Writing the rules for disaggregated
world order

Policy towards failed states as an example

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The claim will be made that the international system is moving towards a higher state of disaggregation. The role of the state is enhanced and diminished at the same time. The complexities in terms of policy formulation at the international level are rising rapidly as are the range of issues that states have to deal with.¹ It is not difficult to find examples of increases in state effectiveness and loss of state power at the same time under such circumstances.²

We see the gradual development of a disaggregated order. Regional policy networks, global issue networks, and various policy sites are developing where policy towards the increasing number of failed states is being debated, decided and implemented. What has been insufficiently recognized in the analysis so far, is that what seems to be a confusing and ad hoc based set of policies may in fact be creating the foundation for a new type of order: A Disaggregated Order.³

Since 1990 the dominant states in the international system have been trying to come to terms with the challenges presented by the failed and failing states: States where basic state functions are no longer carried out. States where groups of people or entire populations have no security. States where military and police forces fail to maintain order, and chaos rules. Communication breaks down, and with it, the apparatus of state.⁴
In varying degrees this has happened with increasing frequency since 1990 and all over the world. A few cases in Latin America and Asia: i.a. Haiti, and East Timor. A few, but spectacular, cases in Europe: e.g. Bosnia and Kosovo and many cases in Africa: Among them Sudan, Somalia, Congo, Rwanda, Angola, Sierra Leone, Liberia.  

The list is long and the policy responses have been varied. In all cases the failing of states and the manner in which they are failing has presented the stronger states and the UN with a new set of challenges. What should states do about it, and if something is to be done, who should do it?  

Two sets of answers have been available: 1: Failing states should be allowed to fail. 2: Failing states should be rescued and outside intervention may be necessary.  

In the first case the arguments are: Do as little as possible. The problems are internal. They have to do with lack of state capability and authority, and they are outside of what outsiders can effectively help with. In addition there are legal and moral issues involved in violating the sovereignty of another state, even if that state is crumbling. The Brahimi report argues that UN missions be restricted to where it is possible to be effective instead of starting missions as excuses for Member States not being really committed to action. The legal argument for doing nothing has been based on the UN Charter Art. 2(4) and 2(7). Here both the use of force and the intervention in the domestic matters of another state are ruled out. From a theoretical perspective it has been pointed out that intervention runs the risk of destroying the foundation of an international order. The fundamental rule of coexistence demands adherence to the principles of sovereignty and non-intervention. Governments may intervene to solve a humanitarian problem, but end up discovering that “the cure may well be worse than the disease”.  


International relations and foreign policy has for centuries been built on a Global Covenant, Robert Jackson argues. Based on acceptance of the doctrines of recognition and non-intervention a society of states is constructed. This is the search for unity in diversity rather than in conformity. It has the major advantage, according to Jackson, that it “enables stateleaders to relate to each other, to coexist with each other, and to cooperate with each other without sacrificing their political independence and the domestic values and life-ways upheld by it.” It is “the Hubris of the West” to sacrifice this covenant for a wish to be “a force for good”.

In the second case it is argued that failing states are common problems and something effective must be done. Not just politicians and public opinion have been advancing such arguments. A part of the so-called English School has argued that the legitimacy of states builds on a moral foundation. Vincent argues that the right to life is more important than sovereign borders. States have to respond to human suffering. States have to rescue failing states. Human suffering places a moral burden on the international society of states. The fundamental norms of human rights define barriers that, if crossed, make it legitimate for other states to intervene.

Failing states are problems for the entire international system because the state system is there to provide both order and justice. Even if one is skeptical of the solidarist argument of the English School there are stability concerns that prompt states into action. Disintegration of states opens the way for expansion by other states or for seething instability. It is in the interests of all states that states do not fail, it is claimed

Finally some argue that the universality of the international system of states, as organized in the United Nations, is called into question if areas of the world are left to disintegrate. The UN was set up both to serve states and to serve humanity. The UN
Secretary General expressed it in his Millennium Report by identifying the three core functions of the UN: To serve the member states, to introduce new principles in relations among states and to “serve the needs and hopes of people everywhere”.

The UN has a mission to protect states and to protect people. Thus there is no global covenant according to the UN Secretary General but an obligation to both respect the independence of states and an obligation to intervene if they don’t behave. Consequently some have argued and worked for a reestablishment of the Trusteeship System. Failed states and their populations need guardians.

In choosing which type of failed state policy to follow, states have drawn from both the arguments for doing nothing and for the moral responsibility that states have.

The actual policies of the western countries towards failed and failing states have oscillated between these two sets of answers. When arguing that nothing should be done in the face of the ongoing genocide in Rwanda, states argued that there was nothing they could do because this was an internal matter in Rwanda.

The opposite arguments were used in the spring of 1999 in the face of ethnic cleansing in Kosovo. Here it was claimed that we could not sit idly by while genocide was being committed. Both cases were internal conflicts and intervening required a violation of the rules of non-intervention. In the latter case western countries sprung into action; in the other they sat by and did nothing.

The dilemma of how international order is best maintained is being played out in the differing choices that states have made when confronted with demands to intervene in failing states.
The major states would like to both satisfy the moral urge to do something and preserve the fundamental principles of international order. Justifications had to be developed that made intervention acceptable since intervention is a clear violation of the fundamental rule of coexistence (the Global Covenant) in the international system. It is thus argued that the immunity that states have from outside intervention is not absolute. It is argued that when states fail to satisfy the basic preconditions of the right to state autonomy they also lose their immunity. When states lose civil authority, get involved in civil war or commit acts of genocide, then other states have the right to intervene. Some have even argued that when the Thaliban regime in Kabul destroys ancient historical treasures in the form of giant status this constitutes grounds for international intervention.

Theoretically it is argued that the moral community of values is of a higher order than the community of states and intervention is therefore defensible. Wheeler argues for a “moral transformation” that would make governments accept that humanitarian intervention in cases of supreme humanitarian emergency is “both morally permitted and morally required”.

Non interventionists argue that the risks to international order are too great, and that some sort of international consensus and legitimacy is necessary for states to be allowed to intervene. International order is based on states upholding common rules. Intervention runs the risk of destroying the international order that benefits all states, and opens the way for the misuse or abuse of power by the stronger states against the weaker states.

State policies towards failed states have picked liberally from both interventionist and non-interventionist arguments as justifications for the desired action. The British Government recently published a White Paper on Globalization where a major
objective was to “strengthen the international system”. “A strengthened international system has a crucial role to play in dealing with violent conflict”. Consequently the British government wants to see the UN playing a stronger role in conflict prevention, resolution and peace-building. However, the respect for the principles of the UN is modified by the necessity to “use force” Action is necessary when “there are large scale violations of international humanitarian law and crimes against humanity, and where the government in question is unable or unwilling to halt the atrocities.” If the UN Security Council is willing to act in these situation that is preferred, but if it is not, the UK is willing to act independently.

Strengthening the international system, as the UK government sees it, involves both the support of international action and the right of unilateral action. The result of such policy inconsistencies is the “rules of coexistence” become ad hoc rules. Written for each particular case as and when they appear.

Failed states policy is becoming determined by the policy networks that are associated with each specific instance. The nature of the response from the major countries in the international system is now heavily influenced by the disaggregated sets of policies, institutions, and values that are associated with each area.

The dilemma of when, if and how states should react to state failures seems to have led to a proliferation of “solutions” Within each set of solutions, a specific set of rules is constituted. In a sense new rules of coexistence are created within each set of circumstances.

In Kosovo direct rule has been introduced over foreign territory. In East Timor a new states is being constructed. It has been called “The UN Kingdom of East Timor”.

In
Kabila’s Congo, the existing state is being protected by some neighboring states and torn apart by others. In Sierra Leone Britain has established a protectorate. The present policy towards failed states is playing itself out in a plurality of ways. It is a picture of a disaggregated order that is emerging from these “solutions”. The failed states policy seemed to have become determined by the situation at hand. When introducing Presidential Directive 25 on “multilateral peace operations” National Security Advisor, Anthony Lake said, "the reality is that we cannot often solve other people's problems, we can never build their nations for them."

A disaggregated order

The failed states policy of the major countries has become more and more based on ad hoc reasoning. In Europe, the break up of Yugoslavia made the EU states change from one policy principle to the next without finding a common foundation. At the initial breakup of Yugoslavia, EU policy was to maintain Yugoslavia intact, but German opposition embarked the EU on a new policy of recognition of new states. The EU then undertook humanitarian intervention in these areas, but took exception to the idea of military intervention. The participation (without exception and without a UN mandate) of most of the EU countries in the Kosovo war, in 1999, was the end point of this policy change. In the US, the administration long maintained a policy of nonintervention in the Yugoslav situation for only later to change policy 180 degrees. Each case was to be reviewed on its own merits and no clear policy guidelines could, or should, be drawn up.

New situations of failed states have been debated on the basis of the policy experience of the last example as the most important policy background. The “success” in Kuwait
partly prompted the involvement in Somalia. The fiasco there prevented action in Rwanda. The success of air strikes in Bosnia created the feeling that it was a swift and simple weapon to be used in Kosovo.\textsuperscript{34}

Each new situation of a failing state has been confronted as a “first”. There has been no prior policy and no practical preparation. The missions have been ill-prepared and the goals ill-defined. The policy missions have had very broad objectives of reestablishing security, providing relief and disaster aid, and providing long-term development and reconstitution. With such goals success has been elusive. The governments have neither had the expertise, the resources nor the mandate to attain such goals. In each mission there has been an attempt to find expertise and actors that can get involved in such missions. The result has been that many different actors have been involved: military forces, relief agencies, aid agencies, NGOs, etc.

Rescuing failed states is by any measure a difficult and ambitious undertaking. With broad goals, a multitude of actors and with little prior experience policy has become “ad hoc”.

A disaggregated international order is seemingly emerging. It contains conflicting trends: States that are coming together; states that are falling apart. The rules of the international order are in flux. Moral principles and global covenants exist side by side. This international order is “complex, contested and interconnected” and embedded in regional and global networks. It is complex, in that many actors are influential, both within states and in the international system. It is contested, in that there is no one accepted set of rules and institutions that defines or circumscribes the structures of power. It is interconnected because economics, politics, culture and identity all relate and influence each other.\textsuperscript{35}
Francis Snyder has developed the notion of “sites” as a way of describing how globalization has created different locations of rules, practices and law that combine to form a specific “site”. He sees global legal pluralism as the result. His case studies are from studies of production chains. Here the strategic actions of the various actors, firms, states, international organizations combine to form such “sites”.36

The notion of sites is helpful to describe what a disaggregated international order is all about. It is a highly structured result of purposeful actions by strategic actors. This strategic interaction combines to produce sites of norms, power balances, procedures and resources that shape the policy actions within the given site.

Sites may have many forms and involve different types of actors. A site may be based on the types of solutions offered by international organizations. An example is the preexisting regime like the failed state options offered by the Security Council of the United Nations. Here certain procedures are to be used if a failed state problem is submitted to this site. This involves advantages and disadvantages for the states. Increasingly the UN is delegating to what is called “coalitions of the willing”.37 The East Timor case illustrates this.38 Another example is using “solutions” developed by the World Bank, IMF and other international financial organizations. The World Bank has undertaken a major research project to find out how financial levers can be used to affect state failure.39

Other solutions are offered to states through regional organizations. States may therefore decide to use organizations such as the OAS, where the conflicts in West Africa were assigned. The Sierra Leone case illustrates this. Sierra Leone gradually disintegrated after the end of the Cold War because of a combination of internal and external factors. It was a shadow state that could not stand up to a challenge, there was a radicalize youth culture and other African powers more than willing to get
involved. The state could not contain the challenges posed by the insurgent groups from Liberia that took control over border trade and resources. As a result local strongmen and outside interests split up the country. To avoid involvement, the major states designed a regional UN force based on mostly Nigerian soldiers to solve the problem. The total failure of these attempts led to the present situation of British military involvement.40

In situations where no sites are available or appear attractive, states may also decide to create a new site where the rules and procedures are defined by the participating states as they go along. This is evident in the Kosovo case from 1999. Here the UN was bypassed as were all other existing solutions offered, and a new type of intervention was designed as a NATO operation.41 States may also choose “solutions” that involve other actors than states and international organizations. Strong states are increasingly using private actors through which to create and implement their policies towards failed and failing states. There is an element of subcontracting going on.42 States are using international companies like oil companies, airlines or security companies to influence events. These private actors are not covered by the same restrictions that apply to governmental agencies. They can act independently and at arms length from the outside state supporting them. In addition they are sometimes the only channels available in countries where state bureaucracies have collapsed or are too weak to be effective. In his study of Warlord politics William Reno details how this policy development has helped create and sustain warlords in a number of African States. These rulers can go on existing despite the fact the states for all practical purposes have collapsed because they have established control over society and wealth through the manipulation of private companies. Reno calls it “private management of disorder”.43
Using private actors has (again) become an available option for failed state policy. An option that today dovetails with the increasing privatization of the governmental structures in the weak countries. Market liberalization and budgetary cut backs have forced the reduction of governmental bureaucracies in many Third World countries. In response, many rulers, in Africa in particular, but also in other countries have used their political power to gain control over parts of the private sector. Agreements with mining companies, oil or trading companies have created a new base for power and wealth for heads of state and ministers. In weak countries this has further reduced the importance and strength of the traditional state machinery. The policy of influencing these failing states through such private organizations may therefore look like an attractive and effective option.\textsuperscript{44}

Each failed state case can be handled according to different sets of procedures, norms and power balances, by different actors and with very different consequences. State policies towards the failing state problem have ended up creating differing sites and thus contributed to building a disaggregated international order.

Conclusion

The review of the failed state policy of the major countries reveals a clear pattern: The rules of coexistence of the international system are no longer fixed. There is no longer one set of rules that define what states can, may and will do. Instead there are many sets of rules. Some claim the reaffirmation of the global covenant. Some claim the right to act unilaterally if basic human rights norms are violated. Some claim that any rules of coexistence must be adopted by the Security Council of the UN. Rules are shaped into “sites”. Procedures are implemented according to what “site” the failed state problem is submitted to.\textsuperscript{45} Each specific intervention in a failed state
situation is composed of a complex combination of universal, regional and national elements. In each case a specific site is created that further develops the disaggregated nature of the rules of coexistence.

The role of the state has hardly diminished. When states fail other states are needed to put them back on their feet. The development of a series of transgovernmental and intergovernmental networks enhances the possibilities of states to deal with these situations. It points to the necessity in seeing the trends towards disaggregation of the international system as elements in enhancing the strength and the capabilities of the state internationally rather than as yet another failure.

But the international system as a world order is put in question. Will the disaggregated networks shape the foundations for new rules of order in international society? Will the multiplication of actors create a polyarchic international system where order is maintained by the coexistence of several sets of rules? Will specific regional patterns of order develop based on the lessons from each major regional conflict? The transformation of EU’s security role could be seen as an example. Will the international system be divided into a zone of peace and a zone of war with different sets of rules both within the zones and for interaction between them?

Ultimately policy towards failed states will reflect both the concerns of maintaining the basic principles of coexistence such as sovereignty and non intervention and the principles of concern for individuals and their rights within states. The development of a disaggregated order is the structural consequence of this dilemma.
Notes


5. For a complete list of internal wars, that combines many of the existing data sets on wars see Michael W. Doyle and Nicholas Sambanis, “International Peacebuilding: A Theoretical and Quantitative Analysis” (Washington: World Bank, *mimeo*, 2000).


12. This according to the Strategic Defense Review of the British Government is the future role of the British Armed Forces. [www.fco.uk](http://www.fco.uk)


16. See the discussion in William Bain, “Trusteeship: A Response to Failed States”, (Florence: _mimeo_, April 2001), pp. 6-9. Bain regards this solution with a great deal of skepticism. “...any revival of trusteeship should be approached with only great caution and circumspection”( p.35)

18. Prime Minister Tony Blair expressed this the following way: “This is a just war, based not on any territorial ambitions but on values. We cannot let the evil of ethnic cleansing stand. We must not rest until it is reversed.” Speech, April 22, 1999.


30 See Christopher Clapham, “Sierra Leone: the global-local politics of state collapse and attempted reconstruction”, (Florence: *mimeo*, April 2001)


38. Chopra sees the UN administration of East Timor as a failure because it has failed to integrate the local population in the administration of this new entity (Chopra, op. cit.).


41. Weiss and Collins, op. cit.

42. Weiss and Collins, op. cit., p. 38.


45 How the British government developed its justification for action on Sierra Leone is a case in point. The rules have visibly changed according to how the situation has been developing.


47 Certainly there are enough books now with titles like “Lessons from xxx.” For one example see Albrecht Schnabel and Ramesh Thakur, *Kosovo and the Challenge of Humanitarian Intervention*, (Tokyo, UN University Press, 2000).