attract international resistance on the grounds that it was not required and thus not justified. Consequently, trusteeship arrangements are likely to have a better start with respect to international legitimacy and backing, no matter whether the initial resort to force has been authorized by the UN or not, if it grows out of a humanitarian intervention (or a response to a clear and imminent threat to peace and security) instead of a preventive attack. This is at least the message that follows from a comparison of Kosovo (1999) and Afghanistan (2001) on the one hand and Iraq (2003) on the other. To this it must be added, that no imposed international trusteeship arrangement is likely to be seen as legitimate in international society, unless it rests upon a mandate from the UN Security Council. However, when the case for intervention is doubtful, a mandate basis for the reconstruction is not always enough, as illustrated by the widespread international reluctance to offer the ongoing reconstruction of Iraq wholehearted support.

Definitional and institutional aspects

As evident from this preliminary discussion of relevant cases and their political implications, a number of terms have been applied and suggested for the extension of international responsibility and administration of war torn-societies since the early 1990s. Some scholars prefer the terms that have become the UN's own in cases like Kosovo, namely 'interim administration' and 'transitional administration'¹⁷ referring to the temporary assumption of governmental functions by the UN and its state and organizational partners over territories and peoples that have been left in a potentially fatal political vacuum, for instance because of civil war, systematic crimes against humanity, state failure, territorial disputes or outside military intervention.¹⁸

Others refer to 'comprehensive peacebuilding' which, following former UN Secretary-General Boutros Boutros-Ghali's 1992 'Agenda for Peace', can be defined as 'efforts to identify and support structures which will tend to consolidate peace and advance a sense of confidence and well-being among people'.¹⁹ This term captures a number of the activities involved in subsequent examples of ambitious administration of war-torn and contested territories such as Kosovo and East Timor including the reforming of governmental institutions as suggested already by Boutros-Ghali in 1992. Consequently, the term also signifies the readiness of the UN to take on increasing responsibilities in such complicated operations through the 1990s as is evident from the gradual drift from traditional peacekeeping to wider peacekeeping, peace-enforcement, humanitarian intervention and, ultimately, the civil, political, social and economic reconstruction of entire societies.²⁰

However, some observers, among them a number of the contributors to this volume, find that there is more to it than the assumption of more and more responsibilities in the work for peace. As stated by Lene Mosegaard Søbjerger (chapter 4), peacebuilding means that the UN takes on far-reaching responsibilities for the society in question, but it does so working with the government of that society. In cases like Kosovo, the UN *becomes* the government as evident from UN Security Council Resolution 1244 of 10 June 1999 which provided for the establishment of the 'United Nations Interim Administration Mission in Kosovo' (UNMIK) with responsibility for promoting substantial autonomy, carrying out basic civilian administration, organizing the establishment of democratic institutions, supporting the reconstruction of infrastructure and the provision of humanitarian aid, maintaining law and order, protecting human rights and assuring the safe return of refugees.²¹

Clearly, the assumption of such powers and authorities by representatives of the international community amount to a qualification or cancellation of state sovereignty, meaning that both its internal and external aspects are affected.²² Internally, the supreme right of a state to govern itself is temporarily annulled. Externally, the mutual recognition of state sovereignty – which has for centuries been the basis of coexistence and participation in international society with all rights and duties under international law – becomes less clear-cut, since the outside administration temporarily brings a hybrid political actor into play. Furthermore, judging from recent examples, this typically happens as a consequence of a military intervention which the former sovereign authorities would, at a minimum, have preferred to avoid. At the same time, arrangements like the ones in Kosovo and East Timor inevitably reopen sensitive questions concerning national self-determination and the potentially super-national authority of world organization. The political, legal and institutional machinery of international society is affected at a fundamental level.

For these reasons, Kosovo and similar cases of comprehensive international administration of war-torn and contested territories should be discussed in terms that capture this fundamental institutional dimension and its historical precedents: (1) International *protectorates* referring especially to the institutionalized practice under the League of Nations of entrusting a dependent area to an advanced state which was in turn responsible to the League and on whose behalf it was to administer the mandate, either relatively permanently (type B and C) or temporarily until the mandate was ready to gain full independence as foreseen at the outset (type A).²³ (2) International *trusteeships* referring to the International Trusteeship System and Council (established under Chapter XII and XIII of the UN Charter) under whose supervision the state entrusted with the task took it upon itself to prepare the territory in question for the explicit goal of self-government or independence.²⁴

Although both terms and the associated principles, institutions and practices are, to varying degrees, burdened with colonial connotations they seem to capture much of the content of present-day governing arrangements including to a considerable degree the institutionalized element, as the UN – led by the UN Security

Council and the Secretariat – has taken it upon itself to authorize, establish, run and oversee such arrangements. Admittedly, the supervisory powers and mechanisms of the redundant Trusteeship Council are more clearly defined than the ones that are evolving from the case-by-case initiatives taken by the Security Council since the middle of the 1990s, and the will and ability of the Security Council and the Secretariat to oversee trusteeship arrangements like the ones in Kosovo and East Timor can also be questioned.²⁵ However, the Security Council and the Secretariat provide a legal framework and a degree of political accountability, supervision and control which, in a number of respects, resemble the earlier protectorate and trusteeship institutions in spite of the fact that today, the world organization is no longer supervising administrating states, but its own agencies, representatives and partners.²⁶

First, the composition of the Security Council resembles the one of the Trusteeship Council, which was supposed to include the five veto-powers as well as a balanced representation of trusteeship powers and states without such responsibilities.²⁷ The five veto-powers are also represented in the Security Council which is at any time likely to include states that take active part in a trusteeship arrangement and states which do not. Furthermore, the Third World is always represented. Second, the Security Council has the necessary authority and legitimacy to put a territory under international administration, and to create a legal basis and framework for the exercise of it, as evident from the adoption of resolutions like 1244 on 10 June 1999 on the governance and reconstruction of Kosovo. Third, there is an element of control and accountability in today's trusteeship arrangements in so far that the Special Representatives report to the UN Secretary-General, who in turn reports to the Security Council. The Security Council and the Secretary-General may furthermore decide to launch investigations or fact-finding missions, and new resolutions or directions may be adopted. This element of supervision and accountability is further strengthened by the participation of a range of other international and non-governmental organizations whose presence increases the likelihood that misrule and failures will come to the critical attention of the international public. Kosovo, to take the primary example of this book, is in fact administrated by a veritable network of international organizations, arranged in and around the four pillars of UNMIK.²⁸ For all its shortcomings, stemming from its incremental evolution and pragmatic nature, the potential of the current informal trusteeship machinery might not be as weak as one might think, when compared to the formal one of the Trusteeship Council.

What terms like 'international protectorates' and 'international trusteeship' emphasize in particular, however, is the authoritative decision by representatives of international society to resort to institutional arrangements which depart from the strict Westphalian model of international order in which states are the only bearers of rights and duties under international law. It is not least in these respects that present-day governing arrangements like the one in Kosovo amount to 'an international trusteeship in everything but name' as it has – with concern and a call for caution – been formulated by Robert Jackson, a leading defender of Westphalian or 'pluralist' international society.²⁹ In Kosovo, East Timor, Eastern

Slavonia and Bosnia, the international administration has (more or less completely) been entrusted not to a particular state, but to the United Nations acting through the special representatives of the Secretary General in cooperation with a number of organizational and state partners. Like before, the relevant territories and societies are placed under the protection of the international community with the promotion of the well-being and self-governance or independence of the people in question as the declared goal. But in the openness towards a variety of territories and societies as potential candidates for temporary administration, in the strong role of world organization and in the implicit or explicit assumption that the international administration cannot go on permanently (and certainly not along colonial lines), but must give way to self-determination or independence, the post-Cold War revival of outside administration of war-torn and contested territories comes closer to the UN trusteeship system than to the protectorates of the League of Nations.

Consequently, we prefer the term 'trusteeship', which can be defined as the temporary (although sometimes relatively permanent) assumption of governmental authority over a territory and its population by the UN or other representatives of the international community based on a relatively stable and institutionalized set of habits and practices shaped towards the comprehensive reconstruction of war-torn societies and the management of contested territories with the declared aim of promoting the (re)establishment of orderly and just affairs in domestic society, the normalization of its international relations, and a progression to self-rule or, sometimes, independence from the former sovereign authorities.

Following the vocabulary, though not the listing of examples, of Hedley Bull and the English School, international trusteeship can thus be seen as a fundamental or semi-fundamental institution of international society: a set of principles, practices and habits 'shaped towards the realization of common goals'.³⁰ This institution may not be as fundamental as to be indispensable to international society as implied by Hedley Bull's (but to a lesser extent his source of inspiration, Martin Wight's) historical and sociological usage of the term 'fundamental institutions'. It is, as already indicated, also as open to abuse and malfunction as other fundamental institutions like war and the balance of power. However, the resort to international trusteeship arrangements can in some, although not in all, situations be seen as a reflection of concerns for international order and international justice. In Bosnia, Kosovo and East Timor, the former sovereign authorities had demonstrated a lack of will or ability to provide for orderly and just conditions. At the same time, atrocities, civil war, outside intervention and territorial disputes had left a political vacuum which for reasons of international stability called for a temporary international governance of these areas. In some cases, international trusteeship is therefore first of all a pragmatic response to the breakdown of order and justice, and at a moment in world history where it is increasingly difficult to separate domestic from international sources of disorder, it would be a loss for the international community if private great-power ambitions, value-imperialism or a lack of resources should eventually lead, once again, to an abandonment of this institution.

The potentially positive effects of international trusteeships on regional stability and international order should be taken into account on the positive side when considering the relevant, but not necessarily decisive, concerns raised by 'pluralist' writers like Robert Jackson and Will Bain that a revival of international trusteeship is at odds with fundamental organizing principles of international society, not least those relating to sovereignty, and that this has profound political and moral implications for questions of freedom and self-determination.³¹ The pluralist calculation should weigh the potentially negative effects of trusteeship arrangements against what can be gained in terms of the prevention of further war, conflict and atrocities. To 'solidarist' writers, there is, potentially, even more to gain from international trusteeships than order.³² Given that trusteeships are in their ideal form expressions of collective management, global responsibility for peoples at risk, and the belief in the capacity of international society to govern, it is also a strong project of international solidarity and global governance. Moreover, as long as the UN and leading quarters in the international community are from time to time prepared to prevent crimes against humanity and genocide by the use of force, they can hardly do without international trusteeship as a part of the international institutional machinery when intervention gives way to reconstruction.

In the institutional and political perspective on international trusteeship unfolded in this book, it means less that as a part of his 'In Larger Freedom' reform program, UN Secretary-General Kofi Annan has proposed that Chapter XIII of the UN Charter should be deleted (meaning that the Trusteeship Council will be formally closed rather than just suspended), and that the member states seem to have agreed on this at the high-level plenary meeting of the UN General Assembly in New York 14–16 September 2005 (the September World Summit). For historical and especially colonial reasons, it would have been very difficult to reopen this organ in any case. It is worth noting, however, that Annan has also proposed – and obtained support for this at the World Summit – the establishment of two new peacebuilding units, namely a Peacebuilding Commission and a Peacebuilding Support Office (to be situated in the Secretariat).³³ The rationale of the member states for taking this decision was 'the need for a dedicated institutional mechanism to address the special need of countries emerging from conflict towards recovery, reintegration and reconstruction', and the purposes of the Peacebuilding Commission will be 'to bring together all relevant actors to marshal resources and to advise on and propose integrated strategies for post-conflict peacebuilding and recovery' with 'attention on the reconstruction and institution-building efforts necessary for recovery from conflict'.³⁴

Although the language is expressed in the less explosive terms of post-conflict peacebuilding, the new commission and its support office are likely to get involved in the full range of peacebuilding activities also including at times genuine trusteeship arrangements comparable to the one in Kosovo. Moreover, the dual structure of the new commission means that it is going to be preoccupied with the general and organizational aspects of peacebuilding as well as country-specific reconstruction. The first-mentioned tasks are in the hands of the standing