LEBANESE AMERICAN UNIVERSITY

BEYOND POWER-SHARING:

THE NEED FOR RECONCILIATION AND TRANSITIONAL JUSTICE IN POST-ETHNIC CONFLICT STATES

By

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Beyond Power-Sharing: The Need for Reconciliation and Transitional Justice in Post- Ethnic Conflict States

Mariam Ibrahim Zeineddine

ABSTRACT

This thesis aims to contribute to the literature on the resolution of ethnic conflicts. By analyzing Bosnia-Herzegovina, Burundi, and Rwanda, it explores the components of a peace agreement, establishing what is necessary for sustainable post-war peace. Arguing that a power-sharing agreement lacking reconciliation and transitional justice will also lack stability, the collective experiences of the cases selected will determine the consequences of such an absence. Consequently, it asserts that only with these mechanisms can a postwar society achieve reintegration and state reconstruction. The theoretical conclusion that follows from this thesis is that any postwar arrangement that seeks the resolution of ethnic conflict should combine power sharing, reconciliation and transitional justice.

Keywords: Bosnia-Herzegovina, Burundi, Ethnic Conflict, Peace, Power-Sharing, Reconciliation, Rwanda, Transitional Justice.
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CHAPTER ONE
INTRODUCTION

Conflict is a recurring feature of our world, one that feeds off our individual identities and thrives in divided states, ultimately dividing them even more. In fact, the end of the Cold War saw a rise in the number of intra-state wars in comparison to inter-state wars, to the extent that the former now exceeds the latter by far. Between 1945 and 1997, there were 23 interstate wars compared to 108 civil wars, with 4 times the causalities, that on average lasted about four times longer. Of these intrastate wars, ethnic conflict accounts for the bulk, resulting in the deadliest and most violent battles. Reynal-Querol defines ethnic civil war “as an episode of violent conflict between governments and national, ethnic, or other communal minorities (ethnic challengers) in which the challengers seek major changes in their status.” (2002, pp. 37). Indeed, ethnic or identity based violence has taken more lives in the 20th century than any other war (Sarkees & Schafer, 2000).

This rise in identity politics carried with it the need for an alternative to majoritarian liberal democracies. This alternative came in the form of power-sharing arrangements, some of which continue to be successful models, such
as India, Switzerland, and South Africa, but others, like Cyprus and Lebanon have failed miserably, while that of Belgium has recently come under stress. One extreme example of a failed power-sharing arrangement is the 1993 Arusha Accords. Intended to end the three-year civil war in Rwanda, what followed was one of history’s most shocking genocides. This begs the question: is power-sharing a sufficient solution for postwar peace, and if not, what then does the effective resolution of an identity conflict require? Could the key lie in the juxtaposition of reconciliation, transitional justice, and power-sharing? How are these concepts related and how can they be effectively utilized?

This chapter provides an introduction into the topic of post-war peace, establishing the need for a far more holistic solution than just power-sharing. The next section provides a briefing into the literature surrounding power-sharing, reconciliation, and transitional justice, establishing any theoretical gaps to be filled by this thesis. It then outlines the research questions and hypotheses of the thesis before finally elaborating on the methodology of the thesis, presenting the cases and logic behind their selection.

1.1 Literature Review

1.1.1 The Power-sharing Debate
The question of a new constitution emerges in the aftermath of a civil war, and in the wake of a peace settlement. Here, two different theoretical approaches present themselves. The first is one of integration, in which identities are assumed malleable and subject to change. Individual identities can be molded in order to be assimilated into the rest of society in a single, overarching identity. Integrationists reject a multi-ethnic society and a power-sharing government. Instead society is governed by a strong, centralized and impartial state (McGarry, 2007). The second approach is a path of accommodation, where dual/multiple identities are recognized and are believed to be resilient. Proponents of this path are advocates of a consociational power-sharing government that accommodates identities.

Power-sharing can be defined as a “set of principles that, when carried out through practices and institutions, provide every significant identity group or segment in a society representation and decision-making abilities on common issues and a degree of autonomy over issues important to that group” (Sisk, 1996, p.5). This sharing of political, economic, territorial and military power, reduces insecurities and, in the long run, hopefully, conflict. The key components of a consociational power-sharing arrangement are:

- Proportional representation of all parties in cabinet and legislature
- Consensus based decision-making and mutual group vetoes
- Proportional allocation of funds & government offices, and PR electoral law
- Protection of the rights of minority groups or segmental autonomy

From this view, “Majority rule is not only undemocratic but dangerous” (Lijphart, 1984). Proponents of consociational power-sharing describe it as the best solution for deeply divided states. It encourages cooperation and coexistence among the different groups. No other form of government can provide the same sense of security for marginalized groups. For scholars such as Katia Papagianni (2008) and Michael Kerr (2006) it must be a short-term solution, and more importantly, must be supervised internationally. Both authors identify external intervention as the determining factor of success. It is important to note here that relying on external actors does not guarantee success since in many states the external actors were the very ones instigating conflict in order to further national agendas. Timothy Sisk (2013) claims that the existence of moderates from all sides of the conflict, who accept the need for accommodation, is crucial to postwar peace. Elites often need incentives in order to commit to coexist and this incentive can be provided by third party intervention.

On the other hand, the hardening of divisions is a possibility often highlighted by opponents of power-sharing regimes. Critics argue that this form of government cannot be permanent and, in the long-term, hinders democratic consolidation. Donald Horowitz (2001) condemns consociational power-sharing arrangements for institutionalizing and reinforcing divisions in the long term, thus allowing for the exploitations, and hence, deepening of tensions. In fact,
one study (Norris, 2005) concluded that power-sharing is not automatically better for political stability and effectiveness in plural societies. Instead priority should be given to basic human development, as it was discovered that it is a more reliable route to good governance than constitutional design.

1.1.2 Reconciliation

Reconciliation refers to the relationship between a victim and a perpetrator, involving acts of apology, and forgiveness. It should involve inter-ethnic cooperation and political tolerance (Rosulnik, 2008). According to the Institute for Democracy and Electoral Assistance (IDEA, 2003), power-sharing without reconciliation is impossible. Reconciliation, both a goal and a process, is a necessary requirement for long-term stability one that cannot be imposed upon society by foreign actors. There is no specific recipe for the application of reconciliation processes, rather, each case comes with its own context. Moreover, conflicts are complex, and the line between the criminalization of politics and the politicization of crime becomes blurred. Consequently, reconciliation must address the changes in patterns of violence. One pragmatic approach focuses on state-society relations, and goes beyond re-building fragile institutions by engaging social policy. Essential to reconciliation is the demobilization and reconfiguration of the roles of combatants, thus destroying myths used to cement the discourse of ‘the other’.
Eirin Mobekk (2005) identifies national reconciliation as the societal and political processes that function and develop without a return to conflict; and individual reconciliations as the ability of each human to conduct life without fear or hate. Moreover, Ariel Knobel (2011) defines two types of reconciliation: the first is a top-down political reconciliation; the second involves grassroots, interpersonal relationship building. He notes that in many cases, while the violence ends, the roots of conflict remain, questioning why elites would shift their strategy away from violence. This is similar to Sisk (2013) who identifies two puzzles, the first revolves around the conditions under which elites will agree to share power. The second is the way in which war-ending elite negotiated pacts can evolve into enduring social contracts. The answer, strategic calculations can be attained through reconciliation. Reconciling differences allows for a facilitated achievement of strategic goals.

Often used as a tool of reconciliation, truth commissions (TC) are defined as officially-sanctioned, temporary, non-judicial investigative bodies. Their goal is to investigate and formulate a final report on the state (OHCHR, 2004). TC’s primary objective is to establish truth, interrogating the past in order for an effective reconciliation process. They are not a substitute for judicial mechanisms, rather they are a tool of reconciliation, especially in states with high levels of political oppression. However, for some, truth and reconciliation commissions, signal blanket amnesty, where the overemphasis on forgiveness
ultimately leads to impunity and injustice  (Hagg & Kagwanja, 2007). This will be discussed further in the next section.

1.1.3 Justice

The International Center for Transitional Justice (ICTJ) defines the concept as a process that revolves around the recognition of the dignity of individuals, redress and acknowledgement of violations and victims, as well as the prevention of future violations. It is a process that advances the cause of reconciliation, results in accountability, and a renewed commitment to security. The ICTJ (What Is Transitional Justice?) outlines four approaches to transitional justice that are complementary and not substitutes for one another:

1. Criminal Prosecutions, for those most responsible of heinous violations
2. Truth-Seeking, fact-finding, looking at the events, causes and impacts
3. Reparations, the individual, material, collective and symbolic
4. Reform, of the laws and institutions.

Of course, the political, social and legal conditions of a country will determine the procedure to be taken. More importantly, the distribution of power in a state, determines the nature, and extent of the procedure. Transitional justice is thus defined as:
“the full range of processes and mechanisms associated with a society ‘s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof” (Report of the SG, 2004, p. 4).

Transitional justice is becoming increasingly popular as a postwar tool, and the founding of tribunals, very common. Nonetheless, although there has been much work done on the application of transitional justice mechanisms, there remains a knowledge gap relating to the effect of justice on society. However, authors such as Stephen Stedman and Donald Rothschild (1996) fail to include the role of justice in their analysis of reconciliation. When combined, the two concepts are believed to be non-conducive to stability.

Usually, the focus is placed on foreign models and internationally established tribunals. Scholars such as Kerr (2005), Mobekk (2005), McRobie (2010) agree that this does not build national capacity, and in the long term, will not allow for the maintenance and consolidation of peace. Consequently, there must be room for country context assessment. A report of the United Nations Secretary General (2004) analyzed the experience of the UN and transitional justice, and concluded that the most successful ones were due to the quantity and quality of victim consultation. The report insists that for effective justice mechanisms, support must come from all segments of society and institutions must commit themselves to the needs of the victims. In post-conflict societies,
the question of justice becomes not whether or not to apply it, but when and how. Timing is crucial in determining the outcome. More importantly, Mobekk (2005) suggests that local ownership of justice may have the most impact on the success of reconstruction, especially local courts, truth commissions, and traditional methods of justice. Criminal proceedings and punishment alone are detrimental to reconciliation.

Moreover, it is imperative to point out the exorbitant cost that comes with Ad Hoc tribunals. For example, the combined annual budget of the International Criminal Tribunal for Yugoslavia and the International Criminal Tribunal for Rwanda amount to a quarter of a billion dollars (Stanley, 2008). When compared to the number of cases tried, the cost is alarming.

So whilst most scholars agree that power-sharing must not be a long-term solution, there is no explanation as to how a government should move beyond consociation. Is it even possible? Will a change in the representation of the divided society not lead to conflict? The roles of reconciliation and justice have previously been explored, their significance increasingly advocated and widely accepted especially with the experience of South Africa. However, the existing literature generally fails in the analysis of the impact the two concepts have on post-war power-sharing states. The link between these extensive processes and a successful power-sharing arrangement is yet to be established.
As populations become more isolated from each other, and civil wars more likely, peace seems to be a distant dream. The international community insists on power-sharing formulas as the go-to panacea and this thesis seeks to try and discover whether there is any empirical basis behind this. Alternatively, it delves into the possibility of reconciliation and justice as necessary components of an effective solution in states emerging from an identity-based conflict. This thesis seeks to uncover what the reconstruction of a post-war state marred by division requires. The juxtaposition of all three may prove to be the key for a divided society to successfully transition from ethnic violence and war, to peace and coexistence. Finally, this thesis is extremely relevant to this conflict-ridden region and possibly to the ongoing crisis in Syria. It may take us a step closer to finally being able to resolve conflicts without the risk of further exacerbating them.

1.2 Research Questions

Power sharing, when implemented to provide security and allay fears of marginalization, may have an adverse effect on society by leading to ‘ethnic security’. Also, many coalition governments experience paralysis and deadlock resulting in ineffective governance. Mechanisms of justice and reconciliation, when used in conjunction with one another, often bear adverse consequences, opposite to the initial results intended. So, to what extent can we make parallel
use of these concepts, without threatening postwar stability? Is power-sharing the panacea for post-war ethnically divided states? What are the roles of reconciliation and transitional justice? How do they all relate to one another? As most scholars and practitioners agree that power-sharing is the only viable option in times directly following conflict, the question here is whether or not this form of government can sustain peace. This thesis seeks to answer these questions and will ultimately determine the necessary components of an effective long-term power-sharing agreement.

1.3 Methodology

This thesis suggests that consociational power-sharing is not a panacea in a society that experienced ethnic conflict. Post-war peace is not solely conditional on this form of government. For a power-sharing solution to succeed, it entails the implementation of reconciliation and transitional justice mechanisms. In other words, reconciliation and justice, together, are prerequisites for a successful power-sharing agreement. More importantly, reconciliation must be employed in conjunction with justice. The use of one without the other will prove to be futile. Moreover, for an effective power-sharing government, these processes must be state-led, national projects. Political reconciliation alone is not enough as a catalyst for stability. If the population has not reconciled, society will remain divided. On the other hand, social
reconciliation, without the reconciliation of political elites will result in an ineffective government. Consequently, for the effective implementation of transitional justice, international tribunals are not enough. National courts, set up by the government, must also be established.

This thesis looks at three dimensions of peace: the existence of a consociational power-sharing agreement, reconciliation, and transitional justice. It undertakes a comparative study of three states: Burundi, a case of power-sharing and reconciliation, without justice; Bosnia-Herzegovina (BiH), a case of power-sharing and justice, without reconciliation; and finally, Rwanda, a case of a power-sharing government that later implemented justice and reconciliation. This juxtaposition will allow for in-depth comparative understanding of the relationship between the three concepts, ultimately providing insight as to whether or not consociational power-sharing is the only necessary solution towards achieving sustainable peace. The following graph (figure 1.1) illustrates the cases schematically.
I have chosen these cases because of the common denominator of a history of ethnic tensions. These states have each endured violent ethnic conflicts that lead to genocide and/or mass killings on the basis of identity. Rwanda was the starting point of this research project. A state that instituted a power-sharing government in 1993, only to find itself enveloped in an ethnic conflict so violent that it resulted in one of the worst genocides in history. This then led me to Burundi, which was selected because the peace process bore different results than it did in the former, despite the striking similarities shared by both neighbors. Rwanda also led me to Bosnia & Herzegovina because of the latter’s experience with transitional justice under the International Criminal Tribunal for Yugoslavia (ICTY), one that is comparable to the International...
Criminal Tribunal for Rwanda (ICTR). The study comparatively explores the various solutions adopted in these cases, and the peace processes, in order to uncover the necessary components of a successful and viable peace agreement.

A UNDP discussion paper (2010) on the measurement of democratic governance specifies the World Bank Institute’s Worldwide Governance Indicators as the most comprehensive indicators, and the Bertelsmann Transformation Index (BTI), as the most often referred to. The former database measures the quality of governance in 200 countries from 40 sources produced by 30 organizations, zooming in on six dimensions of governance. These are:

- Voice & Accountability*
- Control of Corruption
- Government Effectiveness*
- Political Stability & Absence of Terrorism*
- Regulatory Quality
- Rule of Law*

In this thesis, the four dimensions marked with an asterisk will be the ones used as indicators of a successful peace agreement. The reason behind this selection lies in the belief that only these four can be directly related to the concepts we are interested in. Government Effectiveness and Voice & Accountability are related to consociational power-sharing. For example, a successful consociational power-sharing government is one that is effective and
accountable. Political Stability & the Absence of Terrorism signify both political and social postwar reconciliation. Finally, respect for the Rule of Law is correlated with respect for justice in a state.

The Bertelsmann Transformation Index measures the effectiveness of a country’s transformation to democracy. Made up of three indices, it underlines 17 criteria distributed amongst political transformation, economic transformation and the management index. The five criteria relevant to this thesis are: state identity, rule of law, stability of democratic institutions, conflict intensity and reconciliation.

In addition to collecting data from the above-mentioned databases, and in order to solidify the study in practical terms, the thesis seeks to present research (when applicable) related to the presence of isolated/segregated communities or their polarization along ethnic lines, instability, as well as an inability to reach consensus. To reflect on the realities of these post-conflict states, the study shall utilize newspaper articles, journals, and reports from both non-governmental organizations such as Human Rights Watch or Freedom House as well as United Nations bodies.

The varying political, cultural, economic, and social contexts in the different cases allow for a greater generalizability of the theoretical conclusions reached in the thesis, whilst establishing external validity, simultaneously lowering the internal validity of the study. This drawback is due to exogenous
factors that may have relatively influenced the peace process in the different cases. These include: the conditions leading up to and provisions of the peace-agreement, the relative extent of the grievances of each identity group, external influence, and the economy and standard of living. Others include colonial legacy, leadership and regional stability. More importantly, the specific nature or form of the power-sharing government, the reconciliation, and the justice mechanisms will certainly have varying effects on the conflict. Power-sharing, reconciliation, and transitional justice can be adopted in various forms, all of which can have a different impact upon the context in which they are applied. There is no formula or “one-size-fits-all” when it comes down to the implementation of these broad terms. This forces some limitations on the study’s comparative lessons. Regardless, this thesis provides a starting point for future research.

1.4 Map of Thesis

This thesis is divided into five chapters. The following chapters will delve into the cases studied. It presents each case by introducing the background information and history before detailing the ethnic conflicts, followed by the respective peace agreements that have taken place before finally reporting the status of each case using the indices. The second chapter discusses power-sharing with transitional justice in Bosnia & Herzegovina. Chapter three looks at
Burundi, demonstrating the consequences of a state with power-sharing and reconciliation only. These consecutive cases will allow us to compare and better understand the effects of these concepts in isolation. The peculiar case of pre- and post-genocide Rwanda will be discussed in chapter four, illustrating first, the dangers of an deficient peace agreement and second, whether or not the proposed theory of a tri-fold mechanism is the solution. The final chapter discusses the roles of power-sharing, reconciliation, and justice, or lack thereof, in shaping the current reality of these states. This chapter spells out the importance of the three mechanisms in the journey towards sustainable peace while shedding light on the comparative experience of Northern Ireland.
CHAPTER TWO
BOSNIA & HERZEGOVINA: THE ABSENCE OF RECONCILIATION

2.1 Introduction

When the government of Bosnia & Herzegovina declared independence from Yugoslavia in 1992, Bosnian Serbs, who aimed to join the Serbian state, boycotted the referendum. The ultimate independence of the state triggered the conflict as the attack on Bosniak civilians and Bosnian Croats began. In 1994, Bosniaks and Bosnian Croats formed an alliance against Bosnian Serbs, in an attempt to gain a stronghold against the already self-declared autonomous Republika Srpska.

Despite it being declared a safe haven by the U.N, in 1995, Srebrenica in eastern BiH witnessed one of the worst massacres in Europe since World War II. Almost 7,500 Bosniak men and children were murdered, and 20,000 civilians were banished as part of an ethnic cleansing by Bosnian Serbs carried out as part of the plan to seize the territory as part of the adjacent state of Serbia. By then, they had controlled a vast amount of the country, rejecting any peace
proposals. It was not until NATO's concentrated airstrikes that Bosnian Serbs agreed to peace talks in Dayton, Ohio.

This chapter examines the current post-war reality of Bosnia and Herzegovina (BiH), a reality described as “ethnicized peace” by Vesna Dzelelilovic, brought to life by a fractured power-sharing government and polarized politicians. This chapter discusses the role of agents of peace and their impact on Bosnian society, from the Dayton Agreement, to the ICTY. It begins with an introduction to the case, the conflict, and peace agreement, before presenting the various indicators, along with the practical analysis of Bosnian politics and society.

### 2.2 The Dayton Peace Accords

The civil war formally ended with the signing of the 1995 Dayton Peace Accords, also known as the General Framework Agreement for Peace in Bosnia and Herzegovina. A consociational power-sharing agreement, it established a central government and two self-governing entities with Sarajevo as the undivided capital. A federalized Bosnia was divided into a Croat-Bosniak federation with 51% of the land, and a Bosnian-Serb republic known as the Republika Srpska with 49%. Part of both entities is the self-governing, multi-ethnic district Brcko District. The agreement introduced territorial separation
along ethnic lines and a Tripartite Presidency, elected separately through a plurality vote by members of each one of Bosnia’s main three constituent groups presented in figure 2.1 (CIA World Factbook, 2017). In order to qualify to run for office, it is absolutely imperative that candidates identify as belonging to one of the three main constituents. The presidency is in charge of foreign, military and diplomatic affairs as well as setting the budget of state-level institutions. Bosnia’s Parliament is divided into a House of Representatives, elected through proportional representation, and a House of Peoples, elected by the parliaments of the entities (2/3 from the Federation and 1/3 from the Republika Srpska, amounting to five members from each constituency). The two entities in Bosnia enjoy a significant amount of autonomy over their respective internal affairs including education, healthcare, police and culture.

![Main Ethnic Constituents](Figure 2.1: World CIA Factbook)
2.3 Justice

The International Criminal Tribunal for the former Yugoslavia (ICTY) was established in 1993 by the United Nations to prosecute war crimes committed in the Balkans during the conflict in the 1990s. An *ad hoc* court, the ICTY’s objective was to bring the most responsible perpetrators to justice, and by doing so, to deter future crimes. It has charged over 160 individuals from various ethnic backgrounds, although a significant number of cases reviewed involved Serbians, or Bosnian Serbs. The Tribunal has helped to establish precedence in matters of genocide, torture, and rape. More importantly, it established the norm of justice even against senior military commanders and political leaders as a tool for conflict resolution.

Despite the important legacy of the ICTY, James Meernik (2005) found that the ICTY had negative and inconsequential effects on societal peace between 1996-2003. He notes that when Radovan Karadzic, the president of the self-declared Republika Srpska who had ordered the massacre in Srebrenica was arrested, a sea of different reactions erupted, from celebrations to protests. He was considered both a criminal and a victim by different ethnic entities. Also, a survey found there to be inconsistent feelings towards the ICTY among Bosnians. For example, in the Federation trust in the tribunal was at a 51 percent average, as opposed to 8 percent in the Republic according to the 2002 SouthEast Europe Public Agenda Survey (Rosulnik, 2008). The tribunal
was perceived among Bosnian Serbs as an anti-Serb agent serving the Muslims.

Michael Kerr identifies several faults in the setup of the tribunal. He claims that the remoteness of the location of the ICTY from Bosnian society was a factor in the lack of involvement and cooperation by local actors. This possibly led to the derailment of the arrest of Ratko Mladic, the Bosnian Serb military leader, who disappeared in 2001 and was finally arrested in 2011. According to Kerr (2005), the court was not victim-oriented, rather, it focused solely on prosecuting the perpetrators of crimes, a structural hindrance to reconciliation. Similarly, other sources also highlight the absence of local transitional justice mechanisms as one of the impediments to reconciliations (McRobie, 2010).

Located in the Hague, the ICTY was removed from the actual setting of the conflict. This means there was a lack of societal consensus on both the course and work of the Tribunal. On one hand, the Bosnian public was unaware of the Court’s proceedings and on the other hand, the Court itself was detached from the needs of the public.

Bosnian politicians viewed the Tribunal as a means for EU accession rather than a mechanism for justice and reconciliation. For example, Defense Minister Dragon Sutonorac stated, “with the arrest of Karadzic, we have jumped over a big hurdle toward European Integration”. Menad Canak, leader of the League of Social Democrats of Vojvodina argued that, “the arrest is a result of
readiness to fulfill international obligations” (Rosulnik, 2008, para.8). To analyze the effects of the ICTY, the next section will present indicators.

2.4 Indicators

Bosnia’s neighbors, Serbia, Kosovo, Croatia, Montenegro have all made considerable progress towards development, even moving to European integration. BiH, however, lags behind as one of the poorest countries in Europe. In a Freedom House report published in 2016, Bosnia & Herzegovina was one of the few countries listed under the “countries to watch” or deserving special scrutiny over a possibility of worsening government dysfunction over a planned Bosnian Serb referendum. In the Freedom House index, under ‘political rights’ it scored 4, and under ‘civil liberties’ 3, earning a total score of 57, resulting in a Partly Free category (Freedom House, 2016).

Below is a table (figure 2.2) indicating BiH's rank on four of the World Bank Governance Indicators in 2015, ranging from 0 (lowest) to 100 (highest) (Kaufmann & Kraay, 2017).
Figure 2.2: World Bank Governance Indicators for BiH

Figure 2.2 displays constant drops in ‘Government Effectiveness’, followed by steady increases. ‘Rule of Law’ drops significantly from 1996-1998, then again in 2003, before increasing incrementally over the years. ‘Political Stability’ dropped considerably after 2004, before picking up again six years later in 2011, the year of Ratko Mladic’s arrest, and the formation of a new central government. The following graph (figure 2.3) indicates BiH’s score on the Bertelsmann Transformation Index (2016) from 2003 until 2016.
Figure 2.3 depicts a sharp increase in ‘Rule of Law’ and in ‘Stability of Democratic Institutions’ until 2006, when the ICTY began hearing cases regarding the Srebrenica genocide. Reconciliation drops from 2006-2008, the year Bosnian Serb Radovan Karadzic, 13 years a fugitive, was captured and transferred to the Hague for trial. The graph illustrates a decline in most of the indicators around the year 2010, when the trial of Radovan Karadzic began, and the Republic passed laws facilitating national referendums, further separating
itself from the Federation. However, the largest drop is in 2014, amid the trials of Ratko Mladic, and Radovan Karadzic. After discussing the statistical data, the next section analyzes these variations as they manifest themselves in Bosnian society.

2.4.1 Analyzing the Data

**Governance, Politics & Society**

The Dayton Peace agreement discriminates against the 14 other ethnic minorities, in favor of the three constituent identities. In the legal case Sejdic & Finci, a Roma and a Jew, challenged the law guaranteeing the right of the three constituents to be elected to the presidency and House of Peoples. In 2009, the European Court of Human Rights ruled that this law was discriminatory necessitating the need for amending the constitution.

Ineffective governance, a result of the lack of political consensus, is a sad reality in BiH. In early 2014, cross-ethnic mass protests erupted against the deteriorating living standards, and against corruption. According to World Bank (Tanic, 2014) statistics, the country faces some of the highest youth unemployment rates in the world, whilst Bosnian politicians are among the richest in Europe (Borger, 2015). The Center for Civil Initiatives, a Bosnian NGO, reported that the state-level government was at its worst performance ever, adopting only 106 laws in four years (Jukic, 2014). The government of BiH
frequently experiences stalemate and paralysis due to the irreconcilable stances of Bosnian politicians. For example, the end of 2010 saw a political deadlock over government formation that lasted almost 14 months. Elections in October 2014 were so tense that scholars believed Bosnia was on the brink of another war. Today, a lack of trust and a zero-sum approach dominates Bosnian politics. This manipulation has resulted in the refusal of Bosnians to engage in open dialogue. The use of separatist rhetoric is also common. The president of the Republika Srpska, Milord Dodik, publicly advocated for the dissolution of Bosnia-Herzegovina claiming that it has “no possibility to survive” (SC/11009, 2013).

In October 2016, elections were characterized by an easy win for nationalist parties. For example, in the Republika Srpska, the Alliance of Independent Social-Democrats, the party that has ruled for a decade, won 30 more municipalities than in the previous elections. It is important to note that the party’s main campaign revolves around secession and has called for a referendum on independence scheduled for 2018. On the other hand, the campaign of the opposition party, the Alliance for Changes, focuses on economic and governance issues. The conflict arising over the rejection of the commemoration of January 9, a Serbian Orthodox Christian holiday, as a public holiday by the country’s constitutional court, is a good illustration of political manipulation of tensions. The Republika Srpska threatened to challenge the ruling by planning a referendum, a tactic that resulted in a swift victory in the
elections for the party. In October of 2016, Bosnian Serbs threatened to seek complete secession. The emphasis on ethnicity as a defining feature of politics is not only empowering political parties, but also dividing society even further. Parties instrumentalize identity for their constituents to mobilize around them. A memorial holiday becomes less of an ethnic affair and more of a rallying point for political gain.

Similarly, efforts to build a Serbian Orthodox Church near the graves of the victims of the Srebrenica genocide, where there is no local Orthodox community, is not an isolated incident of a religious clash. In May 2001, Bosnian Serbs used force in an attempt to prevent ceremonies marking the reconstruction of mosques destroyed in the war. State delegates who voiced their concerns over an unstable BiH labeled such acts provocative. Moreover, Russia’s delegate warned against the rise of radical Islam in the divided state (SC/11009, 2013), possibly stemming from a disenfranchised, disintegrated Muslim youth.

Just like the territory of BiH, the educational system is also divided along ethnic lines. A ‘Two Schools Under One Roof’ system exists, albeit mostly in the Federation where Bosniaks and Croats co-exist, in which children in one school are physically separated and taught different curriculums according to their ethnicity. One proposed reform is to combine children of all ethnicities for most classes and separate them during classes relating to language, geography, or history, a system currently being implemented in the self-governing Brcko
district. Another proposal includes separating entire schools, so that each group has its own school structure. Systems like these will bear no positive effects on society, and therefore, cannot be called reforms. The point is for children from various ethnicities to be integrated, with one common curriculum, in order to avoid conflicting narratives of the past.

Reconciliation & Justice

The ICTY seems to have had little influence on the achievement of reconciliation. The president of the Republica Srpska, Milord Dodik, denies the Srebrenica genocide and along with his Bosnian Serb constituents, expressed disappointment and disapproval upon the Serbian President’s apology for the crimes committed in Serbia’s name. The failure of a UN resolution in 2015 to condemn crimes committed in Srebrenica as genocide, due to a Russian veto, prompted Serbian leaders to continue along this path of denial, to the extent that Dodik called the genocide the “greatest deception of the 20th century” (Katharina & Maja, 2015, para.1). This is despite the fact that the ICTY has ruled that the massacre in Srebrenica constitutes genocide. The continuous path of denial taken by Bosnian politicians is not without its social repercussions. For example, 400 students from Belgrade University signed a petition claiming that the Srebrenica genocide was invented to prevent social reconciliation (Hodzik, 2015).

Bosnian society is characterized by significant ethnic segregation in
schools, as well as job discrimination, especially in public administrations. More importantly, the symbolic reproduction of ethnic divisions through public holidays, memorial events, religious insignias, and separate television channels has increased (Bojicic-Dzelilovic, 2015). The findings of a 2015 survey by the United Nations Resident Coordinator’s Office found that most Bosnians do not feel that reconciliation has been achieved in society, while others only feel a partial reconciliation. Furthermore, the UN Resident Coordinator Office’s public opinion poll found that 80 percent of Serbs, 62.2 percent of Croats and 74.4 percent of Bosniaks stated that they prefer to live in areas where their ethnic group is the majority (2015). In fact, after the Dayton Agreement, one study notes that the number of multi-ethnic communities in BiH has decreased (SC/11009, 2013).

Societal dissatisfaction with the status quo is rampant. “No matter the sentence, it is not enough” (2010, para.6), expressed by the relative of the victim upon learning of the prescribed sentence of the perpetrator. This dissatisfaction with the potential punishment demonstrates the severe need for reconciliation. Upon the conduction of 21 semi-structured interview with families of missing persons in Bosnia, one study concluded that a significant obstacle to reconciliation are 10,000 individuals still missing since the war ended (Clark, 2010). Slavenka Drakulic states “without truth, there can be no justice. And justice to the dead is done only when truth cannot be denied any longer” (2010, para.8). The negative impact of the ICTY noted by Meernik (2005) is directly
related to the lack of a national state-led reconciliation plan. Without which has led to an inconsistency in the effects of the Tribunal. Justice, to the victim, was not enough to heal the wounds. This can only be remedied through the introduction of national truth commissions, supported by external actors.

Director of Communications at the International Court for Transitional Justice, Refik Hodzic (2015, para.28) expresses his concern, asserting that the leaders of Bosnia are not interested in projects of national unity and reconciliation, stating “We are not immune to fear mongering. We will follow our leaders to war, whatever form it takes. We are living the war for truth about ethnic superiority, heroism and victimhood. In war, there can be no acknowledgement of suffering, let alone reconciliation”. Natasa Kandic, executive director of Belgrade based Humanitarian Law Centre asserted that “Serb politicians speak of reconciliation all the time, but clearly don’t understand the meaning of the term” (Byrne, 2015, para.15). This proves that without reconciliation certain politicians can undermine the judicial process. Only through a government-sponsored project of reconciliation and truth, can segments of society no longer deny the events that haunt the victims of Bosnia. Reconciliation is missing and justice is inadequate.
2.5 Conclusion

In 2011, a *New York Times* article claimed that “for the first time since 1992-95, the political dynamic is trending toward complete polarization” (Brunwasser, 2011). The country is plagued by a lack of consensus as to what really happened during the war. In fact, one of Bosnia’s biggest obstacles to reconciliation is the denial of war crimes committed by both sides of the conflict. Similarly, Clark (2009) asserts that in Bosnia there is no reconciliation, only negative peace, i.e., the absence of conflict. There are instead two obstacles to reconciliation: “the insufficient contact between inter-ethnic groups, and the existence of denial and competing truths” (Ibid., para.1). Experts have recommended the creation of truth commissions in an attempt to merge truths and reconcile. The persistence of a segregated educational system results in a culmination of isolated, possibly conflicting, narratives passed on to future generations.

The organization of political life, economy, media, wealth and security all revolve around ethnic lines. Bosnia is in desperate need for new leaders, or for the existing ones to achieve reconciliation. The reconciliation of elites will necessarily facilitate social reconciliation. Grassroots reconciliation, on its own, as we have witnessed, will not cause any real change. Sustainable peace, even in the presence of the ICTY’s legacy, will never be a reality in the absence of a national, state-led reconciliation agenda. This was evident in the indices presented.
The Dayton Accords simply ended the violence, without really ending the war. This absence of reconciliation means that ethnic conflict still bedevils Bosnia. The situation in Bosnia can be described as a transformation from an ‘ethnicized view of war’ to an ‘ethnicized view of peace’ (Dzelelilovic, 2015). The territorial self-government and consociational power-sharing of Bosnia & Herzegovina, has contributed to an ethnic security paradox. When protecting individual safety, the protection of ethnic identity is emphasized, resulting in a disruption of collective security, and in turn, individual security (Bojicic-Dzelilovic, 2015). This paradox has lead to the demand of increased political autonomy, in the hope that only rule by one’s own ethnic group can lead to security.

The case of Bosnia & Herzegovina has helped establish the need for reconciliation even in the presence of transitional justice. The next chapter looks at a consociational power-sharing agreement that incorporated reconciliation, in the context of Burundi, without transitional justice mechanisms. It analyzes the quality of peace in the absence of justice.
CHAPTER THREE
BURUNDI: THE ABSENCE OF JUSTICE

3.1 Introduction

Burundi’s ethnic conflict has its roots in colonial history, when German and Belgian colonizers exploited ethnic identity and established ethnic hierarchy among the Tutsis and Hutus, privileging and institutionalizing Tutsi domination. When the country gained independence from Belgium in 1962, formal Tutsi rule began under which the Hutu population was subject to massacres and marginalization, many fleeing to neighboring Rwanda. In 1972, the Tutsi army, fearing insurgence, orchestrated a massacre of 300,000 Hutus (Farmer, 1999).

In 1992 a new constitution providing for a multi-party system was adopted and the 1993 elections spelled victory for the Hutu dominated party, Le Front pour la Democratie au Burundi. Symbolic for the Hutus, Melchior Ndayaye became the first democratically elected Hutu president. He assigned key posts to Tutsis in order to keep ethnic tensions at bay. However despite his attempts, Tutsi partisans in the military assassinated Ndayaye, sparking an 11-year civil war. Although the assassination was the trigger, the roots of the war
lay in the long history of Tutsi domination over the Hutu majority, a history characterized by a monopolization of power and wealth.

In July 1996 President Ntibantunganya was deposed in a military coup and replaced by Major Buyoya, a Tutsi, who was formally sworn in as part of a transitional government in 1998. Although the government signed various cease-fire agreements, a number of mainly Hutu rebel groups refused to take part in any peace accord and so the fighting continued. It is estimated that over 300,000 people died and an additional 1.3 million were displaced during the civil war between the Tutsi-dominated army and the Hutu rebel groups. In 2003 President Ndayizeye and Hutu rebel group Forces for Defence of Democracy (FDD) leader Pierre Nkurunziza signed an agreement to end the civil war, leaving the smaller Hutu rebel group, Forces for National Liberation (FNL) active. In 2005 a power-sharing constitution was approved in and Nkurunziza was elected President.

This chapter analyzes the consequences of a power-sharing arrangement in a society where transitional justice mechanisms were not employed. It begins with an overview of three significant peace agreements, and the current situation in Burundi. The chapter then examines the country’s legacy on reconciliation and justice. This is followed by an analysis of the indicators to measure postwar peace in Burundi. The chapter makes use of online conversations, comments and blog posts that have been monitored and archived to gain insight into societal needs.
3.2 The Peace Agreements

Burundi’s peace-building record is composed of numerous negotiations. However, there are three main relevant power-sharing agreements. The first attempt was the 1994 Convention of Government, establishing a coalition between the Hutus and the Tutsis, without the inclusion of any of the rebel groups. This pivotal error led to the continuation of clashes between the Tutsi army and Hutu rebels. The second attempt, the Arusha Peace and Reconciliation accords in 2000, formally ended the war. It stipulated a grand coalition government with a three-year transitional period. It mandated the establishment of restorative and retributive processes and truth commissions aided by a national special tribunal for war crimes. However, the agreement did not include any ceasefire provisions, nor was it signed by the rebel movement CNDD-FDD (National Council for the Defense of Democracy/Forces for the Defense of Democracy) which is the current ruling party. The 2004 Burundi Power-Sharing agreement, a reflection of the previous 2000 Arusha agreement, was signed between the government and the CNDD-FDD. The power-sharing provisions of this agreement were implemented in the next elections, as well as in the consequent constitution. It is important to note that the violence between the government and the Paliphetu-FNL (Parti our la Liberation du Peuple Hutu-Forces Nationales de Liberation) carried on, however. The continuous need for the formulation of a new power-sharing arrangement, not once but three times, illustrates the fact that these arrangements were not enough to begin with. This
will be elaborated on further on in the chapter. The next section discusses the incorporation of reconciliation into the power-sharing mechanism.

Figure 3.1: Main Ethnic Composition (CIA WorldFactbook, 2017).

### 3.3 Reconciliation

As part of the 2000 Arusha agreement, Parliament passed a law creating a Truth and Reconciliation Commission in April 2011. Its members were elected (6 Hutus, 4 Tutsi, and 1 Twa) despite a boycott by opposition members who claimed that they “boycotted the vote to protest against the creation of a TRC based on the interests of the ruling party” (Impunity Watch, 2016). The election
of the members amidst an opposition boycott proves precisely that; a TRC controlled by the CNDD-FDD. More importantly, the climate of fear and intimidation that spread at the hands of the ruling party, was not conducive to the effective function of the TRC. Members of civil society denounced the commission, labeling it a “diversion”, orchestrated to distract the people from the worsening economic situation of the country (Ibid,). The failure to spread awareness and information on the part of the government lead to the impression, among Burundians, that the mandate of the TRC involved arrest and justice.

The International Commission of Inquiry established by the UN Security Council in 1993 reported acts of genocide committed against Tutsis following Ndayaye’s assassination. In 2004, a UN team recommended a truth commission to establish the facts of the conflict, as well as a special tribunal within Burundi’s judiciary to prosecute those individuals bearing the greatest responsibility for crimes against humanity, war crimes and genocide. Disagreement over the autonomy of the special prosecutor lead to a delay in the formation of the tribunal (Fombad, 2017). However, the government stated its willingness to consider a tribunal upon recommendation from the TRC. In 2014, Impunity Watch (2016) warned “transitional justice would be instrumentalised for the good of a few, rather than for the benefit of the masses”. Indeed, with the monopoly of the ruling party, opposition members expressed concern of the transitional justice process being dominated by the CNDD-FDD. The next
section will present the indicators on Burundi in order to determine the impact of ethnic conflict on a country that has not been exposed to transitional justice.

### 3.4 Indicators

The Freedom House, Freedom in the World report (2016) ranked Burundi as Not Free. The country ranked 7 on the Political Rights scale, and 6 on the Civil Liberties scale, earning a total score of 19. It saw the largest one-year decline in freedom due to a downward trend of violence, assassination, arrest, torture, intimidation, surveillance and attacks, targeting opposition parties and their supporters especially. Below is a graph (figure 3.2) illustrating Burundi’s scores on four of the World Bank Governance Indicators from 1996-2015, 0 being the lowest, to 100, the highest (Kaufmann & Kraay, 2017).
It is quite alarming that most of these scores rank below 15. This is especially the case on the ‘Political Stability No Violence’ level which experienced a significant increase in 2014, the year the Truth & Reconciliation Commission was mandated, before plunging downwards again in 2015. Between 1996-2004, Burundi scored relatively low on all indicators. For example, political stability during that period did not exceed the rank of 2, even reaching 0.48 in 2002. This is despite the existence of the 2000 Arusha Peace and Reconciliation Agreement. ‘Voice & Accountability’ also decreased over the last few years, possibly due to delay in promised developments, such as justice mechanisms.
The following graph (figure 3.3) shows Burundi’s score on the Bertelsmann Transformation Index (2016) from 2003 until 2016. 2006 marks the year the last rebel group, the FNL signed a cease-fire agreement with the government.

Figure 3.3: BTI

2008 marks a significant point in Burundi when the ‘Rule of Law’, ‘Reconciliation and Stability of Democratic Institutions’ indicators began a downward trend, possibly a result of clashes between government forces and
the FNLF. ‘Reconciliation’, as shown in figure 3.3 this graph was at an all time low in 2014 before increasing steadily, while Rule of Law decreased. This could be linked to the 2014 Truth & Reconciliation Commission. Conflict Intensity experienced a two-point increase from 2008 to 2010.

3.4.1 Analyzing the Data

*Governance, Politics and Society*

In the 2007 Human Development Indicator List, Burundi ranked 167/177, illustrating its deteriorating economic situation. The 2014 Corruption Perception Index ranked Burundi 159/175. Sixty-five percent of people living in Burundi live below the poverty line, making Burundi one of the five most impoverished countries in the world (World Bank, 2016).

Currently, the ruling party controls all state institutions, and Burundi is becoming more and more a de facto single party state. When Nkurunziza’s announcement to run for a third term lead to widespread demonstrations, authorities responded with excessive force, killing and wounding citizens. The constitutional court eventually approved Nkurunziza’s bid to extend his presidential term. However, it was reported judges were subject to pressure and intimidation from the regime (FreedomHouse, 2016).
A failed coup in May that same year lead to an increase in unrest, with the flight of almost 200,000 Burundians. Nkurunziza and his party won the following presidential and parliamentary elections, which were described as neither free nor credible by a UN mission and were even boycotted by the opposition. The elections, criticized as illegitimate by regional and international powers, are a betrayal of the Burundi constitution, which only allows a president two 5-year terms. Nkurunziza argues that he was elected by Parliament for this first term in 2005, and so, by running for a third term, he is making a bid for a second term elected by the people (Hatcher, 2015).

A number of scholars (Falch and Becker, 2008) have pointed to the political and economic nature of Burundi’s crisis, downplaying the role of ethnic factors. They claim the conflict is rooted in the unequal distribution of wealth and the monopolization of power by the ruling party. In fact, when the CNDD-FDD was first formed, it projected itself as multi-ethnic, and the Burundi crisis as political, even recruiting Tutsi intellectuals. The main threat to the Hutu-majority CNDD-FDD comes from a cross-ethnic opposition of both Tutsis and moderate Hutus. The struggle is slowly moving beyond ethnic identity and is no longer ethnic-based. Rather, it is centered on development, accountability, and inclusion. Citizens no longer rally behind their Hutu or Tutsi labels, at least not on the surface. This is evident in the increased popularity for the Movement for Solidarity & Democracy (MSD), whose leader is Tutsi. More importantly, the leader of the failed May 2015 coup was a Hutu, Major-General Godefroid
Niyombare former member of Nkurunziza’s rebel group and CNDD/FDD who was expelled from the party after contesting Nkurunziza’s bid to run for a third term. Most of the state violence was aimed at other Hutu political parties, such as the MSD and the FNL (National Liberation Front).

Human Rights Watch reported restrictions on the rights to freedom of expression association and assembly, with independent journalists and civil society activists often being the target of oppression. For example, on July 4, 2014, a human rights activist, accused of endangering state security, was put on trial. As a result of the ongoing impunity, Burundian society is characterized by a lack of trust in the government.

Until 2012, the only checks and balances on the CNDD-FDD were the media and civil society. However, in 2015, the media was destroyed and opposition politicians, portrayed by the ruling party as Tutsi extremists, were exiled. Following political unrest, and the failed coup d'état the government cut some private radio emissions, and after protestors sabotaged a private pro-government radio station, the government retaliated by destroying all anti-government radio stations. This point further cements the idea of an oppressive one-party regime. The leadership does not tolerate any opposition and by eliminating virtual forums of participation and accountability has further increased its grip on power, irrespective of any power-sharing elements in government.
Ashild Falch (2008) brings to light an important point that provisions in constitutions and power-sharing agreements are not enough to guarantee elite cooperation. Currently, the CNDD-FDD holds the power to include other parties, and ultimately the power of the coalition government to succeed. Without the intention for open political dialogue it is unlikely Buxrundi will see sustainable peace. This dialogue can be facilitated through reconciliation and justice mechanisms, as they allow for trust and cooperation among political elites. Without them, rebel groups will continue to take advantage of the CNDD-FDD’s monopoly of power and foster support amongst the marginalized groups in society.

Reconciliation and Justice

Willy Nindorera, a conflict researcher in Burundi noted that:

““The country has always experienced political turmoil brought about by ethnic tensions and feelings of exclusion and tension have continued and there’s a need to find a mechanism to let the population reconcile” (IRIN News, 2014). The persistence of tension and political turmoil even with the end of physical violence suggests the need for a revision of the current political settlement.
The comment below is by a 55-year-old male Hutu who participated in local reconciliation processes. His arrival with the mother and wife of his victim signifies the progress towards reconciliation, albeit one that is not state-led.

- “I have already settled with my neighbor. I risk prison once my reconciliation with the victim is questioned”.

Others await justice and the revelation of the truth, expecting it from the TRC, as seen by the following quotes:

- “Burundi’s history is known, and political authorities know what awaits them once the truth is established by the participants. They will do all that they can to influence the work of this body so it is carved for their interests”

- “Transitional justice is done at a time when those accused of crimes of the past are leaders of the country today”

The quotes above were taken from interviews conducted by Impunity Watch in 2015/2016. They demonstrate public perception towards reconciliation and justice in Burundi, highlighting dissatisfaction with the status quo, as well as fear of the repercussions of a justice process dominated by ruling party, one that would undoubtedly abuse transitional justice for its own benefit.

In January of 2017, the Burundi government released prisoners under a clemency order issued by the President. The move was named a ‘surprise gift’ in the spirit of national reconciliation by the Justice Minister. The prisoners
included 58 members of opposition MSD party (FOX News, 2017). However, it is clear there is no level of reconciliation among members of the government. Proof of this can be seen in the fact that opposition members boycotted elections and certain crucial meetings such as the vote on the formation of a TRC.

Socially, civil society is quite active in trying to bring about reconciliation. One example is the Great Lakes Initiative, a movement of religious leaders. Moreover, community elders, known as the Bashingantahe, mediate conflict to establish grassroots reconciliation. The Ministry for Peace & Reconciliation Under the Cross (MIPAREC) combines representatives of Hutus, Tutsis and Twas. However, this has not negated ethnic divisions. A Gallup study, presented below (figure 3.4), found that the percentage of Burundians who feel their area is not a good place for minority groups was 32% in 2014, tripling from 11% in 2009. This is a perfect illustration of the need for increased social reconciliation. Also, on the Mutanga Campus of the University of Burundi, tensions between Hutus and Tutsis increased in 2013 prior to the student elections as the former rejected the candidacy of Tutsi supported Arakaza Arsene (Ntahimpera, 2013).
Figure 3.4: Gallup Study

Temporary impunity granted first to the CNDD-FDD in 2003, and then to the Palipehutu-FNL in 2006, was not in the least temporary. In fact, it ultimately bred a culture of impunity. According to Human Rights Watch (2012), although a number of commissions were set up to investigate extrajudicial killings, none of these published any findings. HRW reported that almost all political killings related to the ruling party were conducted with impunity as arrests were rarely carried out. The temporary impunity morphed into complete and permanent impunity for the oppressive regime, which eventually discouraged the launch of an effective transitional justice process. The absence of transitional justice is linked to the vested interests of the political elites to protect themselves at the expense of the collective good. Yet, since the end of impunity is linked to the formation of a TRC, the decision to delay transitional justice is well founded as criminal prosecutions are a threat to elite power.
3.5 Conclusion

This chapter has illustrated that the tradition of impunity, fortified in the absence of transitional justice, is the root of Burundi’s problems becoming the prevalent feature of the country. Lemarchand asserts that the Burundi genocide of 1972 was not publicized and hardly even given attention and thus lead to divergent narratives, the legacy of which is still felt today. The author notes that “though largely forgotten in the West, the events of 1972 remain deeply etched in the collective memory of the Hutu people” (Century of Genocide, 2009, p. 267). Liisa Malkki (1995) presents Hutu accounts of the genocide, obtained through anonymous interviews, most of which depict gruesome details of the horrific crimes committed. Despite the fact that there is no guarantee of the authenticity of these firsthand accounts, they provide crucial insight into the Hutu interpretation of their history. With no truth and reconciliation mechanisms, there is no telling just how detrimental these narratives could be to stability.

Aside from the social repercussions of the lack of justice, there are consequences on the political level that seem to be all the more problematic. The ruling party dominates all aspects of Burundian society and politics. There is no system of checks and balances, no mechanism to protect against majority rule, which is precisely what power-sharing is supposed to protect against. Never having been held accountable for crimes against humanity, the
government draws no line in its determination to repress. From intimidation, and exile to imprisonment and physical abuse, the CNDD-FDD has gone from a rebel movement enjoying impunity to a despotic ruling party.

Although Burundi enjoyed considerable peace for almost a decade, the renewed violence in 2015 signals the volatility of peace and susceptibility of regime oppression in the absence of accountability. The next chapter looks at the peculiar case of Rwanda, a state that has endured civil war, peace agreements, transitional power-sharing governments, and palpable tension that eventually erupted in the form of genocide. Widely hailed as a success story, the chapter delves into the factors behind the apparent procurement of peace and stability, ultimately determining the accuracy of these claims, and reasons behind them.
CHAPTER FOUR
RWANDA: RECONCILIATION, JUSTICE AND POWER-SHARING

4.1 Introduction

In a manner similar to Burundi, the roots of Rwandan ethnic identity and conflict can be traced to its colonial experience at the hands of Belgian colonizers who first introduced ethnic hierarchy in what was an agrarian society. Henceforth, the country’s main communities mobilized along ethnic identities as presented in figure 4.1. The minority Tutsi ruled the majority Hutu population until Rwandan independence. The lack of contact between Tutsis and Hutus is decades old. Stamped on identification papers since the colonial period and into post-colonial Rwanda, one’s ethnic identity was highly significant; individuals mobilized solely around them. Educational segregation on the basis of ethnicity was also a factor further dividing Rwanda. This history of official discrimination first materialized before 1962 against the Hutus, and then against Tutsis after 1962 when the Hutus seized state control through a violent revolution that led to the toppling of the Tutsi regime. In 1990, the predominantly Tutsi rebel group, the Rwandan Patriotic Front (RPF) launched an attack from neighboring Uganda that lead to a three-year civil war. In 1993, the Arusha Accords peace
agreement between the Hutu government and the RPF was signed in an attempt to end the war. However, one year later, the assassination of Hutu President Juvenal Habyarima triggered a three-month government-led genocide against the Tutsi population.

Divided into two parts, pre and post-genocide Rwanda, this chapter discusses the country’s difficult transition from civil war to genocide and then to peace. It examines the various steps implemented on the road to postwar peace, shedding light on the effects of the power-sharing, reconciliation, and justice mechanisms used. The next part will contain an analysis of the Arusha Accords of 1993. This is followed by a discussion on the mechanisms implemented in post-genocide Rwanda such as the International Criminal Tribunal for Rwanda and the National Unity and Reconciliation Commission. It explores their impact in order to determine the necessary components of a post-conflict stable state. The chapter makes use of indicators ranging across both periods to debate whether or not Rwanda is an example of successful post-conflict peace.

4.2 Rwanda Pre-1995

4.2.1 The Arusha Accords
In 1990 upon invading the country from Uganda, the RPF, demanded an end to discrimination, the right of return of Tutsi exiles and refugees, as well as political participation. The invasion lead to a three-year civil war between the Tutsi rebel group and the Hutu-dominated government. The 1993 Arusha Accords were a set of five protocols intended to end the war and rebuild the country. Through a number of concessions the Hutu government facilitated the negotiations. For example, as part of the Broad Based Transitional Government (BBTG) that would be established, the president would assume ceremonial duties. The Accords divided cabinet positions among each main party except the Hutu-extremist Convention pour la Defense de la Republique (CDR) who did not want to forfeit power to the RPF, and whom the RPF insisted must be excluded from both the process and the transitional government (Adelman & Suhrke, 2000). The two parties agreed on the repatriation of refugees, the demobilization of rebels and the integration of the army and the RPF. The armed forces were to be divided between the country’s two main ethnic constituents in an equitable manner. The result was an even stronger RPF, making up some 40% of the soldiers in the army, and 50% of the officers, and 11 seats in Parliament.

4.2.2 The Failure of the Arusha Accords
One theory pertaining to the failure of the Arusha Accords is the exclusion of the CDR. Andy Storey (2012) argues that the agreement excluded the whole group, whilst heightening tensions between Hutu and Tutsi political elites, simultaneously giving them a medium to achieve their goals of instrumentalising ethnic divisions to their own interest. The author mentions the neglected standard of life of Rwandans as another factor in the failure of the agreement. Another explanation, according to Rene Lemarchand (2007), is that the government of Rwanda and the RPF never trusted each other. Fear, anxiety and hatred were rampant following the RPF’s invasion of Rwanda. Marisa Traniello (2008) claims the Arusha Accords led to a zero-sum approach to politics; the negotiations leading up to the Arusha Accords were already in favor of the more organized, stronger, RPF. More importantly, a power-sharing agreement with the Tutsis, the BBTG, enraged Hutu extremists. All this points to the absolute need for reconciliation as a prerequisite to a successful power-sharing arrangement. In its absence, parties are not likely to commit to any agreement. Moreover, scholars have debated the impact of the exclusion/inclusion of the CDR from the peace process. Christopher Clapham (1998) claims that the inclusion of the extremists would have lead to an abortion of the plan. Mahmood Mamdani (2001), on the other hand, asserts that their exclusion is the reason behind the genocide. The mere existence of extremists, whether inside or outside the process, is detrimental to the entire process itself.
Reconciliation mechanisms, on the political and social levels, would have done well to curb this intolerance of the ethnic other.

On April 6, 1994, the aircraft carrying Rwandan President Juvenal Habayrimana and the Burundian President Cyprien Ntaryamira was shot down. This assassination, whose culprit is still unknown, was the catalyst behind one of the worst episodes of ethnic cleansing in history. Carried out in large part by the Hutu-dominated government and army, as well as the government-supported *Interahamwe* militia, the genocide is widely infamous for the speed and organization within which it was perpetrated. Intended to destroy the Tutsi minority, reports claim that some 800,000 Tutsis and moderate Hutus were killed. In other words, in only three months, three quarters of the Tutsi population was murdered and others mutilated or left homeless and displaced. The massacre was not merely one-sided, as Prunier (2009) notes; Tutsi rebels murdered some 200,000 Hutus. In July 1994, the genocide came to an end with the defeat of the army by the RPF and the latter’s seizure of the government.
4.3 Rwanda Post-1994

After the capture of Kigali, the RPF established the Broad Based Government of National Unity composed of parties that did not participate in the genocide. The National Republican Movement for Development (MRND), the previous ruling party, was consequently outlawed. In 2000, Paul Kagame was appointed President and was re-elected in 2010. In 2003, the country adopted a new constitution, one that banned reference to ubwoko, or ethnicity. The government undertook vast projects of postwar reconstruction that centered on socioeconomic reforms and rebuilding the fragile social fabric. The next part will
focus on the judicial and reconciliatory programs implemented to combat the legacy of genocide in post-1994 Rwanda.

4.3.1 Justice

Justice in Rwanda was implemented on three levels, internationally, nationally, and sub-nationally. The International Criminal Tribunal for Rwanda (ICTR) was established by the United Nations in November 1994, mandated to prosecute individuals bearing the greatest responsibility for crimes committed during the 1994 genocide. It formally ended in December 2015. The ICTR set an important precedent in deciding that rape constitutes an act of genocide, however, despite the positive effect of the court on the procurement of justice, HRW (2014) notes that not one single RPF case has been brought before the ICTR. This underscores not only the courts’ unwillingness to prosecute the RPF, but also the “victor’s justice” that has taken place in postwar Rwanda. Upon the revelation of a potential investigation into RPF members in 2002, the government refused to continue its cooperation.

The national court system played a vital role in establishing justice domestically. The process of transferal of cases from the ICTR to Rwandan national courts necessitated the reform of the country’s judicial system in order to meet international standards. In 2003, President Kagame ordered the release of elderly prisoners, and those that were adolescents at the time of the
genocide. Nonetheless, the events of 1994 carried devastating effects on the judicial system. Many judges fled or were either killed, or imprisoned (Ndaginza & Mugabo, 2008). The system was left void of any experienced and competent persons of law. Moreover, the national courts were not likely to be independent as RPF trials were rare. HRW (2014) reported the arbitrary arrest of thousands who were tried and charged without sufficient evidence from the late 1990’s to the early 2000’s.

In 2005, the government re-established the gacaca court system based on traditional Rwandan justice. The community elected judges and perpetrators received lower sentences upon confession and repentance. On average, 12,000 community courts tried almost one million cases (Outreach Programme, UN). Perpetrators were categorized, so unless they were convicted of serious crimes, they would be judged in the gacaca courts. Traditionally in Rwanda, gacaca courts rule on what the perpetrators have to do in order to be accepted back into society. Victims would testify before the Hutu community, and in front of relatives of the accused. Before their re-integration perpetrators are educated and taught the vision of a new unified Rwanda. The gacaca courts helped foster both justice and reconciliation on a local, grassroots level.

As the traditional courts processed a large number of cases, the load was taken off the national courts. More importantly, local communities were able to participate in the establishment of postwar justice. This resulted in a deeper permeation as well as appreciation of the process. Survivors were
eased into peacefully coexisting with perpetrators of past crimes. On the other hand, HRW reports a mixed legacy left by the gacaca courts (2011). The gacaca courts held many unfair trials due to inadequate training of judges, and the inability of the accused to sufficiently defend themselves. As with the former two mechanisms of justice, the gacaca courts did not prosecute any RPF members accused of murder. In 2004, amendments to the gacaca mandate removed war crimes from the courts’ jurisdictions, hence protecting RPF rebels that committed murders during the war (HRW, 2011), the repercussions of which will be discussed later on in this chapter. The next section discusses the vast reconciliation programs implemented by the government in post-1994 Rwanda.

### 4.3.2 Reconciliation

In 1999, the government established a National Unity & Reconciliation Commission (NURC). Public hearings were held where Rwandans stated what they believed was necessary for reconciliation. One suggestion was reforming education. Consequently, education was made free for all until high-school. More importantly, the commission consisted of a number of reconciliatory programs (Outreach Programme, UN). Igondo, a program for peace education, in which more than 90,000 Rwandans participated. These educational programs focused on the clarification of Rwandan history, and origins of ethnic division, as
well as the promotion of patriotism. Itorero, a leadership academy was established to promote Rwandan values and cultivate leaders. There were also seminars that took place, focused on the training of grassroots leaders, and women in conflict resolution and trauma counseling. National summits discussed topics pertaining to justice, human rights, and national history. Research was also conducted on the causes and resolution of conflict.

Reconciliation and Unity in Rwanda focused on reconstructing Rwandan identity, moving away from ethnic tendencies, while balancing justice, truth and peace. Workshops were held on mutual acceptance and the promotion of changing attitudes. One significant reconciliatory program is that pertaining to the educational radio broadcasts that began in 2006. A famous one is the Musekeweya (Ziegler, 2010). This comes in stark contrast to the infamous Radio Mille Collines, a broadcast promoting hate against Tutsis before the genocide, and worse, exposing the location of a number of Tutsis during the genocide, hence facilitating their killing (Des Forges, 1994). Almost 89 percent of Rwandans were reported to have listened to the radio broadcasts (Ziegler, 2010). One significant consequence of the reconciliatory programs was the event in which a child persuaded his fellow villagers to seek forgiveness from their victims. Reports emerged of the positive consequences of these programs, including a reduction in trauma symptoms, and conditional forgiveness upon acknowledgment (Staub, 2011). This demonstrates the importance of reconciliation to prospects for postwar peace.
4.4 Indicators

Rwanda ranked 55/175 on the Corruption Perception Index (2014). The Freedom in the World report ranked Rwanda as Not Free. It also received a downward trend because President Paul Kagame closed the door to political opposition. A score of 6 for “Political Rights”, and a 6 for “Civil Liberties”, resulted in a total score of 22. Below is a graph (figure 4.2) indicating Rwanda’s score on four of the Worldwide Governance Indicators, ranging from 0 (lowest) to 100 (highest) (Kaufmann & Kraay, 2017).

![Figure 4.2 Worldwide Governance Indicators](image-url)
‘Government Effectiveness’ experienced a dramatic rise from a 19.02 in 2005 to a dramatic 44.88 in 2006. ‘Rule of Law’ increased quite significantly from 4.83 in 2002 to 15.94 in 2003, the year of the first multiparty parliamentary elections. ‘Political Stability’ has been on the rise, experiencing few drops over the years. ‘Voice & Accountability’, the lowest ranked out of the four, has been somewhat steady.

Below is a graph (figure 4.3) illustrating Rwanda’s score on the Bertelsmann Transformation Index between 2003-2016. Scores for 2003 signify the year of the release of prisoners involved in the genocide began, and the date of the first multiparty elections.
Figure 4.3 BTI Transformation Index

The figure illustrates an increase in the stability of democratic institutions and rule of law since 2003. After 2006 the indicators ‘Conflict Intensity’, ‘State Identity’, and ‘Reconciliation’ decline. ‘Reconciliation’ picks up again after 2012, notably, the year the gacaca courts were shut down.
4.4.1 Analyzing the Data

Governance, Politics, and Society

On the first of January 2016, President Kagame announced his intention to run for a third term after amendments to articles in the constitution permitting two consecutive terms. The parliament also voted in favor for the changes, allowing Kagame to remain in office until 2034. Despite being a power-sharing government, Rwanda seems to be run through single party rule. The RPF dominates the state and society. The Rwandan government discourages and criminalizes talk of Hutus and Tutsis. This could be a context for the monopolization and maintenance of power or it could possibly be due to the fact that the 1994 genocide was instigated through hate speech. The question remains, however, whether or not it’s possible for Hutus to express their feelings without fear of persecution. The president’s bid is surely rooted in the party’s minimal experience with justice. Despite the extensive three-level justice system, the RPF was technically granted impunity as it was virtually exempted from any prosecution. The supreme authority of the RPF stems from the victor’s justice that has taken place. The ruling party now views itself as being “above the law”. It is imperative to note here, however, that Kagame’s announcement was not followed by protests or violence. Rather, sixty percent of Rwandan voters have signed a petition calling for constitutional amendments that would allow for a third term (Dixon, 2016). Worried that an alternative could
ignite ethnic division and resurface extremism, supporters of Kagame point to his achievements of economic growth and political stability. Even some Rwanda experts assert that an extension of Kagame’s term in office may be in Rwanda’s best interest (Stubbs, 2016).

Reconciliation and Justice

Photographer Pieter Hugo captured the essence of Rwandan reconciliation in a display at The Hague. Each photo is of a survivor and a perpetrator, along with their story. Hugo commented on the photo-shoot that the relationships between survivor and perpetrator varied with each pair. Some chatted with ease, whilst others were only willing to be photographed side by side, nothing more. He notes that although the lack of warmth is visible in all the pictures, the fact that two people involved in such a traumatic experience could sit through this project speaks for itself (Hugo & Dominus, 2014). Regardless of the context in which the photo-shoot occurred, the importance lies in its mere occurrence. The photographs signify the readiness of victims to stand alongside the perpetrators. Whether they have reconciled or not, the photographs depict the inclination to reconcile. This conveys a message of reconciliation and unity; one that is bound to have some positive effects on both participants and viewers.
One online article (Walter, 2014) reported the extraordinary progress made towards reconciliation, exemplified by the example of a survivor of the genocide, and her mutilator, standing side by side. However, despite the steps in favor of postwar peace, promises of reparations proved futile; survivors did not receive the compensation they awaited. Also, apologies to survivors or victims’ families are not guaranteed to have been sincere, and the distrust between a perpetrator and survivor has not been dispelled yet. Tutsis received reparation in the form of justice and Hutus remained outside the loop. More importantly, the entire Hutu population has been forced to carry the heavy burden of the actions of their predecessors. This has lead to their marginalization as they live with the guilt and the responsibility. This can only bode negative consequences for the future of the fragile peace in Rwanda. The dominant feelings of both blame and shame will make it impossible to restore the social fabric.

Lyndsay Mclean Hilker (2009) notes the lingering salience of ethnic identities in postwar Rwanda, asserting that although the youth pursue inter-ethnic ties, there remains a need to know the ethnicity of significant others. The author warns that the reconciliatory projects have not been sufficient enough in addressing this ethnic logic. Ethnic identities seem to be more entrenched in society than ever (Reyntjens, 2016). More importantly, the overwhelming justice procedures have left Hutus feeling guilty, isolated and humiliated, forcing them
to become passively compliant (Reyntjens, 2013). By contrast, the ruling party has generated a new narrative of Rwandan history, one that asserts ethnic labels referred to socioeconomic status and not mere ethnic identity. This predated the identities manipulated during colonial times and so on this view, Rwandan history resumed its natural course in 1994 when the RPF destroyed the ethnic regime (Reyntjens, 2013). According to Jan Vansina (2004), a leading Rwandan historian, this account is based on false assertions. Regardless of the credibility of such narratives, they illustrate the extent of the government’s commitment to de-ethnification. Rather than manipulate and exploit ethnicity, the government is attempting to erase it altogether. Whether or not a unified, cross-ethnic Rwandan identity will solidify with the coming generations is an open question however. Nevertheless, Rwanda seems to be on the right track.

4.5 Conclusion

Following the 1994 genocide, the government introduced socioeconomic reforms, and eliminated official discrimination within jobs and education. More importantly, it undertook substantial measures of reconciliation and justice, possibly unparalleled in the region. The concern lies not in the social fabric of Rwanda, but in the state’s political developments. One-party rule by the RPF is
a clear consequence of the rebel group’s resistance to prosecution as is Kagame’s extension of his term in office. However, for the time being, the country seems satisfied with the current regime in place, a regime that has placed economic development and national reconciliation at the top of its agenda. Rwanda is an exceptional case of post-conflict peace-building. Comprehensive top-down reconciliation approaches seem to have penetrated society. Ethnic divisions, once so palpable, are now slowly becoming anachronistic, at least on the surface as former perpetrators and victims live side by side and mutually engage in reconciliatory programs. Rwanda has a long history of ethnic division that ripened into not just ethnic conflict, but ethnic cleansing. To reconstruct a society characterized by such a violent past is not an easy task. In two decades the country was able to make considerable progress, however. Drawing from both traditional and contemporary reconciliation and justice mechanisms, the country’s reconstructive process can be identified as a successful one. Rwandans went from de-humanizing the other to asking the other for forgiveness, from genocide to coexistence.
CHAPTER FIVE
CONCLUSION

5.1 Restating the Argument

Identity, when compared to other social characteristics, is something individuals are especially committed and devoted to. Easily manipulated, it can be explosive. This is why intra-state war has become so rife. The persistence of ethnic conflict often despite the presence of a power-sharing agreement is alarming. Widely thought of as a panacea for ethnic conflict, power-sharing arrangements are a necessary but insufficient for durable postwar peace.

The study of Bosnia & Herzegovina, Burundi and Rwanda undertaken in this thesis has illustrated the significance of a three-fold solution: power-sharing, reconciliation and transitional justice. In the juxtaposition of these cases, the consequence of a missing piece of the puzzle is now clear. Despite its vast experience with the ICTY, Bosnia and Herzegovina is unable to move forward beyond its violent past. The country lacks reconciliation on both the social and political levels. More importantly, the absence of state-led reconciliatory programs has reversed the intended effect of the Tribunal. Burundi, on the other
hand experimented with national reconciliation, but the absence of transitional justice has bred a culture of impunity. Bereft of stability, the underdeveloped country is ruled by a one-party repressive regime. Victims, never having received reparations, cannot fully reconcile with perpetrators that have never been prosecuted, especially when these perpetrators are part of the ruling party.

On the other side of spectrum is Rwanda. Not only do the two countries share a border, they share the same ethnic groups, history, and conflict. The difference then lies is in the post-war periods. In Rwanda, the state implemented extensive reconciliation and justice mechanisms. Going beyond foreign models, these mechanisms were tailored to the Rwandan context. From national reconciliatory radio broadcasts to traditional Gacaca justice courts, the programs catered to the domestic needs of Rwandans. The result is the emergence of a cross-ethnic national identity in which former adversarial ethnic groups live amongst one another.

5.2 The Comparative Case of Northern Ireland

By briefly delving into the case of Northern Ireland, a case of power sharing without reconciliation or justice, we are able to further establish the need for all three processes together. A thirty-year war between
Nationalists/Republicans vs. Unionists/Loyalists tore Northern Ireland apart, its effects are still felt today. The lengthy peace process was composed of three peace agreements: the 1973/1974 Sunningdale Agreement which failed miserably, the 2006 St. Andrews Agreement, and the 2010 Hillsborough Castle Agreement.

There have been certain positive developments since the start of the peace process. One such example is the completion of a full term of the National Ireland Assembly for the first time since 1998 without suspension, or the Queen’s visitation, something British Prime Minister David Cameron describes as impossible ten years ago. However, there remain some concerns. One study (Guelke, 2011) showed that during the 2011 May elections of the Northern Ireland Assembly, voters seemed to desert moderates opting instead to vote for their radical counterparts.

A Deloitte (2007) report estimates the economic cost of duplication services, a result of segregation between Catholics and Protestants, at some 1.5 billion pounds a year. These services include, housing, education, policing, and security. For example, buses transporting Catholic children take longer routes, avoiding loyalist-majority areas. Certain events point to instability and politically driven violence. Between March and May 2009, two soldiers, a police officer and a Catholic community worker were murdered, to say nothing of the 2011 riots.
In 2015, arranged by Veterans for Peace UK, former IRA members met with British army members in an attempt to bring about reconciliation. They believed it was an important step to humanize and put a face to “the other” (Cobain, 2015). One of them believed that “It’s important for former enemies and communities to meet and see each other and humanize one another, meet the real person rather than the other” (Ibid., p.26). The reporter stated it was a sure thing that Republicans “who took part would face sever criticism from local people and dissident republicans for agreeing to meet the British” (Ibid., p. 5).

Before this historical moment, ex-IIRA members had only met with former police officers and former republican paramilitaries. The most significant part of this meeting is the fact that all but one of the four ex-IIRA men claimed they had no regrets about anything they had done. This is very dangerous. It is a common fact that the Troubles era is characterized as a violent period marred by incessant bomb attacks and shootings from both sides. Many innocent civilians were abducted and killed. For these men not to express an ounce of regret about all the lives lost is disappointing, and yet expected considering the lack of reconciliation in Northern Ireland. In fact 17 years after the end of the war one of the men travelling to a Republican area claimed to fear for his safety, as well as being called a traitor by Unionists (Cobain, 2015). This means that the idea of ‘us versus them’, or ‘Republicans versus Unionists’ is still very much alive in Northern Ireland today.
The Northern Ireland Foundation for Reconciliation notes that in the politics of Northern Ireland there is no room for dealing with the past, and reconciliation has been shelved (Graziani, Northern Ireland Foundation). This stems from a lack of consensus on the origins of the events that unfolded before and during the Troubles era. Society is still divided over who to blame and who to forgive. More importantly, certain politicians from both the Unionist and Republican parties have no interest in the truth, or in reconciliation and justice processes simply due to the face that it would incriminate them.

In 2011, societal divisions were as apparent as ever and tensions, although nonviolent, were still tangible. Shockingly Guelke (2011) notes that since the 2006 St. Andrews Agreement, the number of peace walls have actually increased from 37 to 48. This, along with the excessive use of flags, symbols, and emblems illustrates the persistence of sectarianism in Northern Ireland. Ariel Knobel (2011) reports that social integration only begins in adulthood and only through universities, or the public sector, as mandated by law. This forces Knobel to define the case of Northern Ireland as a “paradoxical peace without reconciliation”, in which the difference is not resolved, but the violence is over. This is because the opposing sides did not compromise on their goals, rather their methods.
Theoretical Implications

Truth and justice can lead to the eruption of underlying tensions. So the timing of the application of justice is crucial in determining the outcome. Of course, other factors have proved to be pivotal, such as leadership, illustrated by the examples of Nelson Mandela and Frederik Willem de Klerk in South Africa. In both the Rwanda and Burundi cultures, respect for and submission to authority is important, making leadership even more significant. One study found human development to be a more reliable route to good governance than anything else (Norris, 2005). So, in the search for political stability, priority must be given to basic human development. In Bosnia, Burundi, and pre-1994 Rwanda, the standard of living was ignored. In fact, Storey (2012) considers this as one of the preludes to the Rwandan genocide. Another external factor is the exclusion of parties from the peace process as was the case with the CNDD-FDD & FNL in Burundi as well as the CDR in Rwanda.

Caroline Hartzell & Mathew Hoddie (2003) tested the effects of power-sharing provisions on the endurance of peace in 38 civil war settlements between 1945-1998. The study found that the more former combatants were included in the political, territorial, military, and economic dimensions of an agreement, the more likely peace will endure. This proves the need for both reconciliation and justice, especially among former combatants, whose rehabilitation, and not incarceration, is necessary for peace. Rehabilitation
without reconciliation is impossible. Furthermore, justice should not be exercised on combatants but not their leaders. In many cases we see the political and military leaders ascend to power and reap its fruits, whilst their followers are imprisoned.

A study by One Earth Future Foundation found that the more robust a transitional justice approach, the better the outcome. The research project used the example of Sierra Leone, in which a multidimensional approach was implemented, the study shows the rapid growth in institutional trust, whereas in Liberia, the opposite was true (Brandt, 2016). Justice mechanisms create faith in the government, which is especially necessary in a post-conflict society on the road to peace and stability. Newly founded post-war transitional governments must foster trust during fragile and sensitive times. The national location of the court signaled to society the readiness of the government to democratize, and to arbitrate conflict, no longer condoning violence or crime.

The long-term consolidation of peace is not possible without redress of past grievances. The absence of justice signifies the lack of acknowledgment of a victim’s pain. Redress would restore trust in the government and in society. According to a Report of the Secretary General justice and peace promote and sustain one another, “the question is not whether or not, but when and how” (2004, 616). The absence of transitional justice breeds a culture of impunity, as does the lack of accountability. In such a context, we are likely to see more
humanitarian violations committed by state or government officials. This was most apparent in the case of Burundi.

It is important to note that justice does not mean reconciliation. They are separate concepts but go hand in hand, and successful power-sharing governments require both. This was proved by the case of Bosnia and Herzegovina. Despite the experience of transitional justice under the auspices of the International Criminal Tribunal for Yugoslavia, the country is far from reconciled with secessionist rhetoric on the rise. Reconciliation should also occur not just within society, but also between political leaders as well as citizens and their institutions. Reconciliation is mutual acceptance. It is truth, acknowledgment of past, trust, and humanizing of the other. Its achievement is brought about justice, without which there would no reconciliation.

The fight for the possession and interpretation of the past is a root cause of ethnic conflict (Thelen, 1989). In fact, in Burundi, Bosnia & Herzegovina, and Northern Ireland, a “war of narratives replaced the war of weapons” (Nolan, 2014, p.163). The lack of truth, as seen in the cases studied, has cemented tensions even further. One prime example is the Srebrenica genocide previously discussed. Political leaders, usually the cause of conflict, are those who assume state position after the conflict ends and so, they avoid the very justice mechanisms that would incriminate them. Yet without these justice mechanisms, we are giving them more access to power. It is a veritable paradox, as Lebanese postwar politics makes clear.
Northern Ireland’s justice minister David Ford insists that there is a need for “a process that includes justice, truth & reconciliation. I don’t believe we can get one without the other” (BBC, 2013, para. 15). Human Rights Watch notes that “If any country is to come to terms with its past and successfully turn its attention to the future, it is essential that the truth of the past be officially established. It is impossible to expect ‘reconciliation’ if part of the population refuses to accept that anything was ever wrong, and the other part has never received any acknowledgement of the suffering it has undergone or of the ultimate responsibility for that suffering” (1992, para. 4).

Reconciliation and justice, in conjunction with a power-sharing government, are vital to post-conflict stability. The key is to reconcile ethnic groups, in order to construct a new national and resilient identity. Reconciliation cannot occur without the establishment of truth, not for its own sake, but for the sake of change. Drawn from the fact that identity-based conflict is more violent than any other conflict, and often represents a return to barbarism, peace is impossible without redress. As demonstrated by the cases studied in this thesis, peace and the absence of violence can exist in the presence of either transitional justice or reconciliation, but the quality of peace will remain wanting. Post-conflict sustainable peace must entail the reconstruction and reconfiguration of society through reconciliation and justice, two pillars that uphold a new national narrative. Sadly, ethnic conflict is a dominant feature of our world today. In the wake of such brutality and violence, the absence of
reconciliation and justice to address and redress is as destructive as the physical conflict itself.
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