

Parameters of Sustainable Peace

UN Frameworks and Practice

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I. Introduction

The search for parameters of sustainable peace is ongoing. Most peace processes relapse into conflict. Nearly half of all civil war countries are prone to setbacks.¹ This ‘conflict trap’ shows that the true challenge is, apart from preventing new conflicts, to permanently end those that have already occurred.² In the spirit of saving ‘succeeding generations from the scourge of war’, as declared in the Preamble of the UN Charter, the United Nations has been at the forefront of identifying elements that could make peace durable, and its approach has evolved over time. In 1992, the Agenda for Peace suggested ways to improve the organization’s capacity to pursue and preserve peace after the end of the Cold War, followed by a multitude of subsequent efforts trying to fine-tune the delivery of sustainable peace. Over twenty years later in 2015, an advisory group of experts reviewed the UN’s peacebuilding architecture with a ‘fresh look’ to improve performance, while noting that ‘the key Charter task of sustaining peace remains critically under-recognized, under-prioritized, and under-resourced globally and within the United Nations system.’³ The expert group’s report introduced a contemporary understanding of the concept of ‘sustaining peace’ and recommended to unite the peace and security, human rights, and development pillars of the UN, arguing that efforts to sustain peace will otherwise continue to fail. The report was endorsed by the Security Council and General Assembly in 2016, followed by continuing consultations on the nexus between the 2030 Agenda for Sustainable Development and Sustaining Peace Agenda.⁴

In this context, this chapter looks at parameters for sustaining peace and principles that aim at making peace agreements and peace processes last. Complementing the analysis of macro-principles of the *jus post bellum*, the paper focuses on the practice of the United Nations as the key international organization engaged in peacemaking, peacebuilding,

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¹ Paul Collier, Anke Hoeffler, and Mons Söderbom, ‘On the Duration of Civil War’ (2004) 41 *Journal of Peace Research* 253.

² Barbara F. Walter, Conflict Relapse and the Sustainability of Post-conflict Peace, World Development Report Background Paper 2010, 2.

³ ‘The Challenge of Sustaining Peace’, Report of the Advisory Group of Experts for the 2015 Review of the United Nations Peacebuilding Architecture, 29 June 2015.

⁴ See Report of the Secretary-General on Peacebuilding and Sustaining Peace, A/72/707–S/2018/43, 18 January 2018. See also High-Level Meeting on Peacebuilding and Sustaining Peace, 24–25 April 2018, United Nations, New York, available at <<https://www.un.org/pga/72/event-latest/sustaining-peace/>> accessed 10 May 2018.

peacekeeping, and preventive diplomacy. The chapter extracts micro principles that guide the programmatic efforts of the organization, framed by internal guidance and instructions for officials, and driven by the overarching aspiration to foster just and sustainable peace as part of post-conflict state-building and transition processes. The chapter argues that peace continues to heavily depend on political compromises that are contingent to the specific conflict context. However, practice shows that there has been a growing set of emerged peacemaking and peacebuilding considerations, which shape post-conflict transitions and calibrate programme deliveries of international support actors as part of a potential *jus post bellum* framework.

The chapter unpacks the issue by, first, giving an overview of the historical and systemic view in the UN on sustaining peace. Second, it takes stock of UN guidance and rules on peacemaking and peacebuilding in the context of post-conflict transitions. Third, the chapter looks at recent developments on sustaining peace and the current programmatic engagement of the United Nations system in the peace consolidation field from the *jus post bellum* perspective.

II. Post-Conflict Transitions and Sustainable Peace

The commitment to create and maintain peace through economic, social, or political agreements between states has been the very foundation of the United Nations. However, the UN Charter remains relatively quiet about how to attain just and sustainable peace in its Member States. The Charter calls for ‘effective collective measures for the prevention and removal of threats to the peace’ and upholds ‘principles of justice and international law’, but provides limited guidance on how to maintain peace after conflict or solidify the justice of peace.⁵ The Preamble highlights the need to uphold fundamental human rights and calls for the promotion of ‘social progress and better standards of life in larger freedom’, but contains little instructions or prescriptions for the parameters of durable peace in a state of transition.⁶

Since the creation of the United Nations, repeated efforts were made to discern what peace means and how best to sustain it. With the rapid increase of intra-state conflicts and the high number of responding UN-led peacekeeping operations after the end of the Cold War, the question of how to seize and maintain stability became even more pressing. Both the Security Council and General Assembly started to raise more prominently the issue from this angle, seeing the erosion of regional stability caused by uncertain aftermaths of the conflicts in Rwanda, Somalia, and Bosnia and Herzegovina. The basic objectives of peace, development, and human rights and justice were progressively recognized as indissolubly bound up with each other, acknowledging that there is no sustainable peace without development, and no development without peace; as well as no sustainable peace without human rights and justice, and no human rights and justice without peace.⁷ In the spirit of international solidarity, Member States have underlined that it is the international community

⁵ UN Charter, Article 1, para. 1

⁶ UN Charter, Preamble.

⁷ UNGA Comprehensive Review of the Whole Question of Peace-Keeping Operations in All their Aspects (16 November 1994) UN Doc. A/C.4/49/SR.23.

at large that can jointly best provide the guaranteed peace as ‘mankind’s dream’.⁸ Effective and determined support from the international community, including through its contributions of long-term assistance for development and trade, has been emphasized as a parameter by the Security Council to ‘guarantee the achievement of sustainable peace’ in the context of post-conflict transitions.⁹

The promotion of ‘durable peace’ and ‘sustainable development’ have been understood as complementary elements, especially in transition processes.¹⁰ Rehabilitation, reconstruction, and recovery are seen as conditions for durable peace in the aftermath of conflict, apart from long-term development objectives and in parallel to the completion of the political peace process.¹¹ Good governance, effective and accountable public institutions, the rule of law, inclusive, free, credible and peaceful elections, and security enabled by inclusive and sustained socio-economic development were acknowledged as important conditions for durable peace.¹² In 2015, the adopted Sustainable Development Goals (SDGs) included as Goal 16 the aim to ‘promote for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’, which constitutes the standing framework for strengthening ‘universal peace in larger freedom’ in the next fifteen years.¹³ The General Assembly particularly recognized the ‘major challenge to the achievement of durable peace and sustainable development in countries in conflict and post-conflict situations’, making the SDGs an important baseline for the *jus post bellum*.¹⁴

III. UN Guidance on Peacemaking and Peacebuilding

Normative guidance on peacemaking and peacebuilding as part of the *jus post bellum* corpus is rather weak. Peacemaking is an especially flexible domain. Internal guidance for UN peacemaking provides only instructions on the conditions for just and sustainable peace.¹⁵ In 1999, the secretary-general released ‘Guidelines for UN Representatives on Certain Aspects of Negotiations for Conflict Resolution’, which were updated in 2006, that outline legal barriers that UN peace mediators should not cross when they broker agreements.¹⁶ The UN acknowledged that their representatives face normative dilemmas when they are trying ‘to grapple with the urgency of stopping the fighting’ and they are at the same time obliged to uphold the ‘deep roots in the United Nations Charter and the Universal Declaration of Human Rights and other sources of international law’.¹⁷ As a normative

⁸ UNGA Plenary Meeting (5 October 1995) UN Doc. A/50/PV.21.

⁹ UNSC Statement by the President of the Security Council (8 July 1999) UN Doc. S/PRST/1999/21.

¹⁰ UNGA Report of the Secretary-General on the causes of conflict and the promotion of durable peace and sustainable development in Africa (13 April 1999) UN Doc. A/52/871-S/1998/318.

¹¹ Ibid.

¹² UNGA Report of the Secretary-General on the causes of conflict and the promotion of durable peace and sustainable development in Africa (24 July 2014) UN Doc. A/69/162-S/2014/542.

¹³ UNGA Res. 70/1 ‘Transforming our world: the 2030 Agenda for Sustainable Development’ (21 October 2015) UN Doc. A/RES/70/1.

¹⁴ Ibid. para. 42.

¹⁵ See for details Martin Wählisch, ‘Normative Limits of Peace Negotiations: Questions, Guidance and Prospects’ (2016) 7 *Global Policy* 261.

¹⁶ ‘Guidelines for UN Representatives on Certain Aspects of Negotiations for Conflict Resolution’, United Nations, Department of Political Affairs, 1999 (updated 2006), (UNJY 2006) 496.

¹⁷ Introduction to the Guidelines for United Nations Representatives in Certain Aspects of Negotiations for Conflict Resolution (UNJY 2006) 495.

barrier regarding amnesties, the guidelines clarified that the UN 'cannot condone amnesties regarding war crimes, crimes against humanity and genocide or foster those that violate relevant treaty obligations of the parties in this field'.¹⁸ UN officials are encouraged to assist conflict parties in 'incorporating into agreements provisions and arrangements for the promotion and protection of human rights, inspired by international and regional standards'.¹⁹ In 2012, the secretary-general issued the 'Guidance for Effective Mediation' that addressed a number of key fundamentals that should be considered in mediation efforts: preparedness; consent; impartiality; inclusivity; national ownership; coherence, coordination and complementarity of the mediation effort; the quality peace agreements, and also the international law and normative frameworks.²⁰

In comparison to peacemaking, peacebuilding has seen an increasing set of principles and rules that have been acknowledged by the Security Council and the General Assembly. Post-conflict periods struggle with significant uncertainty and peace processes often suffer periods of regression. Building sustainable peace in countries emerging from conflict is a complex undertaking that involves security, political, economic, social, and human rights aspects. The understanding of the UN is that peacebuilding involves a range of measures targeted to reduce the risk of relapsing into conflict by strengthening national capacity at all levels for conflict management in order to lay the foundations for sustainable peace and development.²¹ In this context, peacebuilding is a continuum of strategy, processes, and activities aimed at sustaining peace over the long term.²² There is no clear-cut definition of peacebuilding that overlaps with other elements of a broader policy framework that strengthens the synergy among conflict prevention, peacemaking, peacekeeping, recovery, and development, as part of a collective and sustained efforts to build lasting peace.

In 1992, the Agenda for Peace of UN Secretary-General Boutros Boutros-Ghali elaborated on the concept of peacebuilding, calling for 'comprehensive efforts to identify and support structures which will tend to consolidate peace'.²³ The Agenda for Peace spelled out in order to achieve lasting peace, peace agreements may include provisions for disarming the previously warring parties and the restoration of order, the custody and possible destruction of weapons, repatriating refugees, advisory and training support for security personnel, monitoring elections, advancing efforts to protect human rights, reforming or strengthening governmental institutions, and promoting formal and informal processes of political participation.²⁴ The Agenda for Peace also highlighted the issue of demining and stressed that the achievement of true peace and security needs democratic practices such as the rule of law and transparency in decision-making.²⁵ Both the Security Council and the

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ UNGA Guidance for Effective Mediation, in Report of the Secretary-General on Strengthening the Role of Mediation in the Peaceful Settlement of Disputes, Conflict Prevention and Resolution (25 June 2012) UN Doc. A/66/811

²¹ UN Peacebuilding: An Orientation, United Nations Peacebuilding Support Office, September 2010, 5, available at < https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/peacebuilding_orientation.pdf > accessed 2 June 2020.

²² Ibid.

²³ UNGA An Agenda for Peace (17 June 1992) UN Doc. A/47/277, para. 55.

²⁴ Ibid.

²⁵ Ibid. paras 56–7.

General Assembly dealt with the report in several sessions and welcomed the usefulness of the made observations.²⁶

In 2000, the Report of the Panel on United Nations Peace Operations, also known as the Brahimi Report, reiterated the importance of peacebuilding as integral to the success of peacekeeping operations, as acknowledged by the Security Council and the General Assembly.²⁷ The report stressed that 'effective peacebuilding' requires active engagement with the local parties, and that engagement should be multidimensional in nature.²⁸ The report also highlighted the need to hold 'free and fair' elections as part of broader efforts to strengthen governance institutions.²⁹ It also underlined that local police forces might need to be reformed, trained, and restructured according to international standards for democratic policing and human rights, in order to have the capacity to respond effectively to civil disorder in post-conflict settings.³⁰ On the justice side, it was emphasized that the strengthening of the rule of law institutions is crucial to enable justice, reconciliation, and the fight against impunity.³¹ As the Agenda for Peace, the Brahimi Report related to the disarmament, demobilization, and reintegration of former combatants, being 'key to immediate post-conflict stability and reduced likelihood of conflict recurrence'.³² The Security Council unanimously welcomed the Brahimi Report and based further action on it.³³

Nearly a decade later in 2009, following the request of the Security Council to provide advice on how to support national efforts to secure sustainable peace more rapidly and effectively, the secretary-general presented his first Report on Peacebuilding in the Immediate Aftermath of Conflict.³⁴ The report looks at the first two years after the main conflict in a country has ended, underscoring the imperative of national ownership and emphasizes that peacebuilding solutions need to be context-specific. The report stresses that the immediate post-conflict period offers a window of opportunity to provide basic security, deliver peace dividends, shore up and build confidence in the political process, and strengthen core national capacity to reduce the risk of relapse into conflict.³⁵ As recurring peacebuilding priorities, the report highlights that peacebuilding needs to address security issues, the political process, basic public services, restore governance functions, and recover the economy.³⁶ The report concludes that maintaining 'flexibility and adaptability are essential' while at the same time 'respecting fundamental principles of international law and human rights' are also seen as essential.³⁷

The Security Council welcomed the report of the secretary-general as an 'important contribution towards a more effective and coherent international response to post-conflict

²⁶ UNSC Statement by the President of the Security Council (30 June 1992) UN Doc. S/24210; UNGA Res. 47/120 (18 December 1992) UN Doc. A/RES/47/120.

²⁷ UNGA Report of the Panel on United Nations Peace Operations (21 August 2000) UN Doc. A/55/305- S/2000/809, para. 35.

²⁸ Ibid. para. 37.

²⁹ Ibid. para. 38.

³⁰ Ibid. para. 39.

³¹ Ibid.

³² Ibid. para. 42.

³³ UN Security Council Res. 1318 (2000) UN Doc. S/RES/1318; UN Security Council (2000) UN Doc. S/RES/1327 (2000).

³⁴ UNGA Report of the Secretary-General on peacebuilding in the immediate aftermath of conflict (11 June 2009) UN Doc. A/63/881-S/2009/304.

³⁵ Ibid. para. 3.

³⁶ Ibid. para. 17.

³⁷ Ibid. para. 22.

peacebuilding', endorsing the mentioned principles.³⁸ The subsequent follow-up reports in 2010, 2012, and 2014 fine-tuned the UN's peacebuilding agenda. The second report emphasized the issue of effective leadership, coordination, and accountability of those involved in peacebuilding, including the issue of national capacity development, and the role of women and peacebuilding, as previously emphasized in the landmark Security Council Resolution 1325 (2000) on Women, Peace and Security.³⁹ The third report outlined additional actions to better assist conflict-affected countries in building lasting peace, identifying inclusivity and institution-building as critical in preventing relapse into violent conflict and producing more resilient states and societies.⁴⁰ The report underlined that exclusion is one of the most important factors that trigger a relapse into conflict and that inclusive political settlements, achieved either through a peace agreement and subsequent processes or because of inclusive behaviour by the party that prevailed in the conflict, tend to result in more sustainable peace.⁴¹ Inclusivity and institution-building are seen as critical, also with regard to the restoration of the social contract and the state's engagement with the international community.⁴² Inclusivity requires that the parties to the conflict and other stakeholders are represented, heard, and integrated into a peace process without necessarily participating directly in formal peace negotiation.⁴³ Institution-building focuses on functioning government, and political, market, and social institutions as prerequisites for establishing popular confidence in the state.⁴⁴ The fourth report underlined that peace agreements present a critical opportunity for achieving consensus about the key principles on which institution-building should rest.⁴⁵ The report also noted that the Security Council had recognized the centrality of advancing the extension of state authority and rebuilding state institutions in the aftermath of conflict for sustaining peace, including the issues as priority tasks in the mandates of numerous peacekeeping and special political missions.⁴⁶

IV. Recent Developments and Practice

In 2015, Member States undertook a comprehensive review of the UN's peacebuilding architecture, culminating in the adoption of resolutions by the General Assembly and the Security Council on efforts to sustain peace in April 2016.⁴⁷ Both resolutions underlined that the purposes and principles of the Charter of the United Nations aim at establishing just and lasting peace. It was recognized that 'sustaining peace' should be broadly understood as a 'goal and a process to build a common vision of a society, ensuring that the needs of all segments of the population are taken into account, which encompasses activities aimed at preventing the outbreak, escalation, continuation and recurrence of conflict,

³⁸ UNSC Statement by the President of the Security Council (22 July 2009) UN Doc. S/PRST/2009/23.

³⁹ UNGA Progress report of the Secretary-General on peacebuilding in the immediate aftermath of conflict (16 July 2010) UN Doc. A/64/866-S/2010/386.

⁴⁰ UNGA Peacebuilding in the aftermath of conflict (8 October 2012) UN Doc. Rep. A/67/499-S/2012/746.

⁴¹ *Ibid.* para. 4.

⁴² *Ibid.*

⁴³ *Ibid.* para. 35.

⁴⁴ *Ibid.* para. 43.

⁴⁵ UNGA Peacebuilding in the aftermath of conflict (23 September 2014) UN Doc. A/69/399-S/2014/694.

⁴⁶ *Ibid.* para. 6.

⁴⁷ UN Security Council Res. 2282 (27 April 2016) UN Doc. S/RES/2282 (2016); UN General Assembly Res. 70/262 (12 May 2016) UN Doc. A/RES/70/262.

addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation, and moving towards recovery, reconstruction and development', and emphasized that sustaining peace is a 'shared task and responsibility that needs to be fulfilled by the government and all other national stakeholders, and should flow through all three pillars of the United Nations' engagement at all stages of conflict, and in all its dimensions, and needs sustained international attention and assistance'.⁴⁸ It was reaffirmed that it is the primary responsibility of national governments and authorities in 'identifying, driving and directing priorities, strategies and activities for sustaining peace', and in this regard, reiterated that 'inclusivity is key to advancing national peacebuilding processes and objectives in order to ensure that the needs of all segments of society are taken into account'.⁴⁹ It was also emphasized that civil society could play an important role in advancing efforts to sustain peace.⁵⁰ The Security Council stressed the importance of a comprehensive approach to sustaining peace, particularly through the prevention of conflict and addressing its root causes, strengthening the rule of law at the international and national levels, and promoting sustained and sustainable economic growth, poverty eradication, social development, sustainable development, national reconciliation and unity including through inclusive dialogue and mediation, access to justice and transitional justice, accountability, good governance, democracy, accountable institutions, gender equality and respect for, and protection of, human rights and fundamental freedoms.⁵¹ It recognized the importance of strategic partnerships, pooled funding and blended finance between the United Nations, bilateral and international donors, multilateral financial institutions, and the private sector in order to share risks and maximize the impact of peacebuilding efforts. The resolutions also instruct the United Nations to look beyond post-conflict peacebuilding towards a shared understanding of peacebuilding and prevention before, during, and after conflict.

On the practice side, a variety of planning instruments is used to guide peacebuilding activities in countries emerging from conflicts, such as the UN Peacebuilding Commission's Strategic Frameworks for Peacebuilding, the United Nations Development Assistance Frameworks (UNDAFs), Poverty Reduction Strategy Papers (PRSPs) and Integrated Strategic Frameworks (ISFs). Member States and other international donors have subscribed to those instruments as frameworks for international collaboration in post-conflict settings. Although there are numerous bilateral and other institutional-specific frameworks for assistance in the aftermath of conflict, the guidance provided by the UN has become a reference point. The SDGs have become an additional aspect of consideration since their adoption in September 2015.⁵²

An example in practice for the application and interplay of the outlined principles of peacemaking, post-conflict recovery, and peacebuilding in the *jus post bellum* context is the case of Libya. In March 2011, the United Nations Security Council adopted Resolution 1973, acting under VII UN Charter, that formed the legal basis for military intervention in the Libyan Civil War.⁵³ In October 2011, Security Council Resolution 2016 lifted the

⁴⁸ UN Security Council Res. 2282 (n 47).

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Interim United Nations Development Assistance Framework Guidance, 23 May 2016, available at < <https://unsdg.un.org/resources/united-nations-development-assistance-framework-guidance> > accessed 2 June 2020.

⁵³ UN Security Council Res. 2011 (17 March 2011) UN Doc. S/RES/1973 (2011).

established no-fly zone and reaffirmed the sovereignty, independence, territorial integrity, and national unity of Libya.⁵⁴ The Security Council reiterated that the future of Libya needs to be based on national reconciliation, justice, respect for human rights, and the rule of law. The Security Council highlighted the need for the transitional period to be underpinned by a commitment to democracy, good governance, the rule of law, national reconciliation, and respect for human rights and fundamental freedoms of all people in Libya. Upholding the principle of inclusivity, the resolution looked forward to the swift establishment of an inclusive, representative transitional government of Libya, underlining the importance of promoting the full and effective participation of members of all social and ethnic groups, including the equal participation of women and minority communities in the discussions related to the post-conflict phase. The resolution also recalled its earlier decision to refer the situation in Libya to the Prosecutor of the International Criminal Court, and the importance of co-operation for ensuring that those responsible for violations of human rights and international humanitarian law, or complicit in attacks targeting the civilian population, are held accountable. The resolution expressed concern at the proliferation of arms in Libya and its potential impact on regional peace and security. The Security Council underscored that the voluntary and sustainable return of refugees and internally displaced persons would be an 'important factor for the consolidation of peace' in Libya.⁵⁵ Subsequently, the Security Council established the United Nations Support Mission in Libya (UNSMIL) with six objectives: (i) to restore public security and order and promote the rule of law; (ii) undertake inclusive political dialogue, promote national reconciliation, and embark upon the constitution-making and electoral process; (iii) extend state authority, including through strengthening emerging accountable institutions and the restoration of public services; (iv) promote and protect human rights, particularly for those belonging to vulnerable groups, and support transitional justice; (v) take the immediate steps required to initiate economic recovery; and (vi) coordinate support that may be requested from other multilateral and bilateral actors as appropriate.⁵⁶ In the following, the Libya Recovery Trust Fund (LRTF) was created based on the principles of national ownership, speedy response and rapid delivery, and effective coordination of international assistance.⁵⁷ After a period of political divisions and internal conflict, Libya restarted its political transition with the Libyan Political Agreement in December 2015, which the Security Council endorsed as it stipulated 'continue inclusivity' by establishing of a unity government.⁵⁸ The Security Council recognized the need for assistance in planning and for security arrangements, and encouraged Member States to respond generously to the Libyan Humanitarian Response Plan for 2016. The plan had three main objectives: (i) saving lives by improving access to the most crucial goods and services including health, nutrition, shelter, water, and sanitation; (ii) providing protection from violence and abuse with a focus on the most vulnerable, including women, children, youth, people with disabilities, and people with low economic

⁵⁴ UN Security Council Res. 2016 (27 October 2011) UN Doc. S/RES/2016 (2011).

⁵⁵ Ibid.

⁵⁶ UN Security Council Res. 2009 (16 September 2011) UN Doc. S/RES/2009 (2011).

⁵⁷ Memorandum of Understanding between Participating UN Organizations and the United Nations Development Programme regarding the Libya Recovery Trust Fund, October 2011, <<http://mdtf.undp.org/document/download/8025>> accessed 2 June 2020.

⁵⁸ UN Security Council Res. 2259 (23 December 2015) UN Doc. S/RES/2259 (2015); Libyan Political Agreement, signed on 17 December 2015, available at <<https://unsmil.unmissions.org/LinkClick.aspx?fileticket=miXuJYkQAQg%3D&tabid=3559&mid=6187&language=fr>> accessed 18 May 2018.

means; and (iii) improving resilience of affected communities by developing the resilience and capacity of affected communities to cope with the ongoing crisis, including restoring livelihoods, strengthening infrastructure and promoting wellbeing across the population, and harnessing capacities for recovery.⁵⁹ The Security Council also welcomed the Libyan Political Dialogue and other tracks of the peace process, including the contributions of civil society, tribal leaders, local-level ceasefires, prisoner exchanges and the return of internally displaced persons. Its resolution confirmed that those individuals and entities engaging in or providing support for acts that threaten the peace, stability, or security of Libya, or that obstruct or undermine the successful completion of the political transition to a 'stable, secure and prosperous Libya' under a government of national accord, must be held strictly accountable, recalling the travel ban and asset freeze measures of earlier resolutions.⁶⁰ The Security Council emphasized the need to promote and protect human rights and called upon the government to hold to account those responsible for violations of international humanitarian law and human rights abuses.⁶¹

V. Conclusion

There is no ultimate recipe for just and sustainable peace. In the meantime, the evolution of elements of a potential 'law of peacemaking' and 'law of peacebuilding' has been slowly but steadily progressing.⁶² Indeed, a clear normative framework about how to best establish sustainable peace and how to deal with the justice of conduct after war is still lacking, but there is a growing understanding of programmatic principles that go beyond the general human rights and development narrative.⁶³ Whether there is a coherent body of norms or law establishing an international peacemaking and peacebuilding regime specifically for post-war situations, equivalent to the *jus ad bellum* and *jus in bello* framework, can be disputed, but the endorsement of peacebuilding and peacemaking principles both by the Security Council and the General Assembly cannot be ignored.

The UN has come a long way concerning conflict aftercare. In 2004, Report of the High-level Panel on Threats, Challenges and Change on 'A More secure world: Our shared responsibility' observed that in both the period before the outbreak of civil war and in the transition out of war, neither the UN nor the broader international community, including the international financial institutions, are well organized to assist countries attempting to build peace.⁶⁴ The High-level Panel called for a single intergovernmental organ dedicated to peacebuilding, empowered to monitor and pay close attention to countries at risk. Since 2005, the UN Peacebuilding Commission performs this function to focus attention on the

⁵⁹ Humanitarian Response Plan 2016, available at <http://reliefweb.int/sites/reliefweb.int/files/resources/libya_hrp_final_19_11_2015.pdf> accessed 18 May 2018.

⁶⁰ UN Security Council Res. 2259 (n 58) para. 10.

⁶¹ Ibid. para. 14.

⁶² See also Philipp Kastner, *Legal Normativity in the Resolution of Internal Armed Conflict* (Cambridge University Press 2015); Ray Murphy (ed.), *Post-Conflict Rebuilding and International Law* (Routledge 2012).

⁶³ Liliana Lyra Jubilut, Towards a New Jus Post Bellum: The United Nations Peacebuilding Commission and the Improvement of Post-Conflict Efforts and Accountability (2011) 20 *Minnesota Journal of International Law* 26, 58.

⁶⁴ A More Secure World: Our Shared Responsibility, Report of the High-level Panel on Threats, Challenges and Change 2004, para. 225.

reconstruction and institution-building efforts necessary for recovery from conflict.⁶⁵ The United Nations has significantly improved its support to countries emerging from conflict over the last ten years, as acknowledged by many Member States.⁶⁶ The lines between peace-making and peacebuilding are gradually fading, as the UN is increasingly supporting political processes and build institutions in the midst of ongoing violence and conflict.⁶⁷ At the same time, it has been acknowledged that peacebuilding activities need to be linked to a broader political strategy, which also requires being realistic about the limits of national ownership in situations of state collapse and where political legitimacy remains contested.⁶⁸ Eventually, the recent developments in this field give reason for the call of a 'new Agenda for Peace'.⁶⁹

As the *jus post bellum* and the Justice of Peace debates re-emphasize, the role of law in war-to-peace transitions is critical as it provides orientation and reference points. The endorsed secretary-general's reports on peacebuilding have highlighted key themes such as inclusivity, institution-building, mutual accountability, and the vital role of women in all peacebuilding efforts. As the secretary-general stressed in April 2016 in his remarks regarding the UN Peace Operations Review, the number of civil wars has tripled in the past ten years, more people are displaced around the world since the founding of the UN, and humanitarian needs conflict have reached \$20 billion.⁷⁰ As the Global Humanitarian Appeal 2016 shows, there is a funding gap that stands symbol for limited international solidarity.⁷¹ On the critical side, an open question is how much the achieved principles are worth if their translation into programmatic action only finds limited support. Another point for further critical reflection is whether it is enough to have a set of principles that can be politically loaded or blurred in practice, dependant on the political interests of those involved in the implementation of them, foremost by the concerned Member States. There is the real risk that peacemaking and peacebuilding becomes a box-ticking exercise, where real transformative post-conflict change as the base for just and sustainable peace is absent.

Finally, peace is perhaps inherently imperfect as it requires continued dialogue while striving for justice and sustainability.⁷² Perfect peace might tend to be totalitarian, with everything under control and nothing to aspire for. Appreciating imperfection allows valuing the possible, instead of insisting on the seemingly flawless. All this makes peacemaking and peacebuilding in post-conflict realities the 'art of the possible', guided by normative expectations and shepherded by the emerging *jus post bellum*.

⁶⁵ UN Security Council Res. 1645 (20 December 2005) UN Doc. S/RES/1645 (2005); UN General Assembly Res. 60/180 (30 December 2005) UN Doc. A/RES/60/180.

⁶⁶ (General Assembly Adopts Resolution on Improving United Nations Peacebuilding Architecture Ahead of Day-long Debate, GA/11780, 27 April 2016, available at <<http://www.un.org/press/en/2016/ga11780.doc.htm>> accessed on 18 May 2019.

⁶⁷ Statement by Ambassador Mark Lyall Grant of the UK Mission to the UN, to the Security Council Debate on Peacebuilding in the aftermath of conflict, 14 January 2015, available at <<https://www.gov.uk/government/speeches/peacebuilding-requires-sustained-political-attention-and-financial-support>> accessed 18 May 2019.

⁶⁸ Ibid.

⁶⁹ Adam Lupel, Barbara Gibson, and Youssef Mahmoud, 'Toward a New "Agenda for Peace"', IPI Global Observatory, 23 September 2016, available at <<https://theglobalobservatory.org/2016/09/multilateralism-united-nations-agenda-for-peace/>> accessed 19 May 2019.

⁷⁰ Secretary-general's remarks at event on 'United Nations Peace Operations Review: Taking stock, leveraging opportunities and charting the way forward', 11 April 2016, available at <<https://www.un.org/sg/en/content/sg/statement/2016-04-11/secretary-generals-remarks-event-%E2%80%9CUnited-nations-peace-operations>> accessed 19 May 2019.

⁷¹ Global Humanitarian Overview 2016, Office for the Coordination of Humanitarian Affairs (OCHA), available at <<https://docs.unocha.org/sites/dms/Documents/GHO-2016.pdf>> accessed 19 May 2019.

⁷² See also Martin Wählich, *Peacemaking, Power-sharing and International Law: Imperfect Peace* (Hart/Bloomsbury 2018).

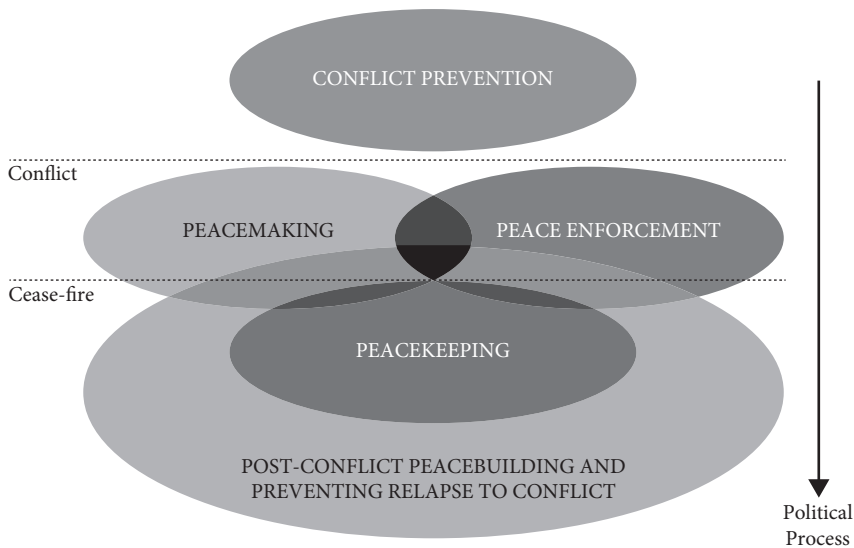


Figure 4.1 Linkages of peacemaking and peacebuilding⁷³

Box 4.1: Recurring peacebuilding priorities⁷⁴

- Support to basic safety and security, including mine action, protection of civilians, disarmament, demobilization and reintegration, strengthening the rule of law, and initiation of security sector reform
- Support to political processes, including electoral processes, promoting inclusive dialogue and reconciliation, and developing conflict-management capacity at national and subnational levels
- Support to the provision of basic services, such as water and sanitation, health and primary education, and support to the safe and sustainable return and reintegration of internally displaced persons and refugees
- Support to restoring core government functions, in particular basic public administration and public finance, at the national and subnational levels
- Support to economic revitalization, including employment generation and livelihoods (in agriculture and public works) particularly for youth and demobilized former combatants, as well as rehabilitation of basic infrastructure.

⁷³ United Nations Peacekeeping Operations Principles and Guidelines (Capstone Doctrine), 2008, available at < [https://www.unocha.org/sites/dms/Documents/DPKO%20Capstone%20doctrine%20\(2008\).pdf](https://www.unocha.org/sites/dms/Documents/DPKO%20Capstone%20doctrine%20(2008).pdf) > accessed 2 June 2020.

⁷⁴ UNGA Report of the Secretary-General on peacebuilding in the immediate aftermath of conflict (n 34).

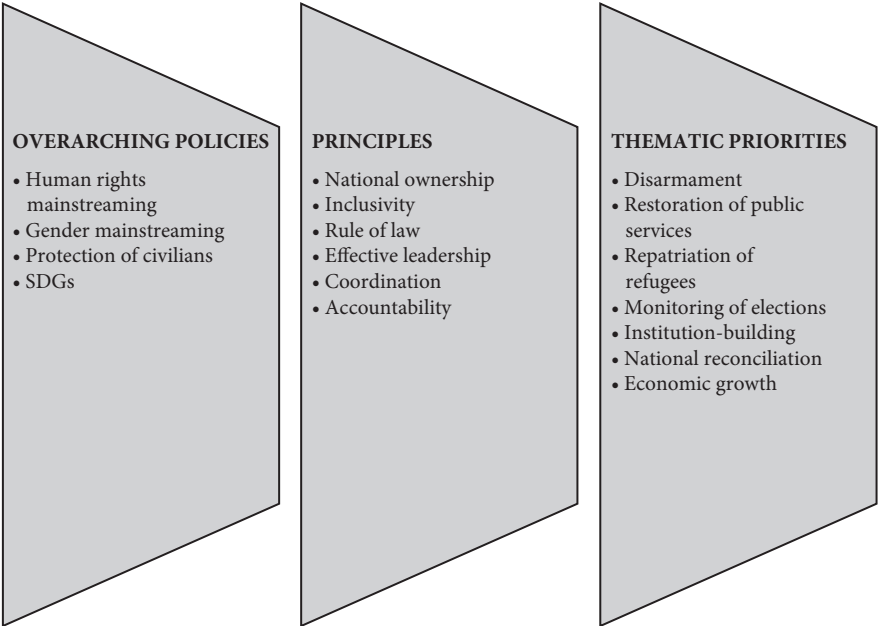


Figure 4.2 Post-conflict just and sustainable peace parameters
Source: Report of the Secretary-General on peacebuilding in the immediate aftermath of conflict, A/63/881-S/2009/304, 11 June 2009, <<http://www.un.org/en/peacebuilding/pbso/pdf/s2009304.pdf>>.