

INDEX

accountability economic reconstruction, 20-1 ad hoc international legal regulation elections as basis for, 151, 187, 223 aid agreement provision, 209, 48-9 212 best practice in relation, 9 168 - 72contextual sensitivity and, 9, 11, 52, 53, 84–5, 101, 175, 187, 236 172 - 4electoral fraud, 173, 174, 186 focus on, 233, 238 framework for, 50-1 human rights law as basis for, 101, 163 - 5104, 187 international law in relation to, 4, 167 - 879-80, 140, 230, 234 rule of law and, 19 security sector reform, 194 transitional justice and, 18 UN Security Council, 192 151 - 9ad hoc international legal regulation. See aid agreements; peace processes; UN Security Council; international law Afghanistan accountability framework, 50-1 aid agreements, 216-21 assistance model of intervention, rule of law, 19 author's analytical approach, 151 choice as case study, 7-8 47 - 8consultation with local communities, 47-8 stability, 8-9 direct popular input into decision-making communication of public 195 - 7opinion, 178-85 consultation, 175-8 rights law

ban on media reporting, elections of 2004 and 2005, elections of 2009 and 2010, international legal framework, relevance of, 174-5 peace agreement framework, structuring of election process, traditional mechanisms, 165-6 governance reform, 17-18 government authority, 23-4 historical context for reconstruction, identification of interim government, 159-63 international legal framework, relevance of, 185-7 peace process, 22-3, 205-7 popular governance practice summarised, 228-30 private contractors, 28-9 security sector reform, 16, 27-8, Sierra Leone contrasted, 8-9 transitional justice, 17, 18 UN Security Council resolutions, African human rights law. See human



264

aid agreements

Cambridge University Press & Assessment 978-1-107-05531-5 — Popular Governance of Post-Conflict Reconstruction Matthew Saul Index More Information

> role of, 208-10 choice of, 6 suitability as source of regulation, key study areas, 9 221 - 3coercion American and European human scope for, 84 rights systems compared, compliance with human rights. See 112 - 15human rights law assistance model consultation with local communities. direct international administration See popular governance compared, 6-7 contextual sensitivity accountability and, 9, 11, 52, 53, 84, domestic government autonomy, 101, 175, 236 examples of, 26 aid agreement provision, 215, focus on, 6 220 international involvement in, benefits of, 139, 191, 235, 238 26 - 30best practice and, 3, 41, 53, 91 popular governance and, 30 disadvantage of, 191 trusteeship compared, 6 electoral process, 84, 88, 140 human rights, 180 best practice identification of government, accountability as motivation for, 9 162 contextual sensitivity and, 3, 53, 91 importance of context, 47-8 contextualized approach to identification of government, 132 reconstruction, 41 international judicial bodies, 237 co-ordination amongst international international law in local context, 47-52 actors, 41 elections, 84, 89 light touch approach to regulation, focus on, 3, 5, 225 116, 148, 185, 235 methods for ensuring, 44 identifying general political authority, 31 popular governance, 48 international law as hindrance, reduction of scope for, 48, 81, 150, 223 175, 191 international law as motivation, scope for, 21, 80-1 116, 149, 223, 228, 238 self-determination and, 48, 80

INDEX

case studies

importance of, 30 sources of, 21 popular governance, 53 self-determination and, 48–9 direct international administration. See international administration domestic actors focus on, 8, 9 governmental status. See identification of interim government

variety of contexts, 3, 48, 97

decision-making

light touch approach to regulation as

local ownership of reconstruction,

popular governance in relation

recommendations for effective reconstruction, 40–3

decision-making, 42

self-determination and, 79

women's involvement in

women's needs, 41-2

motivation, 235 literature on, 40–1, 236

generally, 232

recommendations, 10

42 - 3



> 265 INDEX

identification of interim economy priority for reconstruction, 20-1 government. See identification of interim government effectiveness approaches to assessment of, 40-1 primary role in decision-making, author's analytical approach, 32 25, 30 best-practice recommendations for, 40 - 3contextual awareness in relation to. 41 international law in local context, 47 - 52popular governance as aid to, 43-5 popular governance as barrier to, 45-7,53popular governance in relation to, 52 - 3elections best practice, 89 credibility of international involvement, 48-9 governments' scope to limit, 86-9 requirement under international law, 84-5 right to participate in, 85-6 European and Inter-American human rights systems compared, 112 - 15flexibility. See contextual sensitivity funding international sources of, 28 governance. See also popular governance definition of, 17-18 priority for reconstruction, 17-18 governments accountability frameworks, 50-1 autonomy in relation to assistance model, 29 best practice for identifying general political authority, 31 116 compliance mechanisms, removal of governmental status, 102 decision-making on reconstruction, 2.3 - 4human rights compliance. See human rights law

self-interest. See self-interest human rights law African regional instruments and international law compared compliance mechanisms, 111–12 derogation and limitation clauses, 109-11 stringency of regulation generally, substantive provisions, 108-9 author's analytical approach, 82-4 compliance mechanisms acculturation, 105-6 coercion, 105-6 generally, 101-2, 116 implications for post-conflict setting, 106-7 international judicial responses, law of state responsibility, 102-4 persuasion, 105-6 removal of governmental status, social mechanisms, 105-6 creation of political representation infrastructure, 91-2, 115 derogation clause relevance of, 99-101 statement of, 98-9 European and Inter-American systems compared, 112-15 freedom of assembly, 94 freedom of association, 94 freedom of expression, 92-3 governments' scope for evasion, governments' scope to limit, 86-9 'light touch' approach, 115 limitation clause nature of, 96-7 purpose of, 98 relevance of, 97–8



266 INDEX

human rights law (cont.) mandate for direct popular input into governance, 89-91, 115 relevance of, 94-6 identification of interim government appropriateness in local context, 80 - 1appropriateness of international law as to, 78-80 author's analytical approach, 57-8 domestic actors with governmental status, 58, 78 impact on reconstruction, 80-1 inclusive decision-making. See popular governance Inter-American and European human rights systems compared, 112 - 15interim governments. See governments international actors, best practice as to co-ordination, 41 international administration case for direct administration, 30 decision-making on reconstruction, direct administration compared with assistance model, 6-7 examples of, 26 motivations for, 25-6 self-determination and, 58. See self-determination trusteeship compared with, 6 International Covenant on Civil and Political Rights. See human rights law international judicial bodies contextual sensitivity, 237 human rights compliance mechanisms, 104-5 international law ad hoc international legal regulation options for, 191-2, 231 suitability as source of regulation, appropriateness, question of, 3, 4, 9

framework for popular governance, 51-2, 53, 226-8 hindrance for best practice, 223 human rights. See human rights identification of interim government. See identification of interim government jus post bellum. See jus post bellum motivation for best practice, 116, 149, 223, 228, 238 need for framework, 4-5 relevancy of, factors for, 238-9 international law. See also aid agreements; peace processes; **UN Security Council** intervention state sovereignty and, 60-2 judicial bodies. See international judicial bodies jus post bellum focus on, 4, 225 key issues summarised, 234-6 legitimacy author's analytical approach, 32 definition of, 32-3 factors of, 33 popular governance in relation to, 37-40, 52-3 questions of, 33-7 light touch approach to regulation. See also contextual sensitivity appropriateness of, 121, 133, 144, 166, 174, 182, 183, 228, 230, 235 coercion, scope for, 83 contextual sensitivity and, 148, 185, discretion as to international legal response, 147, 174, 180, 185 elections, 186 governments' exploitation of, 107 human rights, 101, 113, 115, 116, 143, 180 international legal framework generally, 10

motivation for best practice, 235

credibility in local context, 47–52

focus on, 4–5



INDEX 267

peace processes, 199 responsible exercise of authority, 238 self-determination and, 160, 232 local involvement. See popular governance peace processes decision-making on reconstruction, 22 - 3nature of peace agreements, 199-201 stages of, 22-3 suitability as source of regulation, 207 - 8political authority. See governments popular governance accountability frameworks, 50-1, aiding reconstruction, 43-5, 52-3 assistance model and, 30 author's analytical approach, 225-6 barriers to, 2-3 best practice. See best practice best practice in relation generally, contextualised approach to, 3, 47-8 definition of 'governance', 2 focus on, 1-2, 225 hindering reconstruction, 45-7, 53 human rights and. See human rights international law and. See international law key issues summarised, 232-3 legitimacy in relation to, 52-3 mandate for governance. See popular mandate mechanisms for, 9 positive impact of, 2 processes of, 2 women's involvement, 42 popular mandate creation of. See elections focus on, 9 population definition of, 2-3

author's analytical approach, 10-11, best practice. See best practice decision-making. See decision-making definition of, 2 definition of 'reconstruction', 15 effectiveness of. See effectiveness examples of, 1 international law and. See international law; human rights law legitimacy of. See legitimacy popular involvement in. See popular governance time sensitivity of, 57 priority areas for, 16 reasons for, 1 regulatory framework. See international law post-conflict situations assistance model. See assistance case studies. See case studies definition of, 5-6 identification of, 5-6 variety of, 3, 4 private contractors role of, 28-9 programme-level decision making, public opinion. See popular governance reconstruction. See post-conflict reconstruction resolutions. See UN Security Council right to wage war state sovereignty and, 59-60 rule of law definition of, 19 priority for reconstruction, 19–20

security
assistance model of intervention,
27–8
effectiveness of reform, 47–8
priority for reconstruction,
16–17

post-conflict reconstruction



268 INDEX

Security Council. See UN Security identification of interim government, 126-32 Council self-determination international legal framework, appropriateness of international law relevance of, 148-50 on, 79, 148, 234 peace process, 22-3, 201-5 best practice and, 79 popular governance practice summarised, 228-30 contextualised approach to, 48-9 definition of, 66-7 private contractors, 28-9 focus on, 10 rule of law, 19 implications for post-conflict security sector reform, 16, 27, 47-8 setting, 232, 237 stability, 8-9 international administration and, transitional justice, 17, 18 26, 58 UN Security Council resolutions, international involvement and, 58, 193-5 77, 80, 127, 227, 229 social mechanisms for human rights law of, 67-70 compliance, 105-6 light touch approach to regulation, stability 160, 232 restoration of, 8–9 state responsibility and human rights reasons for compliance with, 70-2 right to, 57, 66-7, 159, 198, 226 compliance, 102-4 see also state sovereignty state sovereignty. See also self-interest self-determination accountability for pursuit of, 234 definition of, 59 deterrence of, 140 law of, 59-62 population's interest prioritised over, prohibition on intervention, 60-2 10, 58, 116, 135, 168, 231, 238 reasons for compliance with, 62-6 prioritisation of, 11, 48, 49, 53, 80, reconstruction and, 58 91, 184, 223, 230 right to wage war, 59-60 scope for, 191, 228 Sierra Leone time sensitivity of reconstruction, 57 accountability framework, 50-1 transitional justice Afghanistan contrasted, 8–9 definition of, 18 aid agreements, 210-16 priority for reconstruction, 18 assistance model of intervention, 27 trusteeship author's analytical approach, 121 assistance model compared, 6 choice as case study, 7, 8 consultation with local **UN Security Council** communities, 47-8 Afghanistan resolutions, 195-7 direct popular input into decision powers as to popular governance, making, 140-3 192 - 3economic reconstruction, 20-1 Sierra Leone resolutions, 193–5 elections, 48-9, 132-40 suitability as source of regulation, funding, 28 197-9 governance reform, 17–18 government authority, 23-4 women attention to needs of, 41-2 historical context for reconstruction, involvement in decision-making, 121 - 5human rights, 143-8