



**UNITED NATIONS AT CROSSROADS: INTERNATIONAL
ADMINISTRATION OF TERRITORIES AND DOMESTIC POLITICAL
CULTURES.
THE KOSOVO AND EAST TIMOR EXPERIENCE**

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Abstract:

Chapter VII has only been invoked twice for the establishment of international territorial administrations, in East Timor and Kosovo. Despite the institutional and political heritage of similar operations under the League of Nations and the United Nations framework, these two operations, seem to be established not only in an institutional vacuum due to the absence of a definition in the Charter, but also in an unsystematic manner, following a case by case approach in the selection of territories to be administered, the means for the implementation of 'international governance' and the final goals of these operations. These structural deficiencies influence the processes of civic society building, which is essential for the successful implementation of institutional reforms and consensual resolution of conflicts, elements that constitute the main pillars of peace-building operations. In this paper the institutional and conceptual framework of this new generation of operations is presented followed by an examination of the evolution of the concept of international governance and its contribution to the transition processes of the domestic political cultures in the territories concerned.

Keywords: International administration; peacebuilding; East Timor; Kosovo; governance; political culture; civic culture.

Resumen:

El Capítulo VII solo ha sido invocado en dos ocasiones para el establecimiento de administraciones territoriales internacionales, en el caso de Timor Leste y Kosovo. A pesar del legado institucional y político de estas operaciones similares bajo el mandato de la Liga de Naciones y el marco de las Naciones Unidas, parecen establecerse no sólo en un vacío institucional debido a la ausencia de una definición en la Carta de las Naciones Unidas, sino también de una forma no sistemática, siguiendo un enfoque casuístico en relación con la selección de los territorios a ser administrados, los medios para la ejecución de la "gobernanza internacional" y los fines últimos de estas operaciones. Estas deficiencias estructurales influyen los procesos de construcción de identidad cívica, lo cual es esencial para la ejecución de las reformas institucionales y la resolución consensual de conflictos, elementos que constituyen los principales pilares de las operaciones de construcción de paz. En este artículo el marco institucional y conceptual de esta nueva generación de operaciones es presentado con un examen a continuación, de la evolución del concepto de gobernanza internacional y su contribución al proceso de transición y las culturas políticas domésticas en los territorios concernidos.

Palabras clave: Administración internacional; peacebuilding; Timor Leste; Kosovo; gobernanza; cultura política; cultura cívica.

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1. Governance of territories by international organizations: a new practice?

The dawn of the 21st century was marked by important developments for the United Nations. Apart from the Millennium Declaration, the ongoing reform process and the new security challenges that emerged, the Security Council adopted two very important resolutions under Chapter VII on the administration of territories namely, East Timor and Kosovo.

The exercise of territorial prerogatives by an international organization is not a new concept.² Its roots are traced in the League of Nations practice. In the beginning of the 20th century, the League of Nations undertook similar responsibilities for the region of Saar³ or the cities of Danzig and Leticia.⁴

Nevertheless, both operations are different, not only from the League of Nations' first attempt of what could be defined as "territorial" international governance but also from the other more recent UN administration projects in Cambodia,⁵ East Slavonia,⁶ West New Guinea⁷ or Mostar and Bosnia-Herzegovina,⁸ since their mandates did not only aim to establish peace in the region but they constituted, either clearly stated in their mandates or not, a prelude to statehood.

² Wilde, Ralph: "Representing International Territorial Administration: A Critique of Some Approaches", *EJIL*, vol. 15, no. 1, (2004), p. 81.

³ The 15 year successful administration of the Saar region by an international commission appointed by the League of Nations ended up with the conduct of a referendum that granted the area to Germany. See MacQueen, Norrie (2006): *Peacekeeping in the International System*, London-New York, Routledge, pp. 35-38.

⁴ Danzig was declared a 'Free City' under the 'guarantee of the League of Nations'. For a period before the establishment of the 'Free City' status quo, it was administered by a British official supported by a British-French security force. The city of Leticia was also administered by a League of Nations governing commission. *Ibid*, pp. 39-41, and Khun-Bleimaier, John: "The Legal Status of the Free City of Danzig 1920-1939: Lessons to be Derived from the Experiences of a Non State Entity in the International Community", *The Hague Yearbook of International Law* (1989), pp. 69-93.

⁵ In the case of Cambodia, the resolution establishing the United Nations Transitional Administration adopted under Chapter VI presupposed the consent of the Supreme National Council. See SC Res745 (1992) 28th February 1992.

⁶ The United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) established by Security Council Resolution 1037 (1996), 15th January 1996, oversaw the reintegration of this territory into Croatia within a 2-year transitional period.

⁷ It is one of the first operations of its kind established within the United Nations framework. Given the Cold War political environment the Temporary Executive Authority and Security Force (UNTEA/UNSF) its presence in the area was a success. The operation was deployed during 1962-1963 and the outcome of the United Nations' involvement was defined: the aim was a transfer of territory under the control of the Netherlands to Indonesia. See GA Res 1752(XVII) 21st September 1962 and MacQueen, *op. cit.*, p. 148.

⁸ Security Council Resolution 1305 (1995) 21st December 1995, established the United Nations International Police Task Force and a United Nations civilians office. "The creation of the Office of the High Representative was a *sui generis* international entity created by the Dayton Peace Agreement and over time it asserted the right *inter alia* to impose legislation and dismiss elected government officials" see Wilde, *op. cit.*, p. 82. The mandate of operation, known as the United Nations Mission in Bosnia Herzegovina, was expanded by a series of Security Council Resolutions.



1.1. The Institutional and Conceptual Framework of International Administration under Chapter VII

As far as the institutional status of the operations in East Timor and Kosovo is concerned, it should be noted that the Charter does not provide a definition for administering territories, with the exception of the Trusteeship System.⁹ Establishing territorial administrations under Chapter VII constitutes an institutional novelty of the 90s. These operations belong to the post Cold War generation of operations established by resolutions that link the traditional concept of “threat to international peace and security” with the need of intervention on humanitarian grounds.¹⁰

As far as their conceptual framework is concerned they are part of the broad category of peace building operations.¹¹ The concept of post-conflict peace-building emerged in the early 90s in the Agenda for Peace as the “*opportunity for post-conflict peace-building, which can prevent the recurrence of violence among nations and peoples*”.¹² In the Agenda for Peace Supplement the concept of post conflict peace building is further specified through the enumeration of concrete measures namely “*demilitarization, small arms control, institutional reform, improved police and judicial systems, human rights monitoring, electoral reform and social and economic development*”.¹³ The same document introduced operations of that kind as “*multifunctional*”.¹⁴

Finally, the Brahimi Report published in 2000 refers to the operations in East Timor and Kosovo as “*transitional civil administration[s]*”¹⁵ which “*face challenges and responsibilities that are unique among UN operations*”.¹⁶

Still, the issue of the legitimacy of the resolutions for the establishment of international civil administrations schemes under Chapter VII remains focal. The interpretation of article

⁹ Since the creation of the UN in 1945, eleven territories were placed under the International Trusteeship System in accordance to Chapter XII. In 1957 Togoland, administered since 1922 by the United Kingdom under the League of Nations mandate became the first UN ‘Trust Territory’ under British administration. The Trusteeship Council suspended its operation in 1994 when Palau, the last Territory under US administration became an independent state. See <http://www.un.org/Depts/dpi/decolonization/trust.htm> (25/08/2008). It should be noted that the wording of article 81 which conferred the administering authority to “*one or more states or the organisation itself*”, enhanced the role of the colonial states or powerful (war victor) states of the time, which became privileged partners in the transition process of these territories, eliminating at the same time the scenarios for direct UN responsibility for the administration of the Trust Territories (a proposal submitted by China and initially supported by the US at the San Francisco Conference in 1945). <http://www.nationsencyclopedia.com/United-Nations/The-Trusteeship-Council.html> (25/08/2008).

¹⁰ Before 1992 operations established on humanitarian grounds were distinct from those that aimed at the protection of international peace and security. The new generation of resolutions of mixed character was inaugurated with the cases of Bosnia-Herzegovina (Security Council Resolution 770(1992) 13th August 1992) and Somalia (Security Council Resolution 794 (1992) 2nd December 1992). See Corten, Olivier; Klein, Pierre: “Action humanitaire et Chapitre VII: La redéfinition du mandat et des moyens d’action des forces des Nations Unies”, *AFDI*, Vol. XXXIX (1993), pp. 107-109.

¹¹ See Yokaris, Angelos: “Intervention et Administration Internationale du Territoire”, *RHDI*, Tome 1 (2006), pp. 407-414.

¹² See A/47/277 - S/24111, 17th June 1992, § 21.

¹³ Supplement to an Agenda for Peace: Position Paper of the Secretary General on the Occasion of the Fiftieth Anniversary of the United Nations, *Report of the Secretary General on the Work of the Organisation*, A/50/60-S/1995/1, 3rd January 1995, § 47.

¹⁴ *Ibid*, § 49.

¹⁵ Comprehensive review of the whole question of peacekeeping operations in all their aspects, A/55/35 S/2000/809, 21st August 2000, §76.

¹⁶ *Ibid*, § 77.



41 for the deployment of the operations in the case of East Timor and Kosovo was considered to be rather broad. Moreover, the fact that these Security Council resolutions were based on the concept of intervention on humanitarian grounds and were also related to the promotion of human rights and democracy in order to protect international peace and security has created major criticism.¹⁷ Thus, the ontological question of the Brahimi Report on “*whether the UN should be in this business at all [...]*”¹⁸ seems quite reasonable.

1.2 The East Timor and Kosovo experience

Security Council Resolutions 1244¹⁹ and 1264²⁰ establishing the new international civil administration schemes introduced in 1999 were structured on the following axes:

- As far as the institutional dimension was concerned, both resolutions were adopted under Chapter VII establishing multidimensional operations comprising of military and civil components.

- In relation to the preservation of the fundamental principles of the UN Charter, both resolutions paid respect to the concepts of sovereignty and territorial integrity.²¹

- As far as the ‘mixed nature’ of the resolutions was concerned and in line with the major “*social purposes of the international society*”,²² apart from the traditional references to peace and security, humanitarian prerogatives and human rights protection were included as well.²³

- In reference to the nature of the operations both resolutions conferred to the international administrations overall responsibility for the administration of certain territories, empowering them to exercise the executive and legislative authority, including the implementation of justice.

- Regarding the acceptance of the parties concerned, both resolutions, despite their non consensual character due to Chapter VII legal basis, has obtained the consensus of the governments involved.

Nevertheless, significant differences between the two resolutions stemming from fundamental dissimilarities of the historical, social and political background of the two cases can be easily traced.

¹⁷ It should be noted that the inclusion of human rights violation to the interpretation of ‘threats to peace and security’ has been contested by major non-Western states such as India and China. See Zaum, Dominik: “The Authority of International Administrations in International Society”, *Review of International Studies*, n° 32 (2006), p. 465.

¹⁸ *Comprehensive review of the whole question of peacekeeping operations in all their aspects*, *op. cit.*, §78.

¹⁹ Security Council Resolution 1244 (1999) 10th June 1999.

²⁰ Security Council Resolution 1264 (1999) 12th September 1999.

²¹ In Resolution 1244 the Security Council reaffirms “*the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other states of the region, as set out in the Helsinki Final Act and Annex 2*” while in Resolution 1264 it reaffirms “*respect for the sovereignty and territorial integrity of Indonesia*”.

²² Zaum, *op. cit.*, p. 465.

²³ In the Preamble of Resolution 1244 the Security Council expresses its determination to “*resolve the grave humanitarian situation in Kosovo, FRY*” while in the Preamble of Resolutions 1264 and 1272 expresses “*its concern at reports indicating that systematic, widespread and flagrant violations of international humanitarian and human rights law have been committed in East Timor*”.



An important qualitative characteristic that underlies United Nations decisions and operational action in East Timor was that the process towards its independence since 1999, was the last phase of the territory's decolonization process which has frozen due to the 1975 Indonesian invasion and occupation. Moreover, the consent of Portugal and Indonesia as far as the final status of the territory and the transitional period administration parameters were concerned was given. In addition, the resolution establishing the Interim Administration followed a public consultation ensuring internal social legitimization as well. As a result, the Security Council's mandate was clearly conducted in order to guide the transition of East Timor to independence,²⁴ having ensured -at least initially- internal (social), bilateral (Portugal and Indonesia) and international consent and support.

In relation to Kosovo though, the political and cultural setting was different. First of all, the historical, political and cultural basis of the conflict did not constitute part of the late decolonization process as was the case with East Timor; consequently, the use of the principle of self determination as institutionalized after the Second World War within the framework of the United Nations²⁵ was out of context.

Secondly, the conditions under which the consent was granted for the deployment of a peace building operation in the form of international civil administration were rather ambiguous. In Resolution 1244 the Security Council welcomes the [ex] Federal Republic of Yugoslavia's acceptance for the creation of an interim administration. This consent though was achieved when one of the parts of the conflict involved, the Federal Republic of Yugoslavia, was in a very difficult position²⁶ following a NATO military campaign (realized without the approval of the Security Council).²⁷

As a result of these two parameters, and in order to ensure a minimum level of consensus in the Security Council, the final goal concerning the future status of the territory remained undetermined in Resolution 1244; apart from the fundamental aim of securing peace and stability in the region, the Security Council Resolution did not clearly state towards which direction the current status quo would change. Instead, it declared the establishment, pending a final settlement, of substantial autonomy.²⁸

Thus, the main difference between the two mandates, ontological in character, was that 1272 resolution promoted statehood and self-determination claims, while resolution 1244 was

²⁴ One could support that UNTAET cannot be identified as a typical 'post-conflict' mission, since its presence was conceived before the violence that swept the territory after the referendum. See Wilde, *op. cit.*, p.84.

²⁵ See *Charter of the United Nations*, Article 1 §2, *International Covenant on Civil and Political Rights*, Part I, Article 1, *International Covenant on Economic, Social and Cultural Rights*, Part I, Article 1, *Declaration on the granting of independence to colonial countries and peoples*, GA Resolution 1524 (XV), 14 December 1960, Resolution 1541 (XV), *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, GA Resolution 2625 (XXV), 24 October 1970, *Western Sahara, Advisory Opinion of 16 October 1975*, International Court of Justice, <http://www.icj-cij.org/> (20/9/2008).

²⁶ See Zaum, *op. cit.*, p. 460.

²⁷ See Joyner, Daniel H.: "The Kosovo Intervention: Legal Analysis and a More Persuasive Paradigm", *EJIL*, vol.13, n° 3 (2002), pp. 597-619.

²⁸ According to the resolution 1244 the Security Council authorized "the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo"



limited to the establishment of political institutions without having settled the overall institutional framework and status these institutions would function in.

Undoubtedly, the uncertain outcome of the deployment of the UN operation in Kosovo in terms of the future legal status of the administered entity, ensured the minimum consensus for the adoption of a decision within the Security Council fragile environment; nevertheless, it left more space for political maneuvers both in the interior of the FYR (including Kosovo) as well as among other states that revealed a vivid interest in the area.

The entanglement of the Contact Group comprising of countries with a vivid interest in the area (USA, UK, France, Russian Federation, Germany and Italy) to the process of delivering a final solution to the problem of the final status even within the United Nations framework (the UN-facilitated Kosovo future status process was led by UN Special Envoy Martti Ahtisaari) serves as a good example of this approach let alone it reminded the methods the Great Powers adopted in the beginning of the 20th century for the settlement of similar disputes.

During the last 9 years, the UN led an ambitious institution building effort which has created a unique status quo for the area: it dispatched the territory's public sector from the Serbian state apparatus without making any progress in the domain of political compromise for the final status.

As a result, the final status settlement proposal of the UN Special Envoy clearly stated that Kosovo's reintegration to Serbia would not be viable; instead it recommended independence subject to international supervision for a certain period. The report of the Special Envoy concluded that "*Kosovo's case is unique that demands a unique solution. It does not create a precedent for other unresolved conflicts*".²⁹ Pristina has accepted the final status settlement proposal while Belgrade rejected it. In February 2008 Kosovo's unilateral declaration of independence created mixed reactions among the members of the international community.

Even if the Report of the UN Secretary General on the situation in Kosovo that followed Kosovo's declaration of independence clearly states that resolution 1244 is still in force until the Security Council decides otherwise and that UNMIK will continue to operate under its mandate,³⁰ 47 countries have formally recognised Kosovo. Moreover, the perplexity of the situation is evident in the framework of the European Union (21 out of 27 member states of the European Union have already recognised Kosovo's independence) not to mention the Security Council itself where 3 out of 5 permanent members have proceeded to formal recognition, while, Russia and China, together with India released a joint statement in May 2008 where they called for new negotiations between the authorities of Belgrade and Pristina while the Secretary General of the United Nations.

Recent developments in Caucasus, concerning Abkhazia and South Ossetia, confirm that following Kosovo's unilateral declaration of independence the Pandora's box has just opened.

²⁹ *Report of the Special Envoy of the Secretary-General on Kosovo's future status*, S/2007/128, 26th March 2007, <http://www.unosek.org/docref/report-english.pdf> (20/9/2008).

³⁰ *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, S/2008/211, 28th March 2008, § 29.



2. International governance and domestic political cultures in transition

2.1 International civil administration and the evolving concept of international governance

The practice of establishing international civil administrations or even the more general concept of peace building as introduced in the 90s is part of the broader liberal concept of international governance. The concept of governance, often defined as “*the act, process, or power of governing*” or “*the state of being governed*”, encompasses that of “government”³¹ which is linked to state organisation and functions, namely:

- (a) the political regime or the constitutional foundations of a given polity, including the primordial concept of power division,
- (b) policy formation and implementation, and
- (c) coercion within a given territory.

Governance involves processes that make decisions, define expectations, grant power and verify performance. It consists either of a separate process or of a specific part of management or leadership processes. Setting up a government aims at the administration of these processes and systems. International governance could be defined as “*the shaping or managing of some form of rule-based and often hierarchically ordered relations in the international system, through the medium of institutions and following pre-set norms, with the effect of conditioning a common pattern of thought or behaviour of states and non-state actors*”.³² More specifically, traditional international governance conceived as policy making at the international sphere through the functions of international organizations was linked to the management of specific policy fields according to international organizations’ competences.

After the end of Cold War, the need to ensure patterns of democratic governance based on the concept of **social justice** at international level was brought to the fore more urgently than before. Moreover, the principle of **democratic governance** started to be promoted by the decisions and operational action of the organizations outside their “institutional environment” not only at the level of values, norms or rules but also “on the field” (that is contributing to institution building in countries that recover from serious political problems, monitoring elections etc) and in the various levels of negotiation procedures (e.g. for states’ membership in international organizations or funding).³³ What is also interesting is that for the first time, international organizations began to seek the acceptance and the accreditation not only from governments but from their peoples as well (even in the framework of Chapter VII mandates).

As a result, during the last decades we have witnessed a “*shift from international functionalism to constitutionalism*” through the institutional reinforcement of human rights

³¹ <http://www.answers.com/topic/governance> (6/7/2008).

³² Hsiung, James C.: “Anarchy, Hierarchy, and Actio Popularis: An International Governance Perspective”, *The International Studies Association (ISA) Annual Meeting, Montreal, Canada*, (19 April, 2004), http://www.nyu.edu/gsas/dept/politics/faculty/hsiung/hsiung_ahap.pdf

³³ Sicilianos, Alexandros: «La réforme du système européen des droits de l’homme», *AFDI*, Vol. XLIX (2004), pp. 611-640.



policies, democratic standards and the humanitarian dimension in the work of international organizations.³⁴

This shift reveals the effort of international organisations to address new security challenges and to adjust in the post Cold War international globalised environment, through the initiation of processes for structural changes, the “modernization” of their operational action, the preservation of political values and ideals that could be marginalized in the globalised international system and the introduction of novel practices where needed or where possible.

Within this context, the establishment of Transitional Authorities under Chapter VII reveals that the concept of international governance itself has undergone a substantial change: through the creation of subsidiary organs such as UNTAET and UNMIK which were territorial agents, the territorial dimension of international policy is further enhanced through a more ‘domestic’ perception of international presence on the given territory.

2.2 International governance and domestic political culture

In order to ensure international peace and security the United Nations expanded its action under Chapter VII in a field considered to fall within the domestic jurisdiction of states: that of internal governance. An eminent element of the resolutions establishing transitional administrations in East Timor and Kosovo was the thriving need to ensure the protection of human rights and to promote democratic culture and institutions in these territories. Thus, the role of the United Nations transcended the traditional practice of promoting an international culture of peace and security among states.

The new role of the organization was now aiming at the transfer of standards and rules of constitutional character (especially as far as the protection of human rights is concerned), in the heart of the organization structure of services and governing schemes of the above mentioned territories. The United Nations contributed to the creation of new, transitional political cultures in the internal order of these territories.

Almond and Verba in their classic work *Civic Culture* define the political culture “as the particular distribution of patterns of orientation toward political objects among the members of the nation”.³⁵ The authors of *Civic Culture* move on to the classification of political cultures, focusing on the political objects individuals are oriented to, namely, the parochial, the subject and the participant political cultures.³⁶ Finally, they define *civic culture* which

³⁴ Petersmann, Ernst-Urlich (2001): “Time for Integrating Human Rights into the Law of Worldwide Organisations. Lessons from European Integration Law for Global Integration Law”, *Jean Monnet Working Paper*, EUI 07/01; Dupuy, René-Jean: “L’ordre public en droit international” in Polin, Raymond (dir.) (1996): *L’ordre public. Colloque de Paris des 22 et 23 mars 1995*, Paris, Académie des sciences morales et politiques, Fondation Singer-Polignac/PUF, pp. 103-116.

³⁵ Almond, Gabriel A.; Verba, Sidney (1963): *The Civic Culture*, Princeton, Princeton University Press. Based on Parsons’ and Shils’ approach to the concept of “orientation” they formulate a typology of orientations: “(1) *cognitive orientation*, that is knowledge of and belief of the political system, its roles and the incumbents of these roles, its inputs, and its outputs; (2) *affective orientation*, or feelings about the political system, its roles, personnel, and performance, and (3) *evaluational orientation*, the judgments and opinions about political objects that typically involve the combination of value standards and criteria with information and feelings”. *Ibid*, p. 14.

³⁶ *Ibid*, pp. 16-18.



draws from the rationalist-participant model of citizenship that underlies democratic government.

Thus, in terms of the political culture literature, both international administrations' aim was to foster the transition from subjective or parochial to rational political culture. More specifically, they tried to consolidate or even impose on the population of the territories administered what is conceived as civic culture that is "*not a modern culture but one that combines modernity with tradition [...] a pluralistic culture based on communication and persuasion, a culture of consensus and diversity, a culture that permit[s] change but moderate[s] it*".³⁷ This concept of 'civic culture from above' is related to the openness and the democratic character of the polity that is going to be established.

Nevertheless, identifying elements of civic culture in a society requires a certain degree of public confidence in political institutions of a state. It is rational to refer to the process of civic culture building in states in political transition or in new states. This was the case with post communist states or new states that emerged in the post colonial and post Cold War environment. The case of East Timor falls into this category. For Kosovo though, the setting was different: lacking the political compromise both at international and internal level for a final settlement of the territory's status, a "standards before status" policy was adopted, which meant that the Provisional Institutions had to achieve certain standards, or benchmarks, before the final status of Kosovo could be addressed.³⁸ As a result of resolution's 1244 open mandate the emphasis was given on institution building without setting the most important legitimizing parameter of change and social orientation, that of the final status. This fact has created a permanent handicap to the realization of the international community's main purpose: to create a *demos, a multi-ethnic society in the context of civic culture model* and not an *ethnos that would breed parochial patterns of behavior*.

In this process of developing models of civic behavior, the influence of political culture in the outcomes of political processes was underestimated. In the case of international administrations, political culture as a system of collective beliefs, attitudes and symbols was conceived as an important parameter in the formation of social action. Nevertheless, political culture should be understood dynamically; not just as the social environment or macrostructure where human behavior or institutional change is formulated, but as a social agency, as the driving force of political change and continuity. In the case of East Timor the concept of independence functioned as a civic narrative for the population; in Kosovo the insecurity of the final outcome created serious drawbacks in political socialization and civic identity building processes.

Concluding remarks

Since the end of Cold War and while its institutional apparatus has not undergone substantial changes, the UN had to address a series of new challenges. The establishment of interim authorities for the administration of post-conflict territories under Chapter VII constitutes an important development as far as the effort of the organisation to assume its responsibilities *vis à vis* the evolving international security environment is concerned. Undoubtedly, invoking

³⁷ *Ibid*, pp. 5-6.

³⁸ The eight standards to be met concern: functioning democratic institutions; the rule of law; freedom of movement; returns and reintegration; economy; property rights; dialogue with Belgrade; and the Kosovo Protection Corps. <http://www.unmikonline.org/standards/priorities.htm> (19/9/2008).



Chapter VII in the decisions concerning the creation of interim administrations reveals a new, post colonial and post Cold War approach of the Security Council interpretation of the concept of ‘peace and security’. Administering territories and societies, for the first time after the suspension of operation of the Trusteeship Council and after the fundamental changes international relations have undergone since the 90s, revealed a new aura in the Security Council’s resolutions.

Nevertheless, the emergence of the new generation of international administration schemes for post-conflict societies in 1999 raises several questions over:

(a) Which organ of the United Nations is more suitable for the decision and also for the design of such multilevel and multifunctional operations. Up to now, the initiative was left to the Security Council, leading to political and institutional marginalization principle organs of the United Nations such as the ECOSOC which is primarily responsible for social and economic issues directly related to policy implementation, and the General Assembly (with the exception of budget approval) which is the only representative organ and which, according to the “Uniting for Peace Resolution” possesses “*independent responsibilities and rights with regard to the maintenance of international peace and security*”.³⁹ Last but not least, the marginalization and the adoption of *ad hoc* provisions concerning the role of other international actors especially international judicial bodies, leave more space for politics than implementation of the principle of equality before the law.⁴⁰

(b) The social (both international and internal) legitimization of their presence in the territories in question. At international level, these resolutions influence the geopolitical status of regions. As a result, consent among members of the international community especially the most privileged ones, namely the 5 permanent members of the Security Council, on the final status of the territories should be established. On the other hand, the population of the territories concerned should consent too. Even when international organizations presence as international administration is adopted under Chapter VII, obtaining the consent not only of the governments ‘involved’ but also of the population is a crucial parameter for success,⁴¹ since internal social legitimization of the authority of these administrations forms a fundamental precondition for the acceptance on behalf of the population of its legitimacy so that obedience is achieved voluntarily and not through coercion. Only in this way the creation of rationalist-participant models of citizenship that sustain consensual peace and democratic governance would be feasible.

(c) The implications of such operations for the management of other conflicts around the globe. The success story or failures of UN institutional and operational practice in both East Timor and Kosovo serve as precedents of international governance of post conflict and/or disputed territories or as a remedy to unilateral interventions. Despite the uniqueness of each case, there is a common institutional and ideological ground in both operations. Nevertheless, since the decision of establishing international administration schemes is restricted to the Security Council, political antagonisms will have a decisive role to play. The case of South Ossetia and Abkhazia is the first case where the international community (both states and the

³⁹ Joyner, *op. cit.*, p. 612.

⁴⁰ The most characteristic example is Security Council’s Resolution 1244 (2002) that requested from the International Criminal Court to defer potential prosecutions of peace keepers from non state parties to its Statute for a 12-month period. See Stahn, Carsten: “The Ambiguities of Security Council Resolution 1422 (2002)”, *EJIL*, vol. 14, n° 1 (2003), pp. 85-104.

⁴¹ See Zaum, *op. cit.*, p. 460; Chesterman, Simon (2004): *You, The People: The United Nations Territorial Administration and State Building*, Oxford, Oxford University Press.



UN) will be called to assume responsibilities as far as the interpretation and implementation of basic principles and rules of contemporary international society are concerned, such as territorial integrity and self determination, and the role of international territorial agents in their evolution.

Nevertheless and, despite the growing criticism concerning its operation, it should be mentioned that the UN system represents the international public order and thus provides a legitimate and concise macro-structure for the management of contemporary international affairs. The domain of peace building operations and especially the experience gained from territorial administration schemes in East Timor and Kosovo may and should contribute to the evolution of the organisation in the framework of its reform process.