Chapter 14

International Administration, the Light Footprint and Beyond

Although the level of UN participation in these cases was very different, the components of the reconstruction process were largely identical. The powers entrusted to the UN in the case of Kosovo and East Timor were manifestly far more comprehensive than in Afghanistan or Iraq. The Afghan light-footprint approach encompassed a very limited mandate for the UN, but the Bonn Agreement and its annexes nevertheless revealed many similarities with the reconstruction process in the other cases. The same is true for the reconstruction process in Iraq, where the first phase resembled that in Kosovo and East Timor, while the second stage, after the dissolution of the CPA, was very similar to the Afghan scenario.

The nature of authority will of course directly influence the capacity of the actors to engage in the reconstruction process. It is in particular the exercise of vast administrative powers by unelected international administrations which has been the subject of many criticisms of their ‘autocratic’ character. However, although such a critique is founded on the inherent paradox between the means and the ends of international administration, condemning the autocratic nature of international administrations does not take into account the context of these missions, or the practical consequences of one approach as opposed to the other in terms of achieving the objectives of post-conflict reconstruction. From a legal point of view however, such as critique is unfounded. As noted in a previous chapter, the granting of administrative powers to international actors is not only in conformity with the UN Charter, it can be argued that it also does not violate other international legal rules, such as that of self-determination.

There are nevertheless inherent problems associated with these types of administrations and missions. The question of centralising executive and legislative

powers within one institution indeed raises some questions with regard to, for example, accountability. Chopra for instance compared the status of UNTAET to that of a “pre-constitutional monarch in a sovereign kingdom”.\textsuperscript{1277} In the case of Afghanistan, the nature of international authority can of course not be criticized, but in Iraq the critique of the ‘autocratic’ character of the authority can be reiterated with regard to the CPA in the first stage of the process. An analysis of these critiques nevertheless reveals that they are directed at more the way in which the administration was exercised than the concept of international or foreign administration itself. One should indeed be aware of the setbacks which have occurred in UN-led international administrations, which are however mostly related to the prerequisite of adequate planning. We will therefore start with an overview of the influence of planning and the nature of authority on the reconstruction process, before turning to the necessity of having a comprehensive approach and the question whether the evolutions we described in this book can be interpreted as leading to a new international legal framework.

A. UN Involvement, Planning and the Nature of the Transitional Authority

The analysis conducted did reveal many inconsistencies and deficiencies in UN-led administrations. Several critical issues have not or have been insufficiently addressed in the cases of Kosovo and East Timor. Lack of planning at the UN level, especially with regard to the deployment of CIVPOL officers and international staff, is to certain extent inherent in international administrations, and should be addressed at the UN level. In East Timor, the early planning of the withdrawal of the mission and the programmed independence resulted in the reluctance of the international administration to address certain issues. The need for adequate planning is equally one of the main conclusions of the Brahimi report:

\textit{The struggles of the United Nations to set up and manage those operations are part of the backdrop to the narratives on rapid deployment and on Headquarters staffing and structure in the present report. […] No other operations must set and enforce the law, establish customs services and regulations, set and collect business and personal taxes, attract foreign investment, adjudicate property disputes and liabilities for war damage, reconstruct and operate all public utilities, create a banking system, run schools and pay teachers and collect the garbage – in a war damaged society, using voluntary contributions, because the assessed mission budget, even for such “transitional administration” missions, does not fund local administration itself. In addition to such tasks, these missions must also try to rebuild civil society}

\textsuperscript{1277} Chopra, \textit{supra} note 10, p. 29.