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Postwar Policy, Returnees and Homogeneous Communities

An Exploration of the Relationship Between Property Restitution and
Ethnic Diversity in Postwar Bosnia and Herzegovina

Dissertation Submitted by
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SIGNATURE

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ABSTRACT

Property restitution is an integral part of return and reconciliation in a postwar environment. The Dayton Agreement in Annex 7 developed the Property Law Implementation Process (PLIP) - a mechanism to return property to its original owner. The aim of this thesis is to explore the relationship between this national Property Law Implementation Process and ethnic communities in postwar Bosnia and Herzegovina. The assumption is that there is likely to be higher implementation rate of the property policy in more homogenous communities. The study deploys a quantitative approach looking at both prewar and postwar data to measure the ethnic composition of 98 municipalities. The findings confirm that in areas that are dominated by Serbs, there is a significant relationship with the PLIP. The analysis of these findings is not enough to explain the variance in the policy; therefore there is an additional discussion of additional factors based on secondary literature on additional factors. The analysis concludes with a discussion of the barriers to the implementation of the property process and if it was successful in reversing ethnic cleansing.

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1. INTRODUCTION

The end of the Bosnian war resulted in the displacement of 2.2 million Bosnians as refugees and internally displaced persons.¹ The Dayton Peace Agreement signed in 1994 created a new power-sharing government that would implement several policies for citizens in the post-conflict society. The Annex 7 of the Dayton Peace Agreement was drafted to provide for the right of return for refugees and displaced people. The text specifically talks about property, saying “they shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them.”² In order to fulfill this obligation, the national authorities along with the Office for the High Representative (OHR), Organization for Security and Co-operation in Europe (OSCE) and United Nations Mission in Bosnia and Herzegovina (UNMIBH) implemented The Property Law Implementation Process (PLIP). This process was to address restitution and repossession of property in an apolitical manner.

The intention of the law was to promote and encourage the return of those displaced by the war as part of the guaranteed right to return. On the conceptual level it was created to reverse ethnic cleansing and work towards diversifying communities again. The implementation of the policy was to have people go back to the lives they lead before and begin to reintegrate back into their former communities. Property restitution is seen as an integral part of the return process in a post-conflict society and also a part of the reconciliation process after a conflict. On the technical level, the policy overall was considered to be effective with a high implementation rate for the postwar context. “The restoration of property rights and the return of refugees and displaced persons to their homes must rank as the most dramatic success of the peace process in Bosnia and Herzegovina.”³ Despite its international praise, the implementation rate still varied widely depending on the community.

¹ Haider, Huma. “Initiatives and Obstacles to Reintegration in Divided Communities: UNHCR’s Imagine Coexistence Project in Bosnia and Herzegovina.” *Conflict in Cities and the Contested State*, 2012.

² Dayton Peace Agreement, Annex 7: Agreement on Refugees and Displaced Persons, 14 December 1995

³ Cox, Marcus, and Madeline Garlick. “Musical chairs: property repossession and return strategies in Bosnia and Herzegovina.” *Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons*. Edited by Scott Leckie. New York: Transnational Publishers, 2003.

Although the property policy was considered to be successful by the international community, the rate of success differs depending on the city it was implemented in and the ethnic composition of the city. In this study, the implementation rate is expressed in a percentage from a ratio of the number of repossessions over the number of claims (claims/repossessions). Just at the entity level, there is a variance in the implementation rate of the law with the Federation at 49 percent and Republika Srpska at 31 percent.⁴ The variation of implementation could be brought about by numerous factors, including new political structures, local authority agency, social cohesion in communities, perceived safety to return and ethnic diversity of communities. However, more than each of these variables, ethnic identity was a key catalyst of the war and “it is clear that Bosnia’s people were divided along ethnic and religious lines.”⁵ Today this still holds true with a rigid ethnically constructed political structure that essentially operates two countries in one divide by ethnic composition. The desire to return ‘home’ as a minority to one of these postwar communities carries negative consequences that could deter them from deciding to repossess their former property.

This paper will explore the relationship between the ethnic composition of cities in post-conflict Bosnia and Herzegovina (BiH) and the implementation rate of the Property Law Implementation Process. The approach is quantitative with multiple regression using prewar ethnic group percentages, postwar ethnic group percentages, gini and population as the independent variables and variance in the implementation rate as the dependent variable. The overarching goal is to look at the affects of the law on the three ethnic groups individually and the diversity of communities as a whole.

The next section examines literature on the legal, reconciliation and ethnic frameworks associated with the right of return. This section also covers the framework for my analysis using Lee’s migration theory of push and pull factors. The third part covers the context of the situation

⁴ “Statistics: Implementation of the Property Law in Bosnia and Herzegovina.” Stability Pact for Southeastern Europe, December 2001.

⁵ Mladen, Ančić. “Society, Ethnicity, and Politics in Bosnia-Herzegovina.” *Croatian Academy of Sciences and Arts*, 2013.

in postwar Bosnia and the need for the Property Law Implementation Process. The fourth section expands on the quantitative approach used, my hypothesis and sources of data that are used. The fifth part discusses the results and analysis of the data on the ethnic percentages and the implementation rate of the PLIP. The sixth section discusses the broader implications of the property law and the possible social concerns with its implementation. The last section concludes with a combined analysis of the data and secondary literature to discuss benefits and concerns to be considered by future policymakers when thinking about postwar reparations.

2. LITERATURE REVIEW & CONCEPTUAL FRAMEWORK

The topic of this paper is set within the broader international legal framework of refugee and human rights law. Law itself is not enough to explain postwar return and reintegration. This section also discusses the concepts of reconciliation and reintegration with property restitution as a piece of those frameworks. Then it draws from literature on post-conflict societies and identity on Bosnia, including symbolic politics. Lastly, it uses Lee's migration model to explain the pull factor of ethnic identity as a justification for using ethnic composition as my independent variable.⁶

2.1 Right of Return Legal Framework

The right of a refugee to return after a conflict has been confirmed by international human rights instruments, the United Nations and other important actors.⁷ It is supported by the United Nations Declaration of Human Rights in 1948 and is considered customary law.⁸ It is in some ways attached to refugee law but is still not considered hard law within international law. Additionally, a post-conflict environment is much more complex than establishing a law or policy that allows for return. The more difficult problem of return is not just about placing someone back in the community or house they came from but developing a new livelihood there - sustainable return. "...Refugees will be able to regain citizenship rights and feel at home only if

⁶ Lee, Everett S. "A Theory of Migration." *Demography* 3, no. 1 (1966): 47–57.

⁷ Rosand, Eric. "The Right to Return Under International Law Following Mass Dislocation: The Bosnia Precedent?" *Michigan Journal of International Law* 19, no. 4 (1998): 1091–1139.

⁸ Ibid

the pre-conditions for sustainable return prevail.”⁹ Sustainable return is the rebuilding of a relationship between “returnees”, “civil society” and “the state” in order to ensure security for returnees.¹⁰ There are several elements needed in for the return process that are not material such as safety, non-discriminatory treatment and freedom of movement.¹¹

2.2 Property Restitution and Reconciliation Framework

Reintegration is critical for the needs of the displaced, which require policy and laws that enable a return to a former or new livelihood. The United Nations High Commission for Refugees defines reintegration as “the universal enjoyment of full, political, civil, economic, social and cultural rights.”¹² To guarantee reintegration, most of these elements have to be present but also inviting for returnees to fully integrate. The repair of relationships and trust need to be rebuilt with government institutions and community members after violent conflict. Rodicio argues that successful reintegration falls on the “attitudes and efforts” of the state and the returnees while reestablishing a mutual relationship.¹³ She acknowledges that this process only occurs for a limited amount of time and can play out differently depending on the context. Property return is a key mechanism for reestablishing trust with government institutions and as such should be priority for the state and those wishing to return.

Property restitution is an essential element of not just return but reintegration - without a place to return, people cannot return. Although it is crucial, it is not enough alone to “ensure socio-economic reintegration.”¹⁴ Furthermore, property restitution does not even begin to discuss the broader reconciliation framework needed to ensure political and cultural rights. “Property systems are designed to control land and resources, they are often subject to political agitation by

⁹ Chimni, B.S. “Refugees, Return and Reconstruction of ‘Post-Conflict’ Societies: A Critical Perspective.” *International Peacekeeping* 9, no. 2 (2002).

¹⁰ Ibid

¹¹ Von Carlowitz, Leopold. “Resolution of Property Disputes in Bosnia and Kosovo: The Contribution to Peacebuilding.” *International Peacekeeping* 12, no. 4 (December 1, 2005): 547–61.

¹² “Handbook for Repatriation and Reintegration Activities.” UNHCR, May 2004.

¹³ Garcia Rodicio, Ana. “Restoration of Life: A New Theoretical Approach to Voluntary Repatriation Based on a Cambodian Experience of Return.” *International Journal of Refugee Law* 13 (2003).

¹⁴ Venancio, M. et al. “From Emergency to Development: Assessing UNDP’s Role N Bosnia and Herzegovina.” *Force Migration Review* 21 (2004): 19–22.

one group against another and directly linked to many violent conflicts.”¹⁵ This control and tension over property in the postwar environment will encounter obstacles and barrier when trying to legally untangle complex property issues. Property issues can be a catalyst for conflict or violence if they are not dealt with in a thoughtful and unbiased way.

2.3 Post-conflict Societies

Chimni explains with a critical view that the line between conflict and post-conflict is hard to distinguish and even in post-conflict societies, social conflicts can still exist.¹⁶ There is a need to define an environment as post-conflict in order to create political legitimacy, even if ethnic and social tensions continue to exist. These tensions can be physical scars such as the literal ethnic separation of a city like Mostar or removal of landmarks that represent ethnic identity, such as a church. They can also be more personal such as not talking to neighbors or discrimination in the labor market as a minority. Post-conflict does not mean that these tensions disappear but that they transform into symbols and through other avenues.

There is expansive literature on the broad legal basis on the right of return and the smaller part that this paper, which explores reintegration. Furthermore, scholars have discussed the necessity of reintegration as a critical part of return and even more property restitution as a prerequisite for return. Scholars have seen reparations policies as the key to reversing wrongs and solving grievances in post-conflict societies. Although the literature does well to take a normative approach about voluntary return, there is disconnect between reintegration policies and the extent of their impact. A law is not enough to reverse massive displacement from violence. This is a significant gap in the literature in taking a critical perspective of reparations policies and if the policy actual contributes to socially repairing a post-conflict society or if it is only successful on paper.

¹⁵ Von Carlowitz, Leopold. “Resolution of Property Disputes in Bosnia and Kosovo: The Contribution to Peacebuilding.” *International Peacekeeping* 12, no. 4 (December 1, 2005): 547–61..

¹⁶ Chimni, B.S. “Refugees, Return and Reconstruction of ‘Post-Conflict’ Societies: A Critical Perspective.” *International Peacekeeping* 9, no. 2 (2002).

2.4 Conceptual Framework: Push and Pull Factors

Lee's theory of migration explains that there are different push and pull factors in the area of origin and the area of destination that either facilitate or hinder movement of people.¹⁷ This can be applied to returnees and their desire to return to their place of origin after displacement. There must be enough pull factors from their original home or enough push factors in this current place to make them return. This can also be looked at in reverse, if there are enough push factors keeping returnees away from their original home and enough pull factors keeping them in their relocated area, then return is more likely to not happen. Additionally positive incentives and negative barriers intervene between these two places that can also affect the decision of a returnee.

Applied in the Bosnian context, this can be seen with the return of those after the war with the factors that influence their decision to return home. After the war, returnees had a desire to relocate home but still had many barriers that prevented them from doing so. A survey with displaced Bosnians in 1999, four years after the war, revealed that 61 percent wished to return to their prewar home.¹⁸ Furthermore, 59 percent of respondents said the main motivating factor to return was that 'this was their home' - the central pull factor.¹⁹ Clearly there are grounds for a property restitution mechanism to incentive return. Therefore, the Property Law and Implementation Process established in 1995, to give back ownership of original property was a positive incentive to return.

Yet, despite the new property law in place, the OSCE estimated that only some 140,000 had returned by 1998.²⁰ Additionally, only 35,000-40,000 of those returning to their prewar home were a minority.²¹ It could be argued with this analysis that there might have not been enough pull factors to return to prewar homes coupled with not enough push factors to make them leave. Some of the barriers revealed in the 1999 survey were security concerns, economic livelihood

¹⁷ Lee, Everett S. "A Theory of Migration." *Demography* 3, no. 1 (1966): 47-57.

¹⁸ "Return, Local Integration & Property Rights." UNHCR and CRPC, November 1999.

¹⁹ Ibid

²⁰ Blitz, Brad. "Balkan Returns: An Overview of Refugee Returns and Minority Repatriation." Special Report 57. New York: United States Institute of Peace, December 1999.

²¹ Ibid

and reconstruction of former homes.²² Although all of these barriers could contribute as factors to repel people from their place of origin, one factor that was overarching and contributes to each of these factors was ethnic identity.

An example of this was the city of Banja Luka. Prewar, it was a fairly heterogeneous city but after the war it became a predominately ethnically Serb area with a political system run by Serbs. After the war only 5,000 to 10,000 of the former 60,000 other two ethnicities (Bosnian and Croat) remained.²³ During the war, mosques and catholic churches were blown up and destroyed throughout the city. There was a replacement of “non-Serb street names” and reshaping of ethnic localities for Bosniaks and Croats.²⁴ This was a systematic erasure of any ethnic identity that was non-Serb throughout the city. As a Croat or Bosnian wishing to return to their former home, the ethnic removal of their identity throughout the war could be large enough incentives or push factor for them not to return.

The conflict uprooted over 2.2 million people and drastically changed the demographics of most cities in Bosnia and Herzegovina. Communities that were once quite heterogeneous quickly became more homogenous due to the intention of ethnic cleansing during the war and dominance of one identity. Despite the intention of the property restitution laws as one way to return minorities to areas of homogeneity, this law was not always enough of an incentive for return. The implementation rate of the PLIP has a wide variance for different municipalities and regions, which could be caused by the ethnic composition of the community. I posit it that there is a higher implementation rate in homogenous communities because there is a higher shared ethnic identity in that area. This is validated by Lee’s migration model in which ethnic identity can be a strong pull factor or those that share the same identity but a push factor for those that do not.

3. CONTEXT: PROPERTY RESTITUTION IN POSTWAR BOSNIA

²² “Return, Local Integration & Property Rights.” UNHCR and CRPC, November 1999.

²³ Stefansson, Anders. “Homes in the Making: Property Restitution, Refugee Return and Sense of Belonging in a Post-War Bosnian Town.” *International Migration* 44, no. 3 (2006).

²⁴ Ibid

3.1 The Need for Property Restitution

The Dayton Agreement ended the war in Bosnia through the creation of a new political system and essentially dividing the country into two pieces governing themselves with one federal government linking the two. The system would be one entity the Republika Srpska (RS) dominated by Serbs and the Federation of Bosnia or Herzegovina (FiBH) that would be predominately Bosniak and Croat. This new structure reinforced silos of homogeneity and did not set a good context for minority returns. It is estimated that 95 percent of Bosniaks and Croats left the area known as the RS and that 90 percent of prewar Serbs left the FiBH.²⁵

In the moments immediately following the war, the international community knew that return would need to be not only supported but also facilitated. Annex 7 of the Dayton Agreement was used as the foundation of this, with property restitution being a “precondition for return.”²⁶ It would be critical to have a law and mechanism in place that would objectively facilitate return, especially for minorities.

3.2 The Dayton Agreement

The Dayton Agreement in Annex 7 emphasizes property in Article 1, “They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them.”²⁷ This allowed for the rights of refugees and displaced to be granted their rights through a legally binding reparations structure. Furthermore, the United Nations High Commission for Refugees (UNHCR) was brought in as an unbiased monitor and coordinator of this process. Annex 7 of the Dayton Agreement bound the national government and local authorities in facilitating return through Article 1, “The Parties shall take all necessary steps to prevent activities within their territories which would hinder or impede the safe voluntary return of refugees and displaced

²⁵ Rosand, Eric. “The Right to Return Under International Law Following Mass Dislocation: The Bosnia Precedent?” *Michigan Journal of International Law* 19, no. 4 (1998): 1091–1139.

²⁶ Philpott, Charles. “From the Right to Return to the Return of Rights: Completing Post-War Property Restitution in Bosnia Herzegovina.” *International Journal of Refugee Law* 18, no. 1 (March 1, 2006): 30–80.

²⁷ Dayton Peace Agreement, Annex 7: Agreement on Refugees and Displaced Persons, 14 December 1995

persons.”²⁸ Although the law was created at the national level, it fell to local authorities and municipalities to be implemented. The decentralization of a weak Bosnian state at that time created a lack of resources and monitoring at the local level during implementation.

3.3 The Commission for Real Property Claims of Displaced Persons and Refugees

The Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) was established by the Dayton Agreement to oversee property restitution in postwar Bosnia.²⁹ The CRPC needed a policy framework that was bound to the new legal system, would be unbiased and hold local authorities accountable. Therefore, the CRPC created the Property Law as a standardized and fair system for property restitution claims.³⁰ The system worked as a first come, first serve basis and could be seen a neutral place to gain a piece of restitution.

3.4 Mechanism for Post-Conflict Property Restitution

Post-conflict Bosnia needed a mechanism for the displaced to repossess their original homes that were then occupied. During the war, property policies that were adopted facilitated ethnic cleansing by forcing homeowners to file claims for abandoned property within two weeks of leaving. The arbitrary and ineffective legal system at that time coupled with massive displacement made it nearly impossible for most to keep their homes under the wartime laws.³¹

In 1998, both entities adopted laws and created procedures for displaced families to reclaim their pre-war property.³² This law repealed the property laws that were established during wartime and installed a post-war process to file a property claim with local authorities. The authority of the local municipality had 30 days to determine if applicant was the property right holder from before the war. If the claim was valid and the current occupant did not have accommodation, the

²⁸ Dayton Peace Agreement, Annex 7: Agreement on Refugees and Displaced Persons, 14 December 1995

²⁹ Philpott, Charles. “Though the Dog Is Dead, the Pig Must Be Killed: Finishing with Property Restitution to Bosnia-Herzegovina’s IDPs and Refugees*.” *Journal of Refugee Studies* 18, no. 1 (March 1, 2005): 1–24.

³⁰ Haider, Huma. “Initiatives and Obstacles to Reintegration in Divided Communities: UNHCR’s Imagine Coexistence Project in Bosnia and Herzegovina.” *Conflict in Cities and the Contested State*, 2012.

³¹ Lamphere-Englund, Galen. “Rebuilding Sarajevo.” *The Aleppo Project*, July 2015.

³² Philpott, Charles. “Though the Dog Is Dead, the Pig Must Be Killed: Finishing with Property Restitution to Bosnia-Herzegovina’s IDPs and Refugees*.” *Journal of Refugee Studies* 18, no. 1 (March 1, 2005): 1–24.

authorities had 90 days to find alternative housing for the occupier.³³ There were obstructions from authorities in both FBiH and RS because of the lack of political will from both sides. The international community saw the slow progress of property restitution and by 1999 the law was amended to “uphold the principle of legality.”³⁴ This - combined with pressure from international actors saw a reduction in obstruction and a shift in legal response from the Office of the High Representative (OHR) towards removing officials that did not comply with the law.

The issue of return became increasingly political after the war and the international community knew they had to establish return rights within a legal framework. Property restitution was used as the legal mechanism for return as a way to defuse ethnic tensions and remain apolitical. Property restitution “focused on a collective reversal of ethnic cleansing rather than the recognition of individual rights,” which gave way for a more holistic approach and mitigated biases.³⁵ The Dayton Agreement not only specifically incorporated reparations such as property restitution but also developed a compliance mechanism for the Bosnian authorities in regards to return.

3.5 Reversing Ethnic Cleansing

The intention behind Annex 7 and the incorporation of return of displaced was to reverse ethnic cleansing.³⁶ This set legal and moral foundation for return but there was still a larger need for reconciliation and encouragement from local communities for demographics to be anywhere near to what they were pre-war. The delicate discussion of return, particularly minority return caused an over-reliance on PLIP to be the sole basis for minority return. A larger picture of home and community is needed to understand if the law actually facilitated the return of minorities.

By intertwining property restitution with return the international community assumes that the desire to return to a pre-war only as an economic incentive. A critical social aspect is needed for sustainable return and integration that cannot be captured by this law. There needs to be a large

³³ Ibid

³⁴ Ibid

³⁵ Philpott, Charles. “From the Right to Return to the Return of Rights: Completing Post-War Property Restitution in Bosnia Herzegovina.” *International Journal of Refugee Law* 18, no. 1 (March 1, 2006): 30–80. <https://doi.org/10.1093/ijrl/eei046>.

³⁶ Serrano, Inmaculada. “Property Rights and Reconstruction in the Bosnian Return Process.” *Forced Migration Review* 50, September 2015.

relation between property and reconciliation in communities, particularly those that were previous heterogeneous and after the war became more homogenous. Many displaced Bosnians found themselves as a minority after the conflict, where they were once an equal or even a majority in their city. For example, Banja Luka, a city of almost 200,000 before the war with a 55 percent Serb³⁷ population became 90 percent Serb³⁸ majority of about 165,000 after the war. Homogeneity has resulted in most communities after the war because of protection measures and consolidation of power for one ethnic group.

4. HYPOTHESIS, METHODOLOGY & DATA QUALITY

4.1 Research Question and Hypothesis

Several factors such as the social relationships, security issues and administrative barriers could have contributed to the variance in the implementation rate. However, ethnic composition associated with ethnic identity remains the most important in this analysis. This can be drawn from ethnic identity being a main catalyst in the conflict and ethnic boundaries being a foundation of the new political system facilitated by the Dayton Agreement. Therefore, my research question asks what relationship does ethnic composition of pre and postwar municipalities in Bosnia play in the implementation of the Property Law Implementation Process. My independent variable is the ethnic composition of the community by the percentage of each ethnicity. This will help determine communities that range from heterogeneous to homogeneous. The dependent variable is the change in the implementation rate of the PILP. Therefore, my hypothesis is that communities that are more homogenous are likely to see a higher implementation rate of the PILP.

4.2 Methodology

This work uses a quantitative approach to analyze the relationship between the law and ethnic composition. The quantitative analysis is undertaken to explore the correlation between the

³⁷ “Ethnic Characteristics of the Population: Results of the Republic and by Municipality 1991.” Statistical Office of Bosnia and Herzegovina, October 1993.

³⁸ “Census of Population, Households and Dwellings in Bosnia and Herzegovina 2013.” Agency for Statistics of Bosnia and Herzegovina, July 2016.

ethnic composition of municipalities and implementation of the law through descriptive statistics and regressions. From this foundational analysis, explanatory affects can be drawn with a more focused emphasis on the relationship and potential results. This thesis presents a descriptive analysis of the implementation rate and ethnic composition before and after the war. It then discusses four main analyses based on the prewar composition, post war composition and the change in ethnic composition that occurred. This quantitative approach is one way to operationalize the impact of the PLIP on postwar communities but does not show other variables that could influence the diversity of these communities. Other factors that could have contributed include social cohesions, safety of communities, political and administrative barriers. These factors could not be measured in this quantitative analysis due to the lack of sources and information available on municipalities. Therefore, there will be second analysis of secondary literature that draws on interviews with returnees and international organizations about these factors related to the PLIP that could explain the variance in implementation.

4.3 Data Sources

The quantitative research uses 98 municipalities as in Bosnia and Herzegovina as observations. These municipalities are in both entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. It also includes the autonomous region of Brcko as a data point.. I measure the ethnic composition before the war using data from the 1991 national census with Bosniak, Serb, Croat, Yugoslav and Other as the category options for ethnicity. It is important to note that at the time, Yugoslav was an option in the 1991 census but not in the 2013 census. This means that Yugoslav cannot be represented as an ethnic group because it cannot be compared with a group in 2013. Therefore, some people that defined themselves as Yugoslav could actually identify as one of the other categories but will not be added in this analysis. I operationalize postwar ethnic composition using the 2013 national census with those that identify as Bosnaik, Serb and Croat. This is the most current census completed since the conflict. It is also important to note that the government structure changed after the war, along with boundaries of two entity regions and reconfigured some municipalities. There was an increase by 34 municipalities since the end of the war with a total of 143 in the country, 79 in the Federation of Bosnia and Herzegovina and 64

in Republika Srpska.³⁹ The historical data from 1991 has set the number of municipalities at 98 despite being more than that currently in the country. For reference, this dataset will use 98 municipalities for all of BiH with 39 municipalities in the RS and 57 in the FiBH.

The data on the implementation of the PLIP law was collected monthly by a combination of international organization (OSCE, UNHCR and OHR) and reported to them by local authorities in each municipality.⁴⁰ The implementation ratio is calculated as the total number of repossessions over the total number of claims for each municipality. It is important to emphasize that the ratio is made with claims and not positive decisions made about the claims by the local government. Additionally, in the data, Sarajevo was broken into five different areas but for the purpose of this study the percentages were combined and averaged for the Sarajevo data point in this research. Lastly, the data does not tell the ethnicity of the person who claimed the property or the ethnicity of the current occupant. This information would allow for the exploration of individual ethnicity and if it played a role in returning to homogenous or heterogeneous societies. Unfortunately, with only the implementation rate, this limits the analysis that we can draw from the data results.

4.4 Variables

This section will explore and discuss the relevant variables used in the dataset to look at the relationship between the implementation rate of the PLIP and the ethnic composition of communities. The variables are also disaggregated by the whole countries and by the two regions created after the war. With the implementation rate being the dependent variable, there are five independent variables for both pre and post war. The independent variables are the ethnic composition of Bosniaks, Serbs and Croats, a gini coefficient for inequality and the population size.

³⁹ “Census of Population, Households and Dwellings in Bosnia and Herzegovina 2013.” Agency for Statistics of Bosnia and Herzegovina, July 2016.

⁴⁰ “Statistics: Implementation of the Property Law in Bosnia and Herzegovina.” Stability Pact for Southeastern Europe, December 2001.

4.4.1 Dependent Variable: Implementation Rate of PLIP

The implementation rate is the dependent variable with a wide ranges of change based on implementation rates for each municipality. Table 1 below displays the number of observations, average implementation rate taken as the mean and the standard distribution of the implementation rate. It also includes the highest and lowest implementation rate with all numbers broken into the overall county and two entities. Based on the data in Table 1, the average implementation rate of the policy in all of Bosnia and Herzegovina was 52.62 percent, although in the FiBH it was even higher with a mean of 61.74 percent. It was lower in the RS with 40.37 percent as the average; there was over 20 percent less implementation in the RS compared to the FiBH. There are several reasons why the implementation rate was higher in the FiBH than in RS. There could have been more property deserted or taken by people in FiBH areas. Since the law only considers houses that were taken by one occupant or partially damaged and not about completely destroyed houses, this could have an effect. Perhaps in RS houses were more destroyed and could not be repossessed. Furthermore, there could have been more false claims for houses in RS, than in the FiBH areas.

The standard deviation is similar between all of Bosnia and Herzegovina and the FiBH but is smaller with RS. Not only is the RS a smaller average implementation but it also has a smaller distribution of 17.46 below 50 percent. Looking at the maximum implementation rate in Table 1 for the RS, the highest rate was 78.87, which means compared to the FiBH, no municipality in RS had a 100 percent implementation rate in that region. Furthermore, the lowest implementation rate in RS was 8.29 percent compared to FiBH, which was 17.78 percent, an additional 9.49 percent higher just for the lowest implementation rate.

Table 1: Descriptive Statistics on the PLIP Implementation Rate

	N	Average Implementation Rate	Std. Deviation	Minimum	Maximum
Bosnia and Herzegovina	98	52.62%	22.23	8.29%	100%
Republika Srpska	39	40.37%	17.46	8.29%	78.87%
Federation of (BiH)	57	61.74%	21.02	17.78%	100%

Source: Stability Pact for Southeastern Europe (2001)

4.4.2 Independent Variables: Prewar, Postwar, Gini, Population

To determine the relationship between the implementation rate and ethnic composition in communities, the independent variable must show the ethnic compositions before and after the war. The assumption is that due to ethnic cleansing and massive displacement there was a large change in ethnic composition after the war. The RS after the war became more dominantly Serb, while Bosniaks and Croats dominated the FiBH. This was also facilitated by the new political power structure created under the Dayton Agreement because it created the two entities in order to satisfy all ethnic groups.

Below in Table 2, it shows the average ethnic composition of each of the main three ethnic groups before and after the war by municipality. It is again broken up by the entire country as a whole and then by the two entity areas for further analysis. The table shows that the overall country average has seen a slight increase in Bosniak ethnic composition from prewar with 38.95 percent and postwar with 39.79 percent. There was a larger increase for Serbs with an increase of 3.29 percent on average from prewar Serb ethnic composition at 35.12 percent and postwar at 38.41. Lastly, there was a small decrease in the average percentage of Croats ethnic makeup

within the whole country with a 1.56 percent decline. One reason why there could be an overall larger increase in average Serb percentage in the postwar era than the other two ethnicities could be because more Serbs stayed in the country while more Bosniaks and Croats left during the war.

The second and third columns of Table 2 splits the average ethnic composition of the three major ethnic groups by the two entity regions that were created after the war. This part of the table reveals that there was an increase in homogeneity from what was previously a more heterogeneous area. In the RS, there was a significance decrease in average ethnic composition of Bosniaks from 28.82 in prewar to 13.64 in postwar. On the other hand, the opposite happened with Serbs and there was an overall average increase in ethnic percentage of a municipalities in RS from 59.23 percent to 82.53 percent. This reaffirms that the RS became heavily Serb dominated after the war and the area saw a drastic decrease in average Bosniaks and Croats.

The last column looks at the FiBH, which had a reverse reaction with an increase in Bosniak average percentage of ethnic composition from 45.60 to 59.09. Along with that there was a decrease in Serb composition by 11.19 percent with prewar being 18.70 percent and postwar being only 7.51 percent on average. This also affirms that the political boundaries setup after the war were based on dominated ethnic communities to assist in reducing ethnic tensions. Compared to the changes with Bosniaks and Serbs, there were small changes in the number of Croats in the country. Overall there was a decrease in Croats in the country and this could be because many of them sought refuge in Croatia during the war and did not return to Bosnia afterwards.

Table 2: Average of Percentage of Ethnic Groups Before and After the War

	BiH Average	RS Average	FiBH Average
Bosniaks			
Prewar Bosniaks	38.95	28.82	45.60
Postwar Bosniaks	39.79	13.64	59.09
Serbs			
Prewar Serbs	35.12	59.23	18.70
Postwar Serbs	38.41	82.53	7.51
Croats			
Prewar Croats	20.68	6.61	30.60
Postwar Croats	19.12	2.10	31.07

*Numbers expressed in percentages

Sources: Statistical Office of Bosnia and Herzegovina (1991), Agency for Statistics of Bosnia and Herzegovina (2013)

There are two more independent variables used in this dataset that are needed in order to reflect on the relationship between the PLIP and ethnic communities in Bosnia. These two variables are a gini coefficient to determine the inequality between ethnic groups and the population size. These will help control when running the regressions for analysis. The gini coefficient was created with the formula below.

$$G_{\alpha} = \frac{\sum_{i=1}^n \sum_{j=1}^n \sum_{k=1}^n (|x_{i,\alpha} - x_{j,\alpha}| + |x_{i,\alpha} - x_{k,\alpha}| + |x_{j,\alpha} - x_{k,\alpha}|)}{(2 \times 3) \sum_{i=1}^n \sum_{j=1}^n (x_{i,\alpha} + x_{j,\alpha} + x_{k,\alpha})}$$

Where G_{α} is the gini coefficient in a municipality α , x_i represents the percent of bosniaks, x_j represents the percent of Serbs and x_k the percent of Croats in such municipality α . For different specifications of α , $n \in \{1; 89\}$, where, for a specific municipality α , $n = 1$, while for the entire

population, $n = 89$. The gini coefficient is one way to measure diversity and one way to show the change from heterogeneous communities to homogenous communities and vis-versa. The results for the variable in this study are present in a range from 0-100. On the scale, moving towards 100 would be more unequal or more homogenous and shifting towards 0 is more equal would be more heterogeneous. The other independent variable is the size of population of the municipalities before and after the war based on the census data.

5. DATA ANALYSIS

The first step in looking at the data is to determine if there is relationship between pre-war covariates and the implementation of the property law. Above, the data shows that before the war, communities or municipalities were on average more heterogeneous. Furthermore, the descriptive statistics of the entity regions reveals that there is a wide variation in the implementation based on just the two regions. I expect the implementation rate to be higher in some regions and areas because in some parts there is a larger percentage of one ethnic group than other ethnic groups in the area. Therefore, Table 3 will focus on prewar independent variables with regressions run with five different models.

Each model displayed in Table 3 below either adds another independent variable or disaggregates the data. Model 1 shows the regression with only the percentage of ethnic composition of each ethnic group before the war as independent variables. Model 2 and Model 3 add both the gini coefficient and the population variable to the multivariate regression. The last two columns, Model 4 and Model 5 show the data disaggregated by entity and regional structure. Model 4 uses 39 observations within the RS, while Model 5 uses 57 observations in the FiBH.⁴¹

Model 1 shows that for one percentage point increase of implementation rate of the policy, there is an associated increase in percentage points of 0.46 prewar Bosniaks, 0.33 prewar Serbs and

⁴¹ Two observations are missing from the disaggregated data from the overall 98 because one is Brcko, an autonomous city not run by either entity and Foca which is a municipality split by both entities.

0.80 prewar Croats. None of these are significant and therefore more variables were added to control for other influences. The prewar gini in Model 3 is set at 17.59 on a 100 point scale with 100 being unequal or less diverse. The standard deviation varies widely for the gini, therefore it is difficult to make grounded conclusions on it for this model. Model 3 adds the prewar population based on the 1991 census data collected by the Bosnian government at the time, as a control. This changes the coefficients of the ethnic percentages with prewar Serbs having a slight negative relationship at -0.12. It has almost no impact on Bosniaks with only 0.03 and the largest relationship of the three was Croats with coefficient of 0.35. Additionally, it also has almost no relationship with the gini coefficient when the population is controlled. Ultimately, all three of these models were run with all 98 municipalities but none of them have statistically significant effects of the main independent variables

The last two models with split between the two regions of the country. The Serb dominated RS in Model 4 is the most striking in Table 3 because it has large negative coefficients with -1.42 for Bosniaks, -1 for Serbs and -1.39 for Croats. The gini coefficients are going in two opposite directions in the two different areas and in both have wide standard deviation, which makes it difficult to say anything about diversity of communities with certainty. Therefore, based on no statistically significant findings in this analysis and table, it is necessary to also look at postwar variables and to continue disaggregating the data based on region.

Table 3: PLIP Implementation Rate and Prewar Regression

	M1 = Baseline	M2 = Gini	M3 = Pop	M4 = RS	M5 = FiBH
Prewar Bosniak Percentage	0.46 (0.52)	0.52 (0.53)	0.03 (0.62)	-1.42 (0.86)	0.13 (0.90)
Prewar Serb Percentage	0.33 (0.51)	0.39 (0.52)	-0.12 (0.62)	-1.00 (0.89)	-0.15 (0.88)
Prewar Croat Percentage	0.80 (0.51)	0.86 (0.52)	0.35 (0.62)	-1.39 (0.99)	0.36 (0.88)
Prewar Gini		17.59 (26.79)	0.15 (0.27)	-28.93 (35.09)	40.71 (32.97)
Prewar Population Total			0.00006 (0.00004)	-0.00135 (0.000098)	-0.000045 (0.00004)
Constant	6.72 (0.49)	-2.70 (50.83)	48.02 (60.77)	160.91 (86.79)	41.54 (86.90)
Number of Observations	98	98	98	39	57
R-Squared	0.29	0.29	0.31	0.33	0.36

Source: Statistical Office of Bosnia and Herzegovina (1991), Agency for Statistics of Bosnia and Herzegovina (2013), Stability Pact for Southeastern Europe (2001)

*p < .1 **p < .05 ***p < .01

The next variables to explore were the relationship between the PLIP and the postwar independent variables. These variables are the same as the prewar variables but were taken from the 2013 census data. This data is intended show the outcome of ethnic composition after the war in this analysis. Therefore, I hypothesize that the results will be different with prewar and postwar data due to the sharp increase in homogeneity in some areas seen in Table 2, by the mean of ethnic percentages shown. Homogenous communities are more likely see higher implementation rates after the war because of the desire to return to communities with shared ethnicity identity. The same models are applied as in Table 3 with the first three models increasing in control variables with a postwar gini and the population total of municipalities after

the war. It also splits at Model 4 and Model 5 into the two entity regions.

Model 1 in Table 4 shows the negative relationship between the PLIP and Bosniaks (-0.11) and Serbs (-0.24) ethnicities and positive for Croats (0.17). Despite this relationship, none of the coefficients were statistically significant. Model 2 and Model 3 add the other independent variables with the gini coefficient and population but all coefficients maintain a negative relationship and Croats changes from positive to negative. Unlike the Table 3, the constants are significantly larger. Model 4 shows a coefficient of -0.000759 for population, which means that the implementation rate was lower in larger municipalities or those areas with higher populations such as cities. One factor that could describe this relationship would be the administrative and bureaucratic barriers of larger cities, such as slower process of property claims.

The most statistically significant model in the Table 4 is Model 4, which uses only 39 observations in the RS region. The coefficients are significantly large in this model and relatively similar with Bosniaks with -5.16, Serbs with -4.72 and Croats -5.32. All the relationships are negative and the gini coefficient is exceptionally high with -81.89. Therefore, Model 4 shows that within the Serb dominated area that the implementation of the property restitution law declines as the percentage of the population of any one ethnicity increases, suggesting that in more heterogeneous areas with larger populations from all groups, the implementation rate was lower. All coefficients are statistically significant and the standard deviations are also all relatively similar with 2.13 for Bosniaks, 2.07 for Serbs and 2.40 for Croats. It has to be noticed that this region only has 37 observations, which is still small and in order to conclude a larger analysis of the impact, there would need to be a larger sample size taken.

Additionally, the gini is also significant and is much higher than in other models, which gives a hint that implementation rates were smaller in areas that were more homogeneous and less diverse. There is a relationship between the PLIP and lack of diversity. This finding is to some extent puzzling given the previous findings and more research is needed to understand the specific impact of diversity vis a vis the impact of having relatively larger ethnic groups. It's important to recognize that this would not just be the property laws affect but also the political structure of the postwar, specifically looking at RS. It would be logical that in the Serb

dominated areas there would be less heterogeneity but the larger question would be, did the PLIP play a role in encouraging or mitigating homogeneity in this area.

Table 4: PLIP Implementation Rate and Postwar Regression

	M1 = Baseline	M2 = Gini	M3 = Pop	M4 = RS	M5 = FiBH
Postwar Bosniak Percentage	-0.11 (0.61)	-0.17 (0.62)	-0.42 (0.62)	-5.16** (2.13)	-0.14 (0.66)
Postwar Serb Percentage	-0.24 (0.59)	-0.30 (0.60)	-0.57 (0.61)	-4.72** (2.07)	-0.24 (0.66)
Postwar Croat Percentage	0.17 (0.59)	0.11 (0.60)	-0.16 (0.61)	-5.32** (2.40)	0.10 (0.65)
Postwar Gini		-23.77 (34.07)	-25.93 (34.74)	-81.89* (40.20)	39.99 (53.75)
Postwar Population Total			-0.000759* (0.0000418)	-0.0001121 (0.000086)	-0.000053 (0.000049)
Constant	62.89 (57.97)	74.6 (60.97)	103.69* (62.33)	536.51** (208.48)	59.16 (68.05)
Number of Observations	98	98	98	39	57
R-Squared	0.30	0.30	0.32	0.29	0.23

Source: Statistical Office of Bosnia and Herzegovina (1991), Agency for Statistics of Bosnia and Herzegovina (2013), Stability Pact for Southeastern Europe (2001)

*p < .1 **p < .05 ***p < .01

After exploring the data in Table 4, it becomes clear that in Serb areas, there is a relationship with PLIP and particularly that Serbs are predominately driving the affect in the areas. It also became clear that there would be little significant results in the overall country due the lack of data that was collected. Therefore, the next step was to disaggregate the data and look at what had an affect in the FiBH area only. Since Serbs dominated the RS and FiBH was predominantly Croat and Bosniak, then the data could show an effect for the other two ethnicities in the FiBH.

Table 5 below looks at the relationship with two ethnicities in the FiBH region only, using just

57 observations. Model 1 looks at the relationship between the PLIP and the two dominate ethnicities in the region. Croats are the ethnic group that is most affected by the implementation of the property law with a statistically significant coefficient of .36. Although unlike in the RS area in Table 4, this has a positive relationship, which means that in this area Croats could have benefited from the implementation of the law. This relationship is reasonable because Croats are the smallest group of the three ethnicities with quite a few municipalities having less than 5 percent. Since they are the minority, the model is showing a smaller constant and a small coefficient. Therefore, it is more important to look at the relationship between the two major ethnic groups in this entity in order to see how the PLIP was affected by Bosniaks.

Model 2 in Table 5 looks at just Bosniaks and Serbs in the FiBH. Both groups have a negative relationship with PLIP and it is very statistically significant. Bosniaks have a coefficient of -.25 and Serbs have a larger coefficient of -.36. The standard deviation is slightly smaller for the Bosniaks at 0.08, compared to Serbs with 0.13. Model 3 in the table adds the postwar gini coefficient and shows that the results are robust to the inclusion of this control variable, with Bosnians being the exact same as Model 2 with -.25. Serbs are slightly less significant with a slightly smaller coefficient of -.33. The last variable of population added does not change the coefficients much from Model 3 and still continues to have a negative relationship. The coefficient is slightly smaller for Bosniaks with -.23 but the Serb stay the same with -.33. Despite the added controls, the two ethnic groups show a negative relationship with the PLIP inside of the FiBH area in Model 4. For Model 2, 3 and 4 the standard deviation stays the same or close to it by 0.01. Additionally, the constant is significant for all four models in the table.

It is important to note that despite the significant results presented in Table 5, it is still only one region of two that was affected by the PLIP. This means that there is only 57 observations used, a little over half the data points. Furthermore, the significance is related to extracting the Croat variable from the covariates. When all three ethnic groups are ran together in one regression for the FiBH region only, there is no significance. Therefore, it is difficult to conclude many results. In spite of this, a main conclusion that could be drawn from the results is that in the FiBH area the successful implementation of the property law varied significantly across areas with a different ethnic composition, suggesting that the ethnic make-up of communities could hinder or

foster the success of this policy.

Table 5: PLIP only in the Federation of Bosnia and Herzegovina (FiBH) Area

	M1 = Bosniaks & Croats	M2 = Bosniaks & Serb	M3 = Bosniaks & Serb + Gini	M4 = Bosniaks & Serb + Gini + Pop
Postwar Bosniaks	0.11 (0.13)	-0.25*** (0.08)	-0.25*** (0.08)	-0.23*** (0.08)
Postwar Serbs		-0.36*** (0.13)	-0.33** (0.14)	-0.33** (0.14)
Postwar Croats	0.36*** (0.14)			
Postwar Gini			47.21 (52.33)	38.88 (52.69)
Postwar Pop Total				-0.0000544 (0.0000476)
Constant	43.88*** (11.72)	79.07*** (5.45)	65.46*** (16.05)	68.75*** (16.26)
Number of Observations	57	57	57	57
R-Squared	0.20	0.20	0.22	0.23

Source: Statistical Office of Bosnia and Herzegovina (1991), Agency for Statistics of Bosnia and Herzegovina (2013), Stability Pact for Southeastern Europe (2001)

*p < .1 **p < .05 ***p < .01

The last step in this study of data was to take the change of percentage of ethnicities from the prewar to the postwar. The main independent variables in Table 6 were created by subtracting the prewar ethnic composition from the postwar ethnic composition for each ethnic group. This analysis aims to explore if the implementation rate was higher in areas that had stronger changes in their ethnic composition as a consequence of the war. The result shows the change in percentage of ethnic composition.

Model 1 of Table 6 displays a negative relationship between the change in Bosniaks and the Property Law Implementation Process, suggesting that in areas where the percentage of Bosniaks increased more as a result of the war, the implementation rates of property law claims were lower. It has a -0.26 coefficient (a 1 percent point increase in the population of Bosniaks before and after the war results in a reduction of 0.25 percent points in the implementation rate of the property law) and the results are statistically significant. Model 2 is similar because it also is very statistically significant but looks at the relationship between the law and Serbs. By contrast to previous results, this had a positive relationship of 0.27 and a standard deviation of .09. This could mean that the law was more likely to be implemented in areas that had a larger growth in the percentage of Serb before and after the war. Lastly Model 4 shows all the covariates together and still the Serb ethnicity prevails as significant. Not only is it significant but also it has a coefficient of 1.14. This makes the Serb population the driving force in the relationship between the covariates and specifically shows that positive impact that the PLIP has had on increasing the Serb dominance in the country.

Table 6: PLIP and Change in Percentage from Prewar to Postwar Regression

	M1= Bosniaks	M2 = Serbs	M3 = Croats	M4 = All
Change in % of Bosniaks	-0.26** (0.10)			0.86 (0.63)
Change in % of Serbs		0.27*** (0.09)		1.14* (0.62)
Change in % of Croat			-0.14 (0.16)	0.99 (0.66)
Constant	52.40 (2.19)	53.52 (2.18)	52.84 (2.26)	55.57 (2.67)
Number of Observations	98	98	98	98
R squared	0.06	0.09	0.08	0.11

Source: Statistical Office of Bosnia and Herzegovina (1991), Agency for Statistics of Bosnia and Herzegovina (2013), Stability Pact for Southeastern Europe (2001)

*p < .1 **p < .5 ***p < .01

5.1 Data Discussion and Key Findings

This data discusses the relationship between the Property Law Implementation Process in Bosnia after the war and the ethnic composition of municipalities. The implementation rate of the PLIP within all of Bosnia and Herzegovina was over 50 percent and in the Federation of Bosnia and Herzegovina it was up to 61.74 percent. In some municipalities it even reaches 100 percent implementation rate. The lower implementation rate in the Republika Srpska shows that there was still a struggle in some areas to successfully process claims and assure repossession of former homes.

The second part of the puzzle is what were the ethnic compositions of the three ethnic groups in country and how did they change. For Bosnia and Herzegovina overall, the main ethnic group that has expanded after the war was Serb by 3.29 percent. In the Republika Srpska, there is a sharp increase of Serbs from 59.23 percent to 82.53 percent. This would be logical since Serbs politically ran the RS since the Dayton Agreement and considered Serb territory. Lastly, the Federation of Bosnia and Herzegovina shows large increase in ethnic composition of Bosniaks and a small increase of Croats. While on the other hand, it saw a sharp decline of Serb ethnicity in the area. The lower decrease in Croats from the RS and increase in FiBH could also be explained by the fact that they are already the smallest of the three ethnic groups and there were already fewer within the region before the war. This data shows that communities were more heterogeneous or more diverse before the war and became for homogenous or less diverse after the war. This is particularly true in the entity areas where one group dominates the other two.

The next part was to see what role did the ethnic composition before the war play on the implementation of the PLIP. The regression in Table 3 explores the prewar variables and its interaction with the implementation rate of the PILP. This table concludes that there was nothing statistically significant in the overall country or in each entity region, meaning that the prewar ethnic composition does not impact the variances in the PLIP.

Table 4 ran the same models but with the postwar ethnic composition variables. This revealed

that the large statistically significant coefficients in Model 4 of Table 4 could explain that for every increase of implementation of the PLIP, there was a decrease in the number of that ethnicity in the RS. This means that the PLIP would see a decrease of about 5 percent of Bosniaks in RS as the implementation rate increases by 1 percent.

After seeing the impact of Serbs in RS, it was important to see if there was a relationship between Croats and Bosniaks in FiBH. The analysis shows that there is a small positive impact on Croats with the two ethnic groups. Additionally, an exploration of just the two main ethnic groups (Bosniaks and Serbs) showed a negative relationship for both groups. When eliminating Croats as a variable, all other variables have little change to the negative relationship for the two groups. This could mean that to a larger extent; for every 1 percent increase of PLIP, there was a small decrease overall of -0.23 percent of Bosniaks and -0.33 percent of Serbs in the FiBH.

The last discussion shows the relationship of the property law with the percentage change of each ethnic group from prewar to postwar. This might be the most significant of all the models because it shows how the ethnic composition changed and how the PLIP increase of decreased that group. When all three ethnicities are ran together, it shows that the change in Serbs over time significantly benefit from the implementation of the PLIP. This means that for every 1 percent increase in implementation of the PLIP there is an increase of 1.14 percent of the Serb ethnicity in the country. This could mean that despite the negative relationship in the other two models after the war with the PLIP, that the Serb ethnic group still benefited the most with the implementation of this property law.

Despite this analysis, the data is not complete to discuss the extent of this relationship. Perhaps if there were further variables added such as the ethnicity of the person claiming the house or repossessing it, this could change the outcomes of this study or give further insight. Furthermore, there needs to be a larger discussion of property policy in postwar areas that cannot be defined or measures by an implementation rate. The data cannot define the cultural and social aspects of the property law and the relationship it had with different ethnic groups in Bosnia and Herzegovina. The section below will discuss the broader implications for this law on ethnic diversity and ethnic dynamics in post-war Bosnia and Herzegovina based on secondary literature.

6. THE BROADER QUESTION OF SUCCESS AND DIVERSITY

The main technical goal of the property law was to provide property restitution to refugees and displaced that wished to return home after to war. This did indeed happen with the implementation rate in the overall country with over 50 percent success.⁴² This law was part of a larger initiative to re-establish multiethnic cities through minority returns and reintegration of those that left. The return of these groups was seen as a way to reverse the social engineering of cities that happened during the war and reduce the homogeneity of one group in certain areas. A law itself is not enough to reverse the damage of a war and with any policy there comes unexpected consequences.

Conceptually it was partially successful when looking at the implementation rate, but this analysis cannot ignore the continuous obstruction of returns that occurred and limited political will at the local level. The PLIP was adopted under immense international pressure and did not necessary have the support of local government administration, thus they would spend time finding loopholes around the law or delaying the process.⁴³ These factors played a part in actually consolidating ethnic homogeneity instead of diversify communities. These factors instead pushed those returning to relocate to their own ethnic majority area, reinforcing ethnic divisions.⁴⁴ PLIP worked to eliminate some intervening barriers but many of these factors still remained during the implementation of the PLIP.

This research has investigated if the success of the property law varied depending on the ethnic composition of the areas while this last section builds on this first analysis. It broadens the scope of this first analysis by looking at the social constraints of homogeneity and the administrative barriers to implementation of the property policy. This section looks at concept of success and if the law was able to reverse ethnic cleansing, despite the variance in implementation rate of communities. It is important to return to Lee's model of push and pull factors that facilitate or

⁴² See Table 1 above.

⁴³ Philpott, Charles. "From the Right to Return to the Return of Rights: Completing Post-War Property Restitution in Bosnia Herzegovina." *International Journal of Refugee Law* 18, no. 1 (March 1, 2006): 30–80. <https://doi.org/10.1093/ijrl/eei046>.

⁴⁴ Rosand, Eric. "The Right to Return Under International Law Following Mass Dislocation: The Bosnia Precedent?" *Michigan Journal of International Law* 19, no. 4 (1998): 1091–1139.

hinder migration of people. Administrative and social barriers can be seen as a push factor away from a place of origin for those that might return. These barriers could also explain the variance in the PLIP and contribute to the increase in homogeneity.

6.1 Obstructions and Barriers

There were several obstructions from authorities in both FBiH and RS after the war. This was partially due to the lack of effort and political will by local authorities to abide by the new property laws. Some obstructions included not issuing a decision within 30 days, unsoundly rejecting claims and not providing alternative accommodation for current occupants.⁴⁵ In the end, the people who were in charge of facilitating return were also sometimes preventing it.

The majority of claims were made between 1998 and 2002, with thousands still undecided by 2003.⁴⁶ Keep in mind that when the property law was signed, the country was in a transition with limited capacity at the institutional level and a court system that could not handle the massive influx of claims. After great support by the international community, this backlog of claims managed to clear the easiest first, while leaving the most difficult - those needing to be re-housed - last. This delay in the administrative process allowed time for families to settle elsewhere and build their lives in cities with shared ethnic identity

The bigger concern that surrounded the law that was never fully addressed was safety of minorities. If a Bosniak family wished to return to their former home in Banja Luka after the war, they would find a very different community than they left. Not only would they be a severe minority in the city but also would now have to comply and answer to a new fully Serb dominated local authority. This idea of former home now becomes threatening due to the majority ethnic group being the reason why the Bosniak family fled in the first place. This is a very complex security situation that has little to do with access to a house and more to do with

⁴⁵ Philpott, Charles. "Though the Dog Is Dead, the Pig Must Be Killed: Finishing with Property Restitution to Bosnia-Herzegovina's IDPs and Refugees*." *Journal of Refugee Studies* 18, no. 1 (March 1, 2005): 1–24. <https://doi.org/10.1093/jrs/18.1.1>.

⁴⁶ Philpott, Charles. "From the Right to Return to the Return of Rights: Completing Post-War Property Restitution in Bosnia Herzegovina." *International Journal of Refugee Law* 18, no. 1 (March 1, 2006): 30–80. <https://doi.org/10.1093/ijrl/eei046>.

the comfort of returning to an area.

Furthermore, the implications of the PLIP gives insight into the larger social and cultural barriers that postwar Bosnia faced with reversing ethnic cleansing. Despite the high praise for the property law model used, the process did not always lead families to return to their property after they repossessed their house. Previous owners that would regain their property would then turn around to sell or rent it to a family of the majority ethnicity in that city and would then relocate elsewhere.⁴⁷ The OHR and UNHCR did little to keep track of what happened to the property after the repossession happened or if the family actually returned.⁴⁸ The follow up of the repossessions would give a bigger picture of the variance in the implementation of the PLIP and not just a ratio used to determine the effectiveness of implementation. This leaves the analysis with secondary literature that discusses interviews with minority returnees and international organizations.

6.2 Reconciliation

Pull factors that facilitate displaced in returning home must be strengthened and prevail over push factors away in order to have sustainable return. These factors must develop a larger reconciliation framework that looks at social, economic and cultural inclusion, not just the return of housing. In 1999, after the PLIP occurred, 3000 displaced Bosnians were surveyed about returning to their prewar communities. 57 percent said they would consider returning if the security situation improved.⁴⁹ Additionally, jobs were a big factor and 21 percent claimed they would return if a job were available.⁵⁰ These factors cannot be ignored and in a postwar setting can even be prioritized over housing and property restitution for some returnees. “Property restitution is not a prerequisite for return.”⁵¹ Essentially, there was no guarantee that those would

⁴⁷ Philpott, Charles. “Though the Dog Is Dead, the Pig Must Be Killed: Finishing with Property Restitution to Bosnia-Herzegovina’s IDPs and Refugees*.” *Journal of Refugee Studies* 18, no. 1 (March 1, 2005): 1–24. <https://doi.org/10.1093/jrs/18.1.1>.

⁴⁸ Lamphere-Englund, Galen. “Rebuilding Sarajevo.” The Aleppo Project, July 2015.

⁴⁹ “Return, Local Integration & Property Rights.” UNHCR and CRPC, November 1999.

⁵⁰ “Return, Local Integration & Property Rights.” UNHCR and CRPC, November 1999.

⁵¹ Philpott, Charles. “Though the Dog Is Dead, the Pig Must Be Killed: Finishing with Property Restitution to Bosnia-Herzegovina’s IDPs and Refugees*.” *Journal of Refugee Studies* 18, no. 1 (March 1, 2005): 1–24. <https://doi.org/10.1093/jrs/18.1.1>.

return and even if they did, that they would go back to their original homes. Despite the effort by the international community to bring some stability back into Bosnia after the war, this policy standing alone was not enough to reverse ethnic cleansing.

7. CONCLUSION

This thesis set out to explore the relationship between the Property Law Implementation Process and the diversity of municipalities in postwar Bosnia and Herzegovina. Previous literature on postwar Bosnia has shown both the sharp increase in homogeneity of communities and the complex property situation that occurred in the country. There is a discussion on the property restitution process and the success of its technical implementation but not on its broader intention to reverse ethnic cleansing. This analysis closed the gap by looking at the implementation of the property restitution law and its affect on different ethnic groups after the war and to a larger extent, if it succeeding in ethnically diversifying postwar communities.

Scholars and the international community alike have praised the property restitution system and have seen it as an example mechanism to use in post-conflict settings. The investigation revealed that the process itself was implemented at a fairly high success rate for the limitations that were presented in postwar Bosnia and Herzegovina. The research question explored the relationship between the variance in the PLIP and ethnic composition of communities. The larger question that was asked in the analysis though was how much did the law succeed in what it was intended to do - reverse ethnic cleansing and diversify communities.

The variance in the PLIP is partially explained in the research through the findings of the regressions on the relationship between the PLIP and Serb communities. In the analysis, the prewar ethnic composition had no effect on the PLIP variation rates. This was similarly true when looking at the overall country because the regressions did not show any statistically significant findings when looking at all 98 municipalities. However, under further investigation, when the data was disaggregated by entity region, a few findings were revealed. The main discovery was that in the Republika Srpska (Serb dominated area), Serbs were the ones that were affected the most by the PLIP and homogeneity was high. The second part of this was to look at

the Federation of Bosnia and Herzegovina (Croat and Bosniak dominated) to see if the relationship was similar. Although homogeneity was lower, it did show that when eliminating the ethnic group of Croats, there was a significant affect on Serbs and Bosniaks in the FiBH. Seeing that the two dominate groups in the country after the war were Bosniaks and Serbs, it would be logical that these two groups were affected the most. Additionally, the last regression showed that when the PLIP increased in implementation, there was an increase in Serbs ethnic composition over time. Based on the quantitative framework used, it can be concluded that the implementation of the PLIP affected Serbs (through percentage of ethnic group), particularly in Serb dominated areas and reinforced homogeneity.

This conclusion is only one small part of the larger puzzle of reparations and property restitution and the impact of it on postwar communities. Although my hypothesis was partially correct in specifically Serb area - that as the PLIP increases in implementation, so does homogeneity - it is not enough to understand the whole relationship. These are social, economic and security factors that also play a part in returnees deciding where to relocate. The secondary literature analysis covered in this thesis emphasizes the obstruction that occurred during the PLIP, the implications after the implementation and the need for a broader reconciliation framework. These additional variables discussed affirm that the property law itself, could not bring ethnic diversity back into communities in postwar Bosnia. Although it was a good effort, as a law alone, it does not have as Ricadrio explains, “attitudes and efforts” by the state and community to fully reverse ethnic cleansing.⁵²

Leopold would argue that despite the limitations of the law and barriers that occurred, the PLIP was a mechanism for these groups to interact with each other and facilitated the exchange through a non-violent means.⁵³ This might be the take away for policymakers constructing mechanisms for non-violent interaction in a similar setting such as Syria or Iraq. Post-conflict settings are tricky security situations, with long-standing grievances and a thirst for justice. They usually have a central government, limited rule of law and low capacity to deal with large

⁵² Garcia Rodicio, Ana. “Restoration of Life: A New Theoretical Approach to Voluntary Repatriation Based on a Cambodian Experience of Return.” *International Journal of Refugee Law* 13 (2003).

⁵³ Von Carlowitz, Leopold. “Resolution of Property Disputes in Bosnia and Kosovo: The Contribution to Peacebuilding.” *International Peacekeeping* 12, no. 4 (December 1, 2005): 547–61. <https://doi.org/10.1080/13533310500201969>.

administrative processes right after the war. Although there were clearly barriers with the PLIP process, it still did something for those that felt they needed justice. It brought a sense of citizenship and home back to those that had lost it. Even if they never returned to that home or if they relocated to a city where their ethnicity was a majority, the PLIP still allowed people to access something they thought they had lost forever. Maybe the Property Law and Implementation Process did little to reverse ethnic cleansing and but it might have been the first step in a longer process of social repair. Perhaps the intention of the PLIP should not have been about diversifying communities but instead a broader intention of reconciliation.

BIBLIOGRAPHY

Blitz, Brad. "Balkan Returns: An Overview of Refugee Returns and Minority Repatriation." Special Report 57. New York: United States Institute of Peace, December 1999.

<https://www.usip.org/publications/1999/12/balkan-returns-overview-refugee-returns-and-minority-repatriation>.

"Census of Population, Households and Dwellings in Bosnia and Herzegovina 2013." Agency for Statistics of Bosnia and Herzegovina, July 2016. <http://fzs.ba/index.php/popis-stanovnistva/popis-stanovnistva-2013/konacni-rezultati-popisa-2013/>.

Chimni, B.S. "Refugees, Return and Reconstruction of 'Post-Conflict' Societies: A Critical Perspective." *International Peacekeeping* 9, no. 2 (2002).

Cox, Marcus, and Madeline Garlick. *Returning Home: Housing and Property Resitution Rights of Refugees and Displaced Persons*. Edited by Scott Leckie. New York: Transnational Publishers, n.d.

"Ethnic Characteristics of the Population: Results of the Republic and by Municipality 1991." Statistical Office of Bosnia and Herzegovina, October 1993. <http://fzs.ba/index.php/popis-stanovnistva/popis-stanovnistva-1991-i-stariji/>.

Garcia Rodicio, Ana. "Restoration of Life: A New Theoretical Approach to Voluntary Repatriation Based on a Cambodian Experience of Return." *International Journal of Refugee Law* 13 (2003).

Haider, Huma. "Initiatives and Obstacles to Reintegration in Divided Communities: UNHCR's Imagine Coexistence Project in Bosnia and Herzegovina." *Conflict in Cities and the Contested State*, 2012.

"Handbook for Repatriation and Reintegration Activities." UNHCR, May 2004.

Lamphere-Englund, Galen. "Rebuilding Sarajevo." The Aleppo Project, July 2015.

Lee, Everett S. "A Theory of Migration." *Demography* 3, no. 1 (1966): 47–57.
<https://doi.org/10.2307/2060063>.

Mladen, Ančić. "Society, Ethnicity, and Politics in Bosnia-Herzegovina." *Croatian Academy of Sciences and Arts*, 2013.

Philpott, Charles. "Though the Dog Is Dead, the Pig Must Be Killed: Finishing with Property Restitution to Bosnia-Herzegovina's IDPs and Refugees*." *Journal of Refugee Studies* 18, no. 1 (March 1, 2005): 1–24. <https://doi.org/10.1093/jrs/18.1.1>.

Philpott, Charles B. "From the Right to Return to the Return of Rights: Completing Post-War Property Restitution in Bosnia Herzegovina." *International Journal of Refugee Law* 18, no. 1 (March 1, 2006): 30–80. <https://doi.org/10.1093/ijrl/eei046>.

"Return, Local Integration & Property Rights." UNHCR and CRPC, November 1999.
<http://www.unhcr.org/news/updates/1999/11/3c3c42794/return-local-integration-property-rights-bosnia-herzegovina.html>.

Rosand, Eric. "The Right to Return Under International Law Following Mass Dislocation: The Bosnia Precedent?" *Michigan Journal of International Law* 19, no. 4 (1998): 1091–1139.

Serrano, Inmaculada. "Property Rights and Reconstruction in the Bosnian Return Process." *Forced Migration Review* 50, September 2015.

"Statistics: Implementation of the Property Law in Bosnia and Herzegovina." Stability Pact for Southeastern Europe, December 2001.
https://reliefweb.int/sites/reliefweb.int/files/resources/60639320CE08399E85256B6500691E75-stabilitypact_balkans_31dec.pdf.

Stefansson, Anders. "Homes in the Making: Property Restitution, Refugee Return and Sense of Belonging in a Post-War Bosnian Town." *International Migration* 44, no. 3 (2006).

Venancio, Moises, Svetlana Pavelic, Sabina Zunic, Goran Vukmir, and Massimo Diana. "From Emergency to Development: Assessing UNDP's Role in Bosnia and Herzegovina." *Force Migration Review* 21 (2004): 19–22.

Von Carlowitz, Leopold. "Resolution of Property Disputes in Bosnia and Kosovo: The Contribution to Peacebuilding." *International Peacekeeping* 12, no. 4 (December 1, 2005): 547–61. <https://doi.org/10.1080/13533310500201969>.

ANNEX 1 THESIS REPORT

Thesis Report

Mundus MAPP

A Truth Commission for Kosovo

Michele MacMillan

Introduction

Transitional justice mechanisms have become the new post-conflict tool kit that the international community uses to respond to human rights atrocities and to generate stability. In the former Yugoslavia, criminal tribunals were seen as a way to maintain peace while holding individuals responsible. Although there has been research done on impact of the war crimes trials, like the International Criminal Tribunal for the Former Yugoslavia (ICTY), on victims, there has been less on other forms of justice. The majority of efforts towards reconciliation in the Balkans have relied heavily on the retributive justice style. There have been some attempts at other forms of reconciliation with a few small successes at the local level through memorialization and reparations. These initiatives have been able to give victims a voice and address some of their needs. In the context of Kosovo it is important to understand that an approach from the international community may not be the best approach for victims. A truth commission can create a platform for the kind of victim-centered approach that is needed in Kosovo but the formation and configuration of it should be well planned and designed. In order for a successful truth commission that addresses victim needs, certain criteria must be met and a localized approach must be taken.

This report will look at the three threads of literature related to transitional justice, victims' rights and the Kosovo context. This literature will set the foundation for the elements needed to create an effective truth commission in the context of Kosovo. The first part will explore what is transitional justice, its mechanisms, its limitations and how it relates to reconciliation. The second part will look at how victims are defined and participate in the transitional justice process for long-term reconciliation. The last set of literature discusses the history of Kosovo, the current

context, the international communities' role and previous truth initiatives. The report will conclude with possible hypothesis, data selection and a work plan for the following year.

Research Question

My research question explores what makes an effective truth commission, specifically within the Kosovo context. This paper will look at what configuration or elements are necessary to form a strong and effective truth commission. It will look farther at what has been the missing approach to ensuring an effective truth commission in the international context and in Kosovo. This approach will then be used to provide why previous initiatives have failed and what is needed to be successful.

Transitional Justice

This section explores the definition of transitional justice, different types of transitional justice mechanisms, how they came about. It also discusses both criminal tribunals and truth commissions, showing that truth commissions focus on the victim more, where as, tribunals focus on the perpetrators. This focus is important when determining who are the main stakeholders and people effect by the conflict in Kosovo.

Definition of Transitional Justice

The definition of transitional justice has developed through post-war context and international human rights law. Transitional justice is a way for countries to address massive human rights violations from a pervious regime or authoritarian government. This can include different mechanisms and areas including rule of law, criminal tribunals, truth commissions and reparations. It's a "framework for comprehending and strategizing responses" to systematic violence, which includes both national and international processes.¹ These methods can also be judicial or take a more restorative justice and reconciliation approach.² Lundy and McGovern

¹ McAuliffe, Padraig. "The Marginality of Transitional Justice within Liberal Peacebuilding: Causes and Consequences." *Journal of Human Rights Practice* 9

² Lundy, Patricia, and Mark McGovern. "Whose Justice? Rethinking Transitional Justice from the Bottom Up." *Journal of Law and Society*

think that these processes are “centered around the rule of law” and are moving towards five main goals - restoration of rule of law, judicial retribution for impunity, restoration for victims, institutional reform and reconciliation.³

Hinton argues that the transition is from a “violent, authoritative past to a more liberal future.”⁴ While others argue that it does not have to necessarily do with a democratic transition but more about addressing the systematic violence and preventing impunity. The International Center for Transitional Justice (ICTJ) sees the process as “confronting massive violations in fragile conditions, where the justice system and protections of rights have significantly or totally failed.”⁵ Although political stability and democratization are part of the principles, it is not necessary for it to be the focus.

Transitional Justice Mechanisms

The most predominate areas of transitional justice used in a post-conflict society are judicial and truth seeking.⁶ This could also be seen as retributive justice, the need for restoring the balance of power through judicial means and restorative justice, the means of working towards reconciliation through non-judicial practices. Restorative justice theory centers around the notion that prosecution is not the only way of restoring the balance of power after mass atrocities.⁷ The mechanisms for judicial include international criminal tribunals, re-establishing rule of law and prosecuting perpetrators. The mechanisms for truth seeking include documentation of crimes, presentation of crimes and memorials. Sometimes one mechanism can be chosen or many depending on the context.

History of Transitional Justice

³ Ibid

⁴ Hinton, Alexander Laben, ed. *Transitional Justice*.

⁵ Seils, Paul. “The Place of Reconciliation in Transitional Justice: Conceptions and Misconceptions.” International Center for Transitional Justice, June 2017.

⁶ Fletcher, Laurel and Weinstein, Harvey. “Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation”, 24 *Hum. Rts. Q.*

⁷ Bronwyn Anne Leebaw. “The Irreconcilable Goals of Transitional Justice.” *Human Rights Quarterly* 30.

Transitional Justice emerged from the post-WWII context and the need for retribution against the Nazis, which was seen through the Nuremberg Trials. After that, international law began to take shape, which enshrined human rights through documents like the Universal Declaration on Human Rights and The Geneva Convention. These documents moved transitional justice from a “norm to part of the rule of law.”⁸ In the 1980s and 1990s transitional justice was used in Latin American and Eastern Europe in countries like Chile and Czechoslovakia after brutal dictatorships. This was when the question of whether people should be pardoned or prosecuted began to emerge. Chile and Argentina grappled with the issue of instability if they chose to prosecute former military and instead turned to truth commissions.⁹ These commissions served as a different way for individuals to be held accountable for crimes. Truth commissions have become a popular mechanism to help a “post-conflict society uncover the truth about past injustices” and give a voice to victims.¹⁰ This victim-centered approach has been the current driver of modern transitional justice mechanism.

Criminal Tribunals versus Truth Commissions

Criminal tribunals have become a norm for post-conflict societies in order to “repair injury to individuals” and to prevent impunity.¹¹ It is also a way for new governments to create restore some sense of rule of law and create more legitimacy. In a post-conflict context, the national judicial system is weak and not able to prosecute all of those involved in the violence. The literature on the effectiveness of tribunals is limited with only case studies and little empirical evidence show the result of reconciliation occurring within societies. Orentlicher argues that tribunals are necessary for creating a foundation for human rights protection, aligning with international law standards and reestablish the rule of law.¹² Lundy and McGovern argue that tribunals have limitations and don’t address the needs of victims or the collective nature of mass

⁸ Lundy, Patricia, and Mark McGovern. “Whose Justice? Rethinking Transitional Justice from the Bottom Up.” *Journal of Law and Society* 35.

⁹ Bronwyn Anne Leebaw. “The Irreconcilable Goals of Transitional Justice.” *Human Rights Quarterly* 30,

¹⁰ Lundy, Patricia, and Mark McGovern. “Whose Justice? Rethinking Transitional Justice from the Bottom Up.” *Journal of Law and Society* 35.

¹¹ McAuliffe, Padraig. “The Marginality of Transitional Justice within Liberal Peacebuilding: Causes and Consequences.” *Journal of Human Rights Practice* 9.

¹² Orentlicher, Diane. “Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime.” *The Yale Law Journal*.

violence. The reality of these trials is that they are long, complex and have very little impact on the larger population or victims of the atrocities.¹³ Fletcher and Weinstein further emphasizes that there are few studies on tribunals and their effect on victims, perpetrators and even bystanders.¹⁴ An example of this is the ICTY, which has been said to be slow, expensive and distant from victims.¹⁵

Truth commission on the other hand, are considered to be more victim-centered and take a more participatory approach to reconciliation. The purpose of a truth commission is to “acknowledge the victimhood of those affected by human rights violations” and provide a setting for truth telling which would set the “stage for symbolic and material reparations.”¹⁶ Ideally this process would create social repair and provide a sort of therapy at the individual and societal level. Olsen, Payne, Reiter and Wiebelhaus-Brahm state that truth commissions have an overall negative impact on human rights but do help to restore a “justice balance.”¹⁷ While Leebaw considers truth commissions to be the “Habermasian approach” which is remembering the past, it would reinforce¹⁸ democratic values. A good example of this was the Rettig Commission that was setup in Chile after the Pinochet dictatorship. Truth commissions can also allow for the truth to be uncovered more quickly and impartial evidence, including the reveal of crimes and independently verified evidence.¹⁹ This was particularly important in the Truth and Reconciliation Commission for South Africa. Overall, truth commissions form a better foundation for victim participation, impartial historical truths and form a national narrative for the country than criminal tribunals.

Elements and Characteristics of a Truth Commission

¹³ Lundy, Patricia, and Mark McGovern. “Whose Justice? Rethinking Transitional Justice from the Bottom Up.” *Journal of Law and Society* 35.

¹⁴ Laurel E. Fletcher and Harvey M. Weinstein, “Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation”, 24 *Hum. Rts. Q.*

¹⁵ Hinton, Alexander Laben, ed. *Transitional Justice*. Rutgers University Press, 2010.

¹⁶ Bakiner, Onur, ed. “Truth Commission Impact” In *Truth Commissions*.

¹⁷ Olsen, Tricia D., Leigh A. Payne, Andrew G. Reiter, and Eric Wiebelhaus-Brahm. “When Truth Commissions Improve Human Rights.” *International Journal of Transitional Justice* 4.

¹⁸ Bronwyn Anne Leebaw. “The Irreconcilable Goals of Transitional Justice.” *Human Rights Quarterly* 30.

¹⁹ Aldana, Raquel. “A Victim-Centered Reflection on Truth Commissions and Prosecutions as a Response to Mass Atrocities.” *Journal of Human Rights* 5.

There are five key characteristics of a truth commission according to a report produced by transitional justice experts in conjunction with the International Center for Transitional Justice (ICTJ). These five characteristics of a truth commission are: complementary to criminal justice, focus on gross violations of human rights, a period of investigation, a large amount of evidence and a victim-centered approach.²⁰ These characteristics show what defines a truth commission and the parts need it for legitimacy. Although a truth commission can be made with these characteristics, this does not automatically create a strong and effective truth commission. The authors argue that four elements are needed to have a strong, effective truth commission. These elements include credibility, support from stakeholders, respect of the society and must consistently observe a code of conduct.²¹

On the other hand, Bakiner argues the definition of a truth commission. He discusses five distinguishing characteristics of a truth commission: it operates for a limited amount of time, it publishes a final report with main findings, looks at a limited number of past events, it's autonomous and it's officially authorized to operate.²² Although Bakiner gives a more tangible definition of a truth commission, it doesn't reveal the elements needed for an effective truth commission. A commission could essentially have all of the characteristics but still fail at having a positive impact.

Moving Towards Reconciliation

Restorative justice and reconciliation practices, like truth commissions, work to heal on an individual and societal level. The ICTJ explains that there are four types of reconciliation that must occur to rebuild relationships in a country.²³ These types of reconciliation are individual, interpersonal, socio-political and institutional. Although they are all important, most actors tend to focus on the socio-political and institutional level. For reconciliation to be effective, there needs to be local ownership and participation from those effected by the violence. Some scholars

²⁰ Eduardo González and Howard Varney, eds., *Truth Seeking: Elements of Creating an Effective Truth Commission*.

²¹ Ibid

²² Bakiner, Onur, ed. "Definition and Conceptual History of Truth Commissions: What Are They? What Have They Become?." In *Truth Commissions*.

²³ Seils, Paul. "The Place of Reconciliation in Transitional Justice: Conceptions and Misconceptions." International Center for Transitional Justice, June 2017.

argue that the mechanism itself isn't as important as the way in which it comes about or the design.²⁴ Local participation by victims is the key to empowerment and long-term reconciliation.²⁵ This means local level initiating, designing and implementing for restorative justice initiatives including truth commissions. Local and victim-centered approaches are seen to be lacking in many of the formerly established truth commissions because they have been seen by the international community as a tool for stability instead of justice.

Limitations for Literature

The literature shows the limitations of transitional justice, which needs to be considered when choosing a mechanism to use in the Balkans context. Kosovo is a delicate situation but is in need of a long-term reconciliation initiative focused on victim narratives and voice. This serves as a platform for that. It is important to also acknowledge that the literature is limited in terms of looking at the overall impact of truth commissions on reconciliation. Although there has been anecdotal and qualitative evidence, there has been no systematic research has been done. The best analysis that has been done is on Truth and Reconciliation Commission in South Africa.

Victim Needs and Victim-Centered Approach

One of the main weaknesses about transitional justice that is pointed out by numerous scholars is that it doesn't effectively address victims' needs. Both trials and truth commissions serve a different purpose for victims and what they want after wrongs have been inflicted on them. Scholars agree that truth commissions are considered to be more "victim-friendly" because of certain aspects of the truth telling function.²⁶

Definition of Victim

²⁴ Ibid

²⁵ Lundy, Patricia, and Mark McGovern. "Whose Justice? Rethinking Transitional Justice from the Bottom Up." *Journal of Law and Society* 35.

²⁶ Aldana, Raquel. "A Victim-Centered Reflection on Truth Commissions and Prosecutions as a Response to Mass Atrocities." *Journal of Human Rights* 5.

In a post-conflict society, defining victim can be challenging when trying to encompass all that were affected by violent crimes. Violent conflict creates a variety of victims that are not just limited to those missing or killed. There are also the people who were maimed, raped, injured from mines or battle and those that were tortured and intimidated.²⁷ It is important that there is a clear definition of victim and a broad public consensus of it if reconciliation is to occur in a society.

According to the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), victim is defined as “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.”²⁸ Although this definition is encompassing it doesn’t specifically address family members like the United Nations Commission on Human Rights states in the Declaration on the Right to Restitution for Victims of Gross Human Rights Violations (1999).²⁹ The reality in a post-conflict state is that not all victims will be addressed or reached due to limited resources and capacity at the time. There needs to be broader accepted reconciliation process where all victims can feel included even if they were not directly affected.

Bloomfield, Barnes and Huyse categorize victims by three distinctions: individual/collective, direct/indirect and first/second generation.³⁰ Individual victims are clear but collective victims can occur when one particular groups of people was persecuted during the conflict. Direct victims “suffered direct violence” while indirect are “linked” to the people that suffered from the conflict.³¹ The distinction of generation is based on time and the consequences of long-term trauma.

²⁷ Bloomfield, David, Teresa Barnes, and Luc Huyse. “Reconciliation After Violent Conflict: A Handbook.” International Institute for Democracy and Electoral Assistance 2003.

²⁸ UN General Assembly, “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.” Resolution A/RES/40/34.

²⁹ UN General Assembly. “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.” Resolution 60/147.

³⁰ Bloomfield, David, Teresa Barnes, and Luc Huyse. “Reconciliation After Violent Conflict: A Handbook.” International Institute for Democracy and Electoral Assistance 2003.

³¹ Ibid

Victim-Centered Approach

Transitional justice has been criticized as a top-down, elitist approach to reconciliation in post-conflict societies. Robins argues that the context and ethnographic understandings of the society are often removed from the international community when creating mechanisms. Thus, a victim-centered approach is needed as a “response to the explicit needs of victims, as defined by the victims themselves.”³² Retributive mechanism are seen as focusing on the offender more than the victim and this can be seen as robbing them of their rights. Sherman and Strang claim that restorative justice is considered to have a more victim-centered approach and positive effects on victim healing.³³

Addressing the Needs of Victims

There are “three essential functions of transitional justice that must be present to address the needs of victims” and they are truth, restoration and justice.³⁴ Different authors argue that trials and truth commissions address different functions or all of them. The most recent explanation has been a combination of both in order to address all functions. Unfortunately, there has yet to be a systematic study on the impact that transitional justice mechanisms have on victims and how this affects post-conflict peacebuilding.³⁵ Since the consensus among scholars is that truth commission provide a therapeutic process of healing through truth telling and serve a form of justice, this will be the reason for focusing on truth commission is Kosovo.

Impact of Truth Commissions on Victims

Truth Commissions are usually considered to be more victim-centered because of the truth-telling aspect. There are conflicting views on the benefits of truth commissions. Backer created

³² Robins, Simon. “Towards Victim-Centred Transitional Justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal.” *International Journal of Transitional Justice* 5.

³³ Lawrence, Sherman, and Heather Strang. “Restorative Justice: The Evidence.” The Smith Institute, 2007.

³⁴ Aldana, Raquel. “A Victim-Centered Reflection on Truth Commissions and Prosecutions as a Response to Mass Atrocities.” *Journal of Human Rights* 5.

³⁵ Mendeloff, David. “Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice.” *Human Rights Quarterly* 31.

an extensive survey that looked at victims who participated in the Truth and Reconciliation Commission in South Africa. Overall he found that a majority of victims felt disappointed and were not satisfied with the justice that was served for their violation.³⁶ Others like Burton and Ridder have found evidence that some victims have felt empowered and found a sense of relief from the process.³⁷ The relief felt through narratives and truth telling is still considered to be only effective in the short-term and that healing is a long-term process. Burton also puts an emphasis not just on the victim but reconciliation of the nation as a whole. She reflects on the ability of the truth commission to develop a common understanding of the conflict and identity.³⁸ This is an important aspect of a truth commission that is essentially to the overall reconciliation process in Kosovo.

Society Needs Versus Victim Needs

In a post-conflict situation it is challenging to integrate victim needs into the needs of the overall community or society. Lumsden believes there are three zones that need to be addressed when reconciling war-torn communities. The areas are the outside world (material goods and social relations), inner world (identity and self) and transitional zone (area between personal and social).³⁹ The transitional zone is the hardest to find a comprehensive approach because every victim is different. Medeloff argues that there can be a “tension between the requirements of victims and demands of a society as a whole.”⁴⁰ This means that sometimes the international and national pressure for peace is not always beneficial for victims. This was particularly true for Kosovo when the international community prioritized stability over justice for victims when the war ended.

Justice and Reconciliation in Kosovo

³⁶ Backer, David. “The Human Face of Justice: Victims’ Responses to South Africa’s Truth and Reconciliation Commission Process.”

³⁷ Mendeloff, David. “Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice.” *Human Rights Quarterly* 31.

³⁸ Burton, Mary “The South Africa Truth and Reconciliation Commission: Looking back, moving forward - revisiting conflicts, striving for peace.” 1998.

³⁹ Lumsden, Malvern. “Breaking the Cycle of Violence.” *Journal of Peace Research* 34.

⁴⁰ David Mendeloff. “Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice.” *Human Rights Quarterly* 31.

Kosovo's past including the buildup to the conflict, the actual conflict and post-conflict management laid the foundation for the current context of the country. Social divisions, weak institutions and strong international intervention have lead to a deeply rooted mistrust not just between Kosovo Albanians and Kosovo Serbs but also between communities and government institutions. There have been two attempts at developing a truth commission in Kosovo but both have failed because they did not take localized victim-centered approach to the design of it.

Background of the Conflict

Under the 1974 Yugoslav constitution, Kosovo was granted full legal authority over its own territory.⁴¹ This decision was not favored by Serbians, which resulted in the mistreatment of Kosovo Albanians. Protests broke out in 1981 from students at the University of Pristina, demanding better economic conditions and status as a republic.⁴² The Serbian police suppressed the protestors with violence and about 1,000 people died.⁴³ Milosevic, a Serb nationalist, rose to power in the 1980's and became President of Serbia in 1989. The same year he revoked Kosovo's autonomy. Over the next decade tensions increase between Kosovo Albanians and Kosovo Serbs, which resulted in Kosovo, as a police state. The marginalization of Kosovo Albanians stemmed the rise of a resistance movement called the Kosovo Liberation Army (KLA).

The beginning of the conflict started when "the KLA organized attacks on Serbian police forces in Central Kosovo" in 1997.⁴⁴ As the KLA began to gain momentum, the Serbs launched a counter-offensive in 1998 by burning Albanian villages and committing brutal crimes against civilians. By early 1999 the clashes had turned into a full-scale conflict resulting in thousands of deaths and mass displacement of civilians.⁴⁵ The international community responded by

⁴¹ "Transitional Justice in Kosovo." Occasional Paper. Policy Research Series. Prishtina: Kosovar Institute For Policy Research and Development.

⁴² Judah, T. "Kosovo's Road to War." *Survival* 41.

⁴³ "Transitional Justice in Kosovo." Occasional Paper. Policy Research Series. Prishtina: Kosovar Institute For Policy Research and Development.

⁴⁴ Ibid

⁴⁵ Di Lellio, Anna, and Caitlin McCurn. "Engineering Grassroots Transitional Justice in the Balkans." *East European Politics and Societies* 27.

launching a NATO air attack against Serbia for 78 days.⁴⁶ During this time the Serbian army pushed their final attack against the Albanian civilian population, which led to the death toll being over 10,000 and almost 1 million Albanians, expelled from their homes.⁴⁷

The United National Security Council adopted resolution 1244 that established an interim government in Kosovo run by the international community. Part of this structure still remains today and in control of some areas of the government. In the early years after the war, revenge attacks were carried out on both sides. There was renewal of violence in March of 2004 when Kosovo Serbs were attacked by protesters and resulted in 19 deaths.⁴⁸ In 2008 Kosovo declared independence with deep opposition of the Serb minority in Kosovo and the Serbian government.

Current Context

The current situation has a population that has been deeply effected by human rights violations and mistrust. Violence occurred horizontally in cycles with overlapping groups of perpetrators and victims.⁴⁹ There are still questions about the victims, those missing, the perpetrators, both governments and those responsible. Most Serbs now live in the north of the country and have minority representation within government institutions. A group of minorities including Serbs have reserved seats in the Kosovo Parliament and have a form of veto power.⁵⁰

The influence of the international community after the conflict prioritized institutional setup, which resulted in sacrificing justice for security. Many injustices were left unaddressed after the war and have manifested in a socially divided society. There is not support from the international community for transitional justice mechanisms and even a truth commission. There have various local initiatives for memorialization and two attempted truth commissions.

⁴⁶ Clark, Wesley K. (General). "Waging Modern War: Bosnia, Kosovo, and the Future of Combat." 1st Edition. *Public Affair*.

⁴⁷ Di Lellio, Anna, and Caitlin McCurn. "Engineering Grassroots Transitional Justice in the Balkans." *East European Politics and Societies* 27.

⁴⁸ "Transitional Justice in Kosovo." Occasional Paper. Policy Research Series. Prishtina: Kosovar Institute For Policy Research and Development.

⁴⁹ Duthie, Roger, and Paul Seils, eds. *Justice Mosaics: How Context Shapes Transitional Justice in Fractured Societies*. New York: International Center for Transitional Justice, 2017.

⁵⁰ Bieber, Florian. "Institutionalizing Ethnicity in the Western Balkans: Managing Change in Deeply Divided Societies." European Centre for Minority Issues.

2001 Yugoslav Truth Commission

In 2001, the President of Serbia, Kostunica created the Yugoslav Truth and Reconciliation Commission.⁵¹ It was strongly opposed by civil society and Kosovo Albanians. The commission was “mostly comprised of Serbian nationalist and associated with Milosevic’s regime.”⁵² The creation of it lacked consultation and its mandate was not debated. The mandate mainly focused on the causes of the war and not the effects it had on civilians. By 2003, the initiative was abandoned without a report being produced.

According to the above literature on characteristics of a truth commission, the Yugoslav Truth Commission would not have been defined as a truth commission because it was neither complementary to justice or had a victim-centered approach. The truth commission had no intention of having retributive justice mechanisms and didn’t consider all relevant stakeholders in the process. It should also come as no surprise that it failed since it had no foundation of credibility, considering a Serb nationalist with no outside consultation created it.

RECOM

“RECOM is the regional commission for the establishment of facts about war crimes and other serious violations of human rights committed in the former Yugoslavia from January 1, 1991 until December 31, 2001.”⁵³ It was launched by a group of civil society organizations to lobby for an official truth commission as a truth-telling and fact finding project. It has gained international support but has been seen as a divisive initiative for the people of Kosovo. Although the effort has a local approach to it, it’s still lacking the support of many victims and seen with suspicion. Many of the efforts have been on trainings or lectures about transitional

⁵¹ “Transitional Justice in Kosovo.” Occasional Paper. Policy Research Series. Prishtina: Kosovar Institute For Policy Research and Development.

⁵² Di Lellio, Anna, and Caitlin McCurn. “Engineering Grassroots Transitional Justice in the Balkans.” *East European Politics and Societies* 27.

⁵³ “What Is RECOM?” *Coalition for RECOM*.

justice where participants must listen and money spent of consultants or experts rather than victims.⁵⁴

RECOM has worked to be a more bottom-up approach by gaining the support of some local organizations and victims. Unfortunately, deep mistrust, lack of initiative immediately after the war and the silence of victim voice have prevented it from gaining consensus. In the literature above, there are five characteristics that define a truth commission and one of those is victim-centered. Although the RECOM coalition thinks it has had a victim-centered approach, some opposing the initiative might disagree. Even if RECOM was established as a truth commission it would still lack two of the main elements that would make it effective - support of stakeholders and respect of the society. Some of the Serb minority in the country consider RECOM to be an extension of the international community that bomb their country while Albanians resent the idea of it if Serbs are a part of it. If this fracturing exists over the idea of RECOM, then it will not be inclusive of all stakeholders or properly acknowledged by society.

Conclusion

Hypothesis

My hypothesis is that a truth commission can have a positive impact on victims in Kosovo, however certain types and configurations will be more effective than others. Therefore, my independent variable is the different types of truth commissions and the dependent variable is the positive impact on victims. Thus, different forms or compositions would have different impacts on victims including a range of both positive and negative. Measuring and studying the actual impact on victims is difficult, so instead I will look at victims' opinions on the impact of truth commissions.

In truth commission literature, a positive outcome can be defined in a variety of ways including restoring rule of law, countering impunity, reparations for victims and reconciliation. From the

⁵⁴ Di Lellio, Anna, and Caitlin McCurn. "Engineering Grassroots Transitional Justice in the Balkans." *East European Politics and Societies* 27.

literature, one existing gap that identified when looking at the outcome is the impact on victim's well being. This is especially true when looking at the Western Balkans and two previously failed truth commissions in the region. Although there is some literature discussed above that shows how truth commissions impact victims lives during and after the process there is less about what victims think of truth commissions and if they feel there is a need for one.

Despite the praise that truth commissions are victim centered, they still struggle to integrate the victim perspective and voice in the formation process. Therefore the level of positive opinion of victims for a truth commission will be my outcome and impact that will determine my hypothesis. This opinion will be measured based on victims' opinion of previous attempts at a truth commissions, level of trust with the authorities that would implement the truth commission, if they feel like their voice will be heard in the truth commission, if they feel that justice would be sufficient after a truth commission, etc. These indicators can be measured against different aspects and types of truth commissions to determine which type of truth commission would be best for the victims of Kosovo.

This configuration or formation of the truth commission will first be based on the five characteristics presented in the above literature. This will create the foundation for it to be considered within the definition of a truth commission. The second part will assess the strength and legitimacy of the truth commission based on the four elements needed for it to be effective. This will serve as the criteria for the level of effectiveness of the truth commission. These four elements can be added in a set of interview questions to determine which ones are more important in the opinion of the victims. There could also be added questions about compensation, social services, safety, documentation and memorialization that could also assist in evaluating what victims would need from a truth commission. The higher the opinion of an aspect or element is, the more effective the truth commission will be.

Data Selection

Two methods will be used to pursue my hypothesis and determine the type of configuration that will have the largest positive impact for victims. The first method will be a case study

comparison to determine best practices and the second will be interviews with various stakeholder groups to further understand the context in Kosovo.

The case studies that will be used are of the Truth and Reconciliation Commission in South Africa because it is regarded as one of the most positive outcomes of any truth commission created. Therefore, there will be best practices and lessons learned that could be drawn from it to determine what can be used in Kosovo. The second case study will be on the truth commission setup in Chile after Pinochet. This case study is chosen because it was considered success in determining what happened to missing people and a memorial book was made from it. One of the main grievances that the people of Kosovo have is that they don't know what happened to their loved ones. The Chile context could give good examples of how to deal with this particular grievance.

The second method will be to interview various stakeholders within Kosovo that would be involved in designing and creating a truth commission. This includes the Kosovo government, victim's associations, civil society organizations, international organizations and if possible victims themselves. Although it is important to interview different stakeholders to determine what kind of commission would be feasible. The interviews should focus on the opinions of victims themselves and those that represent them. Some of the organization and stakeholders include the Office of the President of Kosovo, United Nations agencies such as UNPD, Kosovo Open Society Foundation, the Humanitarian Law Fund and Center for Research and Development Policy in Kosovo.

Implementation

When determining variables it important that the conceptual framework does not just look at policy design but also effective implementation. Weimer claims that there are three general factors that determine successful implementation of policy and the one that is most important and challenging one in the Kosovo context is "the nature of cooperation."⁵⁵ This looks at the specific

⁵⁵ Weimer, David L., and Aidan R. Vining. 2005. Policy Analysis. Concepts and Practice. New Jersey: Prentice-Hall, ch 11.

elements needed to get the expected results. Elements can be resources and motivation but building the correct stakeholders to have political will is just as important. This is the reason for two previously failed truth commissions before this one. Victims weren't asked to sit at the table and implementation was a failure. It is essential to understand who the target group is and their perspective when determining how to effectively implement a truth commission. Mazmanian and Sabatier say that the central authorities should understand the target group so that they can "anticipate political feedback and to be aware of the behavioral assumptions of the program."⁵⁶ He claims that most of the time this isn't done due to lack of resources and research. Since a truth commission has become the tool for international communities to use as a bandaid, it was seen as the norm and an assumption was made. The failure of previous initiatives has been not to understand the target group they are affecting. Developing a victim-center design will hopefully mitigate what would be some of the failures of previous implementation efforts but it will be important to also determine potential policy implications based on this literature.

Future Work Plan

The work plan for the following fall and spring term is below.

Interviews

October - January: Conduct preliminary interviews via Skype

January - March: Conduct second round of interviews via Skype/on location

Deadlines

End of November: Introduction and literature review draft

End of January: Draft of case study #1 and case study #2

End of April: Analysis draft

Mid-May: Full draft complete with policy implications and recommendations

Mid- June: Full second draft to thesis advisors

July 1st 2018: Thesis submission deadline

⁵⁶ Mazmanian and Sabatier (1989): Implementation and Public Policy, University Press of America. 1 & 2.

Bibliography

Aldana, Raquel. "A Victim-Centered Reflection on Truth Commissions and Prosecutions as a Response to Mass Atrocities." *Journal of Human Rights* 5, no. 1 (January 1, 2006): 107–26. doi:10.1080/14754830500485916.

Backer, David. "The Human Face of Justice: Victims' Responses to South Africa's Truth and Reconciliation Commission Process." (2004) (Ph.D. dissertation, University of Michigan). <http://proquest.umi.com/pqdweb?did=813767731&sid=1&Fmt=2&clientId=18938&RQT=309&VName=PQD>.

Bakiner, Onur, ed. "Truth Commission Impact." In *Truth Commissions*, 87–113. Memory, Power, and Legitimacy. University of Pennsylvania Press, 2016. <http://www.jstor.org/stable/j.ctt18z4gmr.7>.

Bieber, Florian. "Institutionalizing Ethnicity in the Western Balkans: Managing Change in Deeply Divided Societies." European Centre for Minority Issues, February 2004. http://www.ecmi.de/uploads/tx_lfpubdb/working_paper_19.pdf.

Bloomfield, David, Teresa Barnes, and Luc Huyse. "Reconciliation After Violent Conflict: A Handbook." International Institute for Democracy and Electoral Assistance 2003, 2003. <http://www.un.org/en/peacebuilding/pbso/pdf/Reconciliation-After-Violent-Conflict-A-Handbook-Full-English-PDF.pdf>.

Bronwyn Anne Leebaw. "The Irreconcilable Goals of Transitional Justice." *Human Rights Quarterly* 30, no. 1 (2008): 95-118. <https://muse.jhu.edu/> (accessed July 2, 2017).

Burton, Mary "The South Africa Truth and Reconciliation Commission: Looking back, moving forward - revisiting conflicts, striving for peace." 1998.

<http://www.brandonhamber.com/publications/Chap%202%20-%20TRC%20Mary%20Burton.pdf>

Clark, Wesley K. (General). “Waging Modern War: Bosnia, Kosovo, and the Future of Combat.” 1st Edition. *Public Affair*. pp. 173-195, 347-369 (2001).

Di Lellio, Anna, and Caitlin McCurn. “Engineering Grassroots Transitional Justice in the Balkans.” *East European Politics and Societies* 27, no. 1 (November 16, 2012): 129–48.

Duthie, Roger, and Paul Seils, eds. *Justice Mosaics: How Context Shapes Transitional Justice in Fractures Societies*. New York: International Center for Transitional Justice, 2017.

Eduardo González and Howard Varney, eds., Truth Seeking: Elements of Creating an Effective Truth Commission. (Brasilia: Amnesty Commission of the Ministry of Justice of Brazil; New York: International Center for Transitional Justice) 2013.

Fletcher, Laurel and Weinstein, Harvey. “Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation”, 24 *Hum. Rts. Q.* 573 (2002).

Geoff Dancy, Hunjoon Kim & Eric Wiebelhaus-Brahm (2010) The Turn to Truth: Trends in Truth Commission Experimentation, *Journal of Human Rights*, 9:1, 45-64

Hinton, Alexander Laban, ed. *Transitional Justice*. Rutgers University Press, 2010. <http://www.jstor.org/stable/j.ctt5hj4jg>.

Judah, T. “Kosovo’s Road to War.” *Survival* 41, no. 2 (January 1, 1999): 5–18. doi:10.1080/00396338.1999.9688530.

Lawrence, Sherman, and Heather Strang. “Restorative Justice: The Evidence.” The Smith Institute, 2007. http://www.iirp.edu/pdf/RJ_full_report.pdf.

Lumsden, Malvern. "Breaking the Cycle of Violence." *Journal of Peace Research* 34, no. 4 1997. 377–83.

Lundy, Patricia, and Mark McGovern. "Whose Justice? Rethinking Transitional Justice from the Bottom Up." *Journal of Law and Society* 35, no. 2 (2008): 265–92.

Mazmanian and Sabatier (1989): *Implementation and Public Policy*, University Press of America. Ch. 1 & 2.

Mendeloff, David. "Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice." *Human Rights Quarterly* 31, no. 3 (2009): 592-623. <https://muse.jhu.edu/>

McAuliffe, Pdraig. "The Marginality of Transitional Justice within Liberal Peacebuilding: Causes and Consequences." *Journal of Human Rights Practice* 9, no. 1 (February 1, 2017): 91–103. doi:10.1093/jhuman/huw022.

Olsen, Tricia D., Leigh A. Payne, Andrew G. Reiter, and Eric Wiebelhaus-Brahm. "When Truth Commissions Improve Human Rights." *International Journal of Transitional Justice* 4, no. 3 (November 1, 2010): 457–76. doi:10.1093/ijtj/ijq021.

Orentlicher, Diane. "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime." *The Yale Law Journal*, 8, 100, no. June 1991 (n.d.): 2537–2615.

Robins, Simon. "Towards Victim-Centred Transitional Justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal." *International Journal of Transitional Justice* 5, no. 1 (March 1, 2011): 75–98. doi:10.1093/ijtj/ijq027.

Seils, Paul. "The Place of Reconciliation in Transitional Justice: Conceptions and Misconceptions." International Center for Transitional Justice, June 2017. <https://www.ictj.org/sites/default/files/ICTJ-Briefing-Paper-Reconciliation-TJ-2017.pdf>.

Stover, Eric. *The Witnesses*. University of Pennsylvania Press, 2005.
<http://www.jstor.org/stable/j.ctt3fhm43>.

“Transitional Justice in Kosovo.” Occasional Paper. Policy Research Series. Prishtina: Kosovar Institute For Policy Research and Development, September 2008.

UN General Assembly. “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.” Resolution 60/147. December 16, 2005.

UN General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: resolution / adopted by the General Assembly, 29 November 1985, A/RES/40/34*, available at: <http://www.refworld.org/docid/3b00f2275b.html>

Weimer, David L., and Aidan R. Vining. 2005. Policy Analysis. Concepts and Practice. New Jersey: Prentice-Hall, ch 11.

“What Is RECOM?” *REKOM ~ KOMRA*. Accessed August 7, 2017. <http://recom.link/sta-je-rekom/>.