

Date:01/04/2009 URL:

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Apart from presenting a humanitarian challenge, a failed state invariably has a direct impact on the security and stability of neighbouring states. A period of UN administration may be the right mechanism to deal with them, says BHASKAR BALAKRISHNAN.

The link between failed state situations and humanitarian catastrophes is only too well known to the public. In our vicinity, we have one potential failed state with nuclear weapons — a daunting prospect. A failed state is one that cannot assure basic security, public order and a minimum level of governance.

It may fail as a result of internal armed conflicts, private armed groups, organised crime, extreme political corruption, military interference in politics, revolts against repression, genocide, defeat in an external armed conflict or occupation, etc. In practice, it may sometimes be difficult to determine the precise stage at which a state can be termed “failed”.

The US think-tank Fund for Peace has listed the top 10 failed states for 2008 (previous year’s ranking in brackets) as: Somalia (3), Sudan (1); Zimbabwe (4), Chad (5), Iraq (2), Democratic Republic of the Congo (7), Afghanistan (8), Ivory Coast (6), Pakistan (12), and the Central African Republic (10). The list of failed state situations in the past includes Bangladesh, Bosnia-Herzegovina, Kosovo, Timor-Leste, etc.

A failed state invariably has a direct impact on the security and stability of neighbouring states. This could, for example, arise from the uncontrolled flow of refugees, involvement of sections of the population living close to the borders in the conflict between rival groups, passage of military supplies through the neighbouring territories; involvement in narcotics smuggling and organised crime by warlords, and threats to oil and gas pipelines and production facilities.

Global terrorist groups could find safe refuge in regions within failed states, which have little ability to exercise authority. Examples are emergence of the al Qaeda in Afghanistan and in Pakistan.

Unless there is a robust and timely international response, one or more neighbouring states may intervene in the affairs of the failed state, in an effort to eliminate an emerging perceived threat, further aggravating the situation. Thus, there is a strong case for earliest possible intervention by the international community.

Legitimate mechanism

There is no internationally accepted legitimate mechanism for dealing with failed states. Though the UN has no mandate to deal with internal affairs of states, this doctrine of

domestic jurisdiction has been compromised in the case of human rights, for example. Individual states or coalitions of the “like-minded” have tried to restore governance and peace in failed states.

Examples are the US-led coalition in Iraq (2003 onwards), the Nato in Kosovo (1999), and India in Bangladesh (1971).

However, such interventions have generated international opposition, suspicion and hostility, and their legitimacy has been questioned. Broad-based support from the international community has been lacking. Motives have been ascribed to the intervening states. These may have serious differences in the aftermath of the intervention.

Even where the intervention occurs with the endorsement of regional organisations, such as the African Union, the EU, Nato or the Arab League, problems have arisen, including the lack of broad-based international political and financial support necessary for repairing and restoring failed states.

What kind of international mechanism would best respond to such situations? At one time, the United Nations Trusteeship Council successfully guided 11 territories to self-government or independence, either as separate nations or by joining neighbouring independent countries. The last was Palau, which became a member of the United Nations in December 1994.

The Trusteeship Council was composed of the United Nations Member States administering trust territories, elected non-administering states, and the P-5. The experience of the Trusteeship council and of the many UN peacekeeping operations could be put to good use in failed-state situations.

Council's MANDATE

The Security Council, acting in accordance with its own practice, has on occasions intervened in failed states to restore internal order, if necessary by military force, invoking threats to peace under Chapter VII of the Charter. Examples are the conflicts in Kosovo, Haiti, and East Timor.

The Council has interpreted its mandate broadly, not only for maintaining security, but also for economic activities, or for preserving safe areas which it has established for the civilian population, and reform of governmental and constitutional structures.

In this respect, the Council has, at least temporarily, substituted for a collapsed system of governance without the consent of the state concerned.

Threat to security

The ad hoc role of the Security Council in failed states could be regularised, based on the experience of the Trusteeship Council. However, the unrepresentative character of the Security Council would need some safeguards to ensure that its action is not based on narrow self-interests of a few members. The UN's involvement can be legally based upon a determination that the failed state situation is a threat to international peace and security.

The broad elements would be:

(a) a decision, preferably by the General Assembly, to place the area under the UN for a defined period;

(b) the appointment of an interim administration by the United Nations, which would be seen as legitimate and respected by the population;

(c) deployment of armed forces and police to maintain public order,

(d) measures to strengthen constitutional governance and restore public confidence and credibility, and

(e) to return the territory to its own government. The UN would be able to mobilise broadest possible international support, including peacekeeping forces, police, and resources for legally mandated operations, rather than for ad-hoc alliances of several States.

The UN could draw upon its accumulated experience of peacekeeping operations, as well as multi-sectoral support from across the UN system.

The broad framework for intervention in the case of a failed State situation can be established so that the Council has available a standard rapid-response operating procedure which can be quickly invoked. The specific details and responses to each situation can be incorporated into the basic framework fairly easily.

The various specific components, such as specification of the scope and duration of the regime to be established, the trusteeship structure, the military and police component, transitional administration, financing package, gradual and increasing involvement of local groups in administration, etc. can be incorporated.

In addition, to reinforce the legal basis, an appropriate agreement placing the territory under UN trusteeship mechanism could be open for signature by the parties in the territory.

Suitable incentives and confidence-building measures could be devised to ensure that the main parties would find it in their long-term interest to sign the trusteeship agreement, which could include provisions regarding disarmament, etc. In failed state situations, earliest intervention has many advantages and cost benefits for all.

The situation in the several failed states listed earlier represents a threat to peace and security and a humanitarian challenge. Some international response mechanism to deal with such situations is necessary.

A period of UN administration may just be the right mechanism to enable the international community to engage in a genuine collaborative effort to help restore peace and security in a failed state, and build responsible governance, and enable the people to emerge from a harrowing past of suffering and violence, with the possibility to rebuild a new future.

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