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Prosecuting War Criminals in Bosnia and Herzegovina

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Abstract

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This study empirically evaluates the relationship between post-conflict justice and reconciliation by assessing the impact of war crimes trials on processes of local reconciliation across sub-national units in post-conflict Bosnia. The study finds that post-conflict justice positively impacts reconciliation in municipalities that experienced the most severe violence of the war, while providing no significant impact in municipalities that experienced less violence and potentially an adverse impact in municipalities that experienced the absolute least amount of wartime violence. These results suggest the need for a more complex theory of the relationship between reconciliation and post-conflict justice.

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Introduction

Conflict not of an international character is a critical concern because it is the most prominent type of conflict in the current international environment. Due to the increasingly internal nature of conflict worldwide, international attention focuses on reconstructing “failed” or war-torn states with the goal of promoting reconciliation, a durable peace, and viable state structures (Jaward and Mayer 2009). A greater understanding of mechanisms that potentially impact reconciliation and peace constitutes a vitally important topic, considering the high recidivism rate of countries previously experiencing internal conflict (Meernik 2005). While peacebuilding efforts increasingly involve attempts to deliver justice via the prosecution of war criminals, the relationship between the prosecution of war criminals and reconciliation remains equivocal and contested.

It is critical to understand the impact of these trials in post-conflict settings to assess whether this popular practice serves as a viable mechanism to promote peace. Many internationally respected human rights activists, NGOs, and political scientists claim that war crimes trials promote reconciliation. Despite these normative claims and the increasing prevalence of the practice, little empirical research substantiates the commonly held notion that these trials advance reconciliation or post-conflict stability. Some political scientists even claim that prosecutions create a destabilizing and counter-productive effect on peace, rekindling wartime tensions.

As a post-conflict country where the international community oversaw and implemented the prosecution of war criminals, Bosnia and Herzegovina (presented hereafter as Bosnia) presents an ideal case to assess the impact of these trials on the

healing process. The United Nations Security Council established the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993 to prosecute perpetrators of war crimes, crimes against humanity, and genocide committed on the territory of Bosnia and other successor states of the Former Yugoslavia since 1991. In turn, the ICTY promoted creation of the Bosnian War Crimes Chamber (BWCC) in 2005, a hybrid court based in Bosnia similar to the ICTY in organizational statute and with international and domestic staff.

Despite over sixteen years since passage of the Dayton Peace Agreement formally ending the conflict, Bosnia remains rife with ethnic tension and extremist politics. Municipalities across Bosnia display variation in post-conflict healing attained (National Democratic Institute 2010; Pickering 2006; Pugh and Cobble 2001), raising the question of why some municipalities display more reconciliation than others. During the conflict, some municipalities experienced more violence and atrocities than others. While the ICTY, the BWCC, and local courts brought perpetrators of these atrocities to justice, some received lenient sentences or evaded punishment (Orentlicher 2010).

Considering the variation within Bosnia, analyzing reconciliation at a municipal level reveals local mechanisms in societal healing and allows attention to context, as each municipality experienced the bloody ethnic conflict (albeit witnessing different levels of violence) and shares a similar history. Analyzing the judicial proceedings (or lack thereof) against individual perpetrators of war crimes by municipality will contribute to the understanding of how -or whether- post-conflict justice promotes healing.

This study will help clarify the effect of war crimes trials in fragile, post-conflict settings. Many peacebuilding scholars stress that the current understanding of the

relationship between justice and reconciliation remains underdeveloped and under-theorized given the importance of the topic and conclude their work by emphasizing the need for further scientific research (Meernik 2005, Lie et al. 2006, Sikkink and Walling 2007). This study attempts to partially address these issues by providing more empirical research that evaluates the impact of prosecuting war criminals on reconciliation.

A lack of consensus in the existing scholarly literature on the impact of war crimes tribunals, together with the increasing prominence of tribunals in international peacebuilding operations, reinforce the importance of understanding how these trials might influence reconciliation. This study has further implications for studying transitional justice, as the ICTY served as a model for later post-conflict prosecutions (O'Brien 1993) and therefore offers insight into the potential implications of ongoing or recent prosecutions in other countries. Post-conflict justice constitutes a complex topic with a variety of worthy purposes; this study addresses solely the relationship between post-conflict justice and reconciliation.

Literature Review

Scholars debate which measures best promote post-conflict peace, although the four widely recognized components of peacebuilding missions encompass security, justice and reconciliation, social and economic development, and governance and participation (Feil 2002; Hamre and Gordon 2002). Justice and reconciliation proves the most contentious component because scholars dispute the meaning of these ambiguous and subjective concepts. Some scholars conceptualize reconciliation as directly in opposition to justice or recognize a distinction between retributive and restorative justice: the former seen as punishment, the latter, loosely defined as communal rehabilitation and restoration (Clark 2009). In contrast, many human rights advocates and other studies claim that justice directly promotes reconciliation or serves as a precondition to peace. Flournoy and Pan (2002) define reconciliation and justice as one concept.

States choose between a variety of methods to pursue justice when faced with the dilemma of how treat perpetrators of mass atrocities. The nascent field of transitional justice identifies war crimes trials as one method of providing justice and advancing reconciliation. This paper focuses specifically on war crimes trials as a provision for delivering justice in post-conflict settings based on international humanitarian law, in which individuals are prosecuted and held responsible for war crimes and severe human rights violations.

In looking solely at reconciliation, scholars utilize a wide range of conceptualizations. Some employ extensive conceptualizations of healing, or view reconciliation through the Christian lens of forgiveness of one's enemy. This religious definition is unworkable in the value-neutral field of political science. Other scholars rely

on minimalist definitions and view reconciliation or peace as the absence of organized violence (Lie et al. 2006). This limited definition addresses security more than reconciliation.

Previous studies conceptualize reconciliation at several different levels of analysis (Gloppen 2005): the individual (see Schewfelt 2009), the society, or the nation.

Conceptualizing reconciliation at the nation-level, Sikkink and Walling (2007) and Snyder and Vinjamuri (2004) see reconciliation as improvement in a country's human rights record and democratization. This aggregate view loses local level information.

Considering the personal, neighbor-on-neighbor violence that characterized much of the Bosnian war (Weidmann 2009), assessing how communities reconcile following this brutal violence is especially significant at the local rather than national level. Toal and Dahlman (2011) argue that local particularities influenced the course and outcome of the conflict in different Bosnian localities. These works indicate the impact of local factors on political behavior.

At the societal level, Mulaj (2007) refers to reconciliation as a political situation in which formerly warring parties respect and tolerate each other. Pickering (2009) similarly looks at societal attitudes toward other ethnic groups in sub-national units. On the ground, political scientists conducted interviews of former Yugoslavs to assess local understandings of reconciliation without imposing a definition for the word. Work in this field commonly cites the idea of a return to normalcy (Macek 2007). While ambiguous, this "return to normalcy" suggests a community's distancing itself from the predominant discourse and ideology of the war as indicative of "healing."

This study draws on definitions used in previous works (most notably that of Mulaj 2007 and Pickering 2009) as well as former Yugoslavs' views and handles reconciliation in a societal sense, going beyond the immediate cessation of organized violence. It views reconciliation as a societal-level phenomenon in which localities display tolerance towards other ethnic groups and disassociate themselves from wartime ideologies and leaders.

The literature identifies convincing theoretical underpinnings supporting a positive impact of prosecuting war criminals on reconciliation. Proponents of prosecuting war criminals most commonly identify several major advantages: namely, the pursuit of justice promotes a more stable peace by deterring future human rights abuses, providing closure, and individualizing rather than collectivizing guilt (Akhavan 2001; Lie et al. 2006; Sikkink and Walling 2007). Each suggested outcome ought to promote societal reconciliation and potentially explain variation across Bosnian municipalities.

The hypothesis that prosecutions deter future human rights abuses is based on marginal utility theory, which predicts that the potential of prosecution raises the cost of committing crimes. This deterrence may also operate at a specific level, preventing the guiltiest individuals from committing future crimes by removing them from society. While they no longer live in a wartime environment conducive to these extreme crimes, removing wartime leaders who may have a continued interest in conflict eliminates their influence and ability to continue abusive or inflammatory practices.

A constructivist approach claims prosecutions imbue society with the virtuous norms of accountability and respect for human rights (Pan and Flournoy 2002). Akhavan (2001) refers to "conditions of habitual lawfulness." These theories propose that

exposure to democratic procedures of justice may integrate locally and positively change conceptions of appropriate behavior.

Scholars also propose that the trials provide comfort and closure to victims of war crimes by punishing the perpetrators. The evidence collected during trials establishes an official record of the crimes that provides closure, minimalizes the space for alternate truth constructions (McDowall 2005), and prevents mass denial (Galbraith 2009). Public acknowledgement of these crimes may further comfort victims. As stated by Darehshori (2009), the closure afforded by trials also provides “protection against revisionism.” Consequently, victims are less motivated to seek revenge when courts apprehend and punish perpetrators, preventing the “wild justice” of random revenge acts (Lie et al. 2006).

Lie et al. (2006) suggest that by holding individuals accountable for their crimes, tribunals allow guilt to be individualized rather than placed on collective groups. Ethnic groups may be less inclined to view another group collectively as “the enemy” and socially construct a perception of said enemy as a security threat (Fierke 2005). Trials may also rehabilitate communities associated with the perpetrator, further undermining notions of collective guilt.

Conversely, detractors argue that the adversarial court system exacerbates rather than resolves societal rifts. Clark (2009) suggests that court proceedings serve as a substitute for war, inflaming ethnic tensions as perpetrators perceived locally as heroes symbolically represent the entire ethnic group. Trials may interfere with the peace bargaining process, incentivizing those who committed war crimes to prevent a peace

settlement instead of cooperate (Folch, Escribal and Wright 2011; Snyder and Vinjamuri 2004).

Apart from theories suggesting negative influences, other scholars propose these trials offer no substantial local impact on reconciliation, especially international tribunals because of their lack of local ownership and physical distance from post-conflict communities (Meernik 2005). Galbraith (2009) suggests that the pace of international justice is often too slow to promote transitional justice objectives. Other works identify the inefficiencies of these trials, including the lack of sufficient local outreach efforts and the small number of individuals prosecuted relative to the number of crimes committed (Hagan and Ivkovic 2011). These alternative theories that post-conflict prosecutions negatively influence or do not influence societal healing provide a conceivable foundation to doubt the positive impact of war crime tribunals, necessitating further empirical research.

Most existing scientific research focuses on the impact of prosecuting human rights violations in countries transitioning to democracy as opposed to those in post-conflict countries. Sikkink and Walling (2007) provide some of the most comprehensive work in this field, studying domestic prosecutions in countries transitioning to democracy in Latin America and suggesting the relevancy of their findings to the prosecution of war criminals or human rights offenders internationally, referring to both types of cases through the broad term of “transitional” states. Sikkink and Walling find that these trials tend to improve a country’s “healing,” operationalized as a country’s improvement in democracy and human rights ratings.

The mechanisms leading to a durable peace and viable state, however, may fundamentally differ by conflict type. Countries experiencing civil war presumably encountered more bloodshed and shattered local institutions. Whitt and Wilson (2007) suggest that ethnic conflict proves most intractable. Therefore, broad conclusions about the impact of prosecuting human rights violations drawn from one conflict type may not apply to others.

Fewer empirical studies focus solely on the impact of prosecutions in post-civil war countries. This lack of scholarly research presents a troubling gap in the literature, considering the current currency of prosecuting perpetrators of war crimes internationally. Snyder and Vinjamuri (2004) evaluate several different methods of pursuing justice in post-civil war countries and term cases with rule of law and human rights improvements as peacebuilding successes. They find a few examples of success via several methods considered including trials but conclude that pursuing post-conflict justice can be very damaging to political stability after a conflict and especially during the peace bargaining process. More research is necessary to understand the specific conditions that determine the success or failure of post-conflict justice in promoting reconciliation.

Lie et al. (2006) assess whether post-conflict countries that seek to bring criminals to justice experience a longer duration of peace than countries that elect to enact amnesties or allow exile. In this comprehensive large-N study, the authors find a weak, statistically insignificant although positive impact of prosecuting perpetrators and a negative impact of allowing amnesty on post-conflict peace duration. While providing a foundation for the study of prosecuting war criminals, this study is admittedly an initial

assessment of the potential impact of trials and operates under a minimalist definition of peace that, as noted by the authors, could include structural injustice and only be based on deterrence (Lie et al. 2006). Such a definition does not necessarily ensure independently viable states or fully address reconciliation. Regardless, this study indicates the relative benefits of pursuing justice over allowing amnesty.

A major flaw with the Lie et al. study also found in several other studies (Meernik, King, and Nichols 2010; Sikkink and Walling 2007; Snyder and Vinjamuri 2004) is the operationalization of justice as a binary variable indicating whether or not war crimes trials occurred. This measurement neglects the extent of justice delivered, which could mask any relationship between reconciliation and justice. A lack of attention to context in such statistical studies also becomes an issue when drawing broad conclusions about the impact of justice. While Lie et al. (2006) consider several control variables in their analysis, multiple cultural or political factors that are difficult to include in a cross-country comparison could potentially impact the analysis or incite profound differences in the healing process. Lie et al. (2006) suggest that future research provide more attention to context.

Most of the extant literature on reconciliation specific to the former Yugoslavia focuses on descriptive, non-scientific case studies (see Skaar et al. 2005). Empirical research in this area often evaluates the efficacy of the ICTY. Akhavan (2001) studies riots and rallies in response to arrests of high profile war criminals, claiming fewer protests indicate greater societal healing. While providing important insights, Akhavan looks at a very limited number of instances and chooses indictments without any apparent method. Meernik (2005) measures ethnic tolerance in national political discourse

following six admittedly subjectively selected ICTY indictments. While empirically based, this study focuses solely on the behavior of political elites nationally, masking local variability. Hagan and Ivkovic's (2011) research reveals a complex array of factors influencing attitudes towards the ICTY, casting doubt on this indicator as a reliable measure of reconciliation.

Focusing on the successful case of Germany, Karstedt (1998) provides more conclusive evidence on the impact of prosecuting war criminals in a single post-war society. Tracing public support in Germany for the Nuremberg trials and de-nazification procedures, Karstedt finds that the majority of Germans rejected the notion of collective guilt and therefore the trials served as a mechanism for Germans to disassociate themselves from radical wartime ideology and leaders. The de-nazification courts established in communities also helped rebuild local legal procedures. While the de-nazification process as well as the indictment of military leaders raised public objections, Karstedt suggests that reconciliation in German society benefited overall from these procedures. It is interesting to assess whether trials provided the same opportunity for Bosnians to distance themselves from wartime ideology or instead stoked ethnic hatreds as predicted by critics of post-conflict prosecutions.

These previous studies demonstrate the importance of further empirical research to understand the impact of prosecutions in post-conflict environments. This study provides a more descriptive level of analysis than binary variables (trials/no trials) and instead considers the extent of justice delivered and thus brings a richer analysis of its impact on reconciliation. A focus on communities within Bosnia allows a novel consideration of local conditions in a quantitative study, directly answering Lie et al.'s

(2006) call for research providing greater attention to context. These features will allow this study to contribute to theoretical discussions on the relationship between justice and healing.

Hypothesis

Although inconclusive, the literature frames a convincing theory supporting the benefits of addressing war criminals via prosecutions. Studies detracting from these benefits, namely Folch, Escribal, and Wright (2011) and Snyder and Vinajmuri (2004), are mostly concerned with the peace bargaining process before the cessation of conflict. This study focuses on post-conflict societies that, while often still riddled with violence, are distinguished from conflict countries by the acceptance of a peace agreement formally ending hostilities.

By discouraging acts of revenge and future offenses, discrediting and removing wartime leaders from society, establishing a record of the events, and introducing legal, democratic norms by addressing war crimes via court cases rather than private violence, post-conflict prosecutions should promote peace and societal healing. Community members may be less likely to view all members of another ethnic group as “the enemy,” as trials individualize guilt and potentially allow individuals of the same ethnic group as perpetrators to distance themselves from wartime ideology, an idea supported in Karstedt’s (1998) study. These mechanisms lead me to expect a greater indication of “healing” in municipalities where prosecutions delivered a greater extent of justice.

A concept as complex as “healing” defies simple measurement. Ideally this study would employ a rich, multivariate indicator of such an elusive and contested idea, employing information on societal proclivities towards the ethnic “other,” support for a unified state, and local incidents of hate crime and ethnic violence.

As the war split Bosnia along ethnic lines, hostile societal attitudes between ethnic groups suggests a lack of healing. Azinovic, Bassuener, and Weber (2011) find

that a palpable ethnic intolerance remains pervasive in many Bosnian communities, sometimes manifesting into violence but often visible only in attitudes of prejudice. Whitt and Wilson (2007) similarly consider interethnic trust and cooperation as indicative of reconciliation in their analysis of altruistic behavior between ethnic groups via a dictator's game. Support for a unified federal state represents a salient rejection of wartime ideology because warring parties actually sought the ethnic fragmentation of Bosnia as a primary goal. A desire to belong to a multiethnic state should furthermore indicate a willingness to cooperate with other groups in building a common future.

While several organizations explore attitudes of ethnic tolerance and support for a unified state at the national level in Bosnia with survey data (see Gallup Balkan Monitor 2008, National Democratic Institute 2010, Poggi et al. 2002), the sample size remains too small to draw conclusions at a municipal level. The high possibility of respondent reactivity raises validity concerns, especially in survey data researching individual prejudices. Individuals may respond untruthfully to questions if their viewpoints are considered extreme (Tworzecki 2003).

Further detracting from the reliability of survey data results, an ordinal scale may not fully capture individual differences in attitude and intensity of responses. Researchers find attitudes reported in survey responses unstable over time and greatly dependent upon the wording, the order of questions, and the options permitted on the response scale (Bertrand and Mullainathan 2001). These issues render the accuracy of survey data for research on attitudes of prejudice questionable and, coupled with the small number of observations available for Bosnia, untenable for this study.

Information on local incidences of hate crime and ethnic violence would provide a more reliable indication of ethnic relations, as the hostile treatment of other ethnic groups suggests the retrenchment of wartime hostilities. Unfortunately, information on hate crimes and ethnic violence simply has not been collected for post-war Bosnia in any systematic fashion (Azinovic et al. 2011; Organization for Security and Cooperation in Europe (OSCE) 2008a), again rendering this measurement inappropriate for empirical research.

As opposed to these aforementioned alternatives, this study measures municipal support for ultranationalist parties as a reliable proxy for reconciliation. Support for ultranationalist parties serves not only as a statistically reliable measure with a large sample size, but also as an important indication of reconciliation within a municipality by exposing dominant communal attitudes towards the “ethnic other.”

Studies exploring individual determinants of extremist votes find attitude and prejudice strongly significant factors. In their study of electoral behavior in Israel, Hoefler et al. (2010) identify ideology as the strongest determinant of nationalist voting on the individual level. Their research also suggests the perception of a security threat, particularly in societies with minority groups or those that recently experienced a territorial loss, increases mistrust of the ethnic other and the likelihood of a nationalist vote. Thus, we can expect individual fear and mistrust to operate strongly in Bosnia as determinants of ultranationalist votes, providing a picture of ethnic mistrust across the country.

Other political studies of Bosnian electoral politics support this argument. Mujkic and Hulsey (2010) describe a prisoner’s dilemma in Bosnia, in which ethno-political

elites attempt to manipulate the political landscape and effectively convince constituents that voting along ethnic lines constitutes a security issue. They predict that constituents will continue to vote along ethnic lines until convinced that representatives of other ethnic groups in power do not constitute a safety threat.

Apart from the individual level, research finds that local context influences voting behavior, suggesting that municipal support for ultranationalist parties reveals local political culture and the pervasiveness of ultranationalist ideas in a community. Pattie and Johnston (2001) purport that communal attitudes spread throughout an area via political conversation. Other theories suggest that local norms and experiences shape an individual's view of politics (Tworzecki 2003). In arguing the importance of "the politics of place," Toal and Dahlman (2011) suggest nationalism and other political ideas develop as local phenomena. These studies maintain that local electoral support for ultranationalist parties captures communal values and attitudes, especially towards the ethnic other.

In the case of Bosnia, local support for political parties promoting divisive ideologies provides a convincing picture of the local entrenchment of wartime ideology. Wartime leaders from all three ethnic groups remained in power initially following the war and many parties with clear connections to wartime leaders continue to enjoy popular support. These parties exclude the ethnic other and advocate ethnic solidarity and the ethnic division of Bosnia. This political agenda neatly aligns with that of the nationalist parties studied by Hoefler et al. (2010) and suggests that ideological affinity should also determine ultranationalist votes in Bosnia.

Several previous studies trace the slow and uneven decline in support for these nationalist parties as an indicator of reconciliation, finding pockets of non-nationalist support across municipalities (Pickering 2009; Pugh and Cobble 2001). In her study evaluating two theoretical models of peacebuilding through the case of Bosnia, Casperson (2004) similarly considers a decline in support for nationalist political parties as indicative of greater public moderation towards other ethnic groups and defines nationalist parties as those with wartime links. Localities lending greater support to individuals specifically connected to the ideology and actions of the war clearly exhibit less distance from the conflict and lesser healing.

Apart from retaining explicit wartime nationalism links, many contemporary Bosnian political party leaders openly promote ethnic antagonisms by making explicitly extremist statements, tailored to a single ethnic group and advocating an anti-Dayton and pro-ethnic separation agenda. Political actors from ultranationalist parties take a clear stance on ethnically charged political issues, such as the disintegration of Bosnia into ethnic territories. Encouragement for the disintegration of Bosnia remains, with political actors in the Serb Republic (RS), one of two sub-national units within Bosnia, advocating for a referendum considering the separation of the RS from the rest of Bosnia and some Croat political actors ardently advocating for the creation of a Croat entity. The OSCE reports that ethnic nationalism remains a key political issue in Bosnian elections (OSCE 2008b).

These divisive platforms should appeal to societies and individuals with similar sentiments, as found in the literature detailed above. International actors and peacebuilding scholars recognize the importance of strengthening moderate parties to the

future stability of the country (Gromes 2006; NDI 2010; Stoessel 2001) and consider greater support for anti-Dayton parties as indicative of less healing (Grosen 2010). This stance furthermore indicates the relevance of support for ultranationalist parties as an indicator of reconciliation. High support for ultranationalist parties provides a valid measure of the entrenchment of wartime hostilities across Bosnia, encompassing the major concept this study would have hoped to capture in an ideal measure of reconciliation.

To define justice, this study moves beyond previous definitions of it as a binary variable and considers the extent of justice delivered as a more accurate indication of justice, especially taking local views into account. Many Bosnians claim that the ICTY chose indictments and cases arbitrarily (Hagan and Ivkovic 2011; Orentlicher 2010) and prosecuted some cases more heavily than others, while completely bypassing other wartime incidents and criminals. This study defines justice as a prosecution rate, a comparison of the number of individuals indicted by the ICTY or the BWCC to the total number of reported war crimes committed in the municipality. This variable captures how aggressively justice was pursued across each Bosnian municipality.

As Hagan and Ivkovic (2011) find that most Bosnians also consider sentence lengths as indicative of justice, this study furthermore considers the severity of sentences the ICTY and the BWCC delivered to war criminals. This measure will compare the total sentences delivered to war criminals who committed crimes in each municipality to the highest possible total sentence for all war crimes committed in a municipality. This variable considers specifically whether greater retribution promoted reconciliation.

While domestic prosecutions of war crimes also occurred in cantonal and district courts, oftentimes these trials were arbitrary or politically manipulated and far below international standards of justice. As a mixed court with international staff, the BWCC executes justice with reasonably equal standards to the ICTY. Focusing on the ICTY and the BWCC ensures standardized judicial procedures in the analysis. Utilizing these variables and theory discussed above leads to the following specific hypotheses:

H1: If a municipality experienced a high prosecution rate, then that municipality will display less support for ultranationalist parties than municipalities with a low prosecution rate.

H2: If a municipality experienced high severity of sentences, then that municipality will display less support for ultranationalist parties than municipalities with low severity of sentences.

Regardless of the prosecution rate, one must expect these results to be contingent upon the amount of wartime violence witnessed in a community. War is never a uniform national experience; some communities are left with a greater legacy of violence and more shattered institutions than others. Bosnia is no exception, as Weidmann (2011) finds the intensity of violence experienced in municipalities throughout the country differed significantly.

McGivern (2011) suggests that Yugoslav municipalities subjected to more damage during the war faced a greater struggle to rebuild and thus greater obstacles to reconciliation. Schewfelt (2009) explores the impact of trauma on individual victims in Bosnia, finding that victims exposed to severe violence are often more polarized and inclined to use violence. Balcells (n.d.) also focuses on the individual's experience with

trauma, looking at sub-national variation in Spain and finding that victims of severe violence reject the political identity of their victimizers along the relevant social cleavage of the wartime, and, significantly, that such behaviors transmit to family members in future generations.

These results suggest that individual victim experiences are relevant at the family and possibly even community level and that wartime traumas likely affect later generations. I expect municipalities that suffered greater wartime violence to display less reconciliation and reach the following specific hypotheses:

H3: If a municipality experienced low wartime violence, then that municipality will exhibit less support for ultranationalist parties than municipalities that experienced high wartime violence.

H4: If a municipality experienced high wartime violence and a high prosecution rate, then that municipality will exhibit less support for ultranationalist parties than municipalities which experienced a similar level of violence and a low prosecution rate.

H5: If a municipality experienced low wartime violence and a high prosecution rate, then that municipality will exhibit less support for ultranationalist parties than municipalities which experienced a similar level of violence and a low prosecution rate and municipalities that experienced high wartime violence.

Correspondingly, my null hypothesis predicts that a higher prosecution rate has no effect or has a negative effect on reconciliation in the municipalities in which these crimes were committed and similarly that the wartime violence witnessed in a municipality has no effect or even a positive effect on reconciliation in that municipality. The hypotheses can be best understood visually:

Table 1: Visual Representation of Hypotheses

Wartime Violence	Prosecution Rate	
	Low	High
High	1. Reconciliation Most Difficult	2. Reconciliation Difficult
Low	3. Reconciliation Easy	4. Reconciliation Easiest

Using pre-war municipalities as the unit of analysis provides a comprehensive view of justice, wartime violence, and healing across Bosnia. Prior to the war, Bosnia was divided into these administrative units. Municipalities serve as the smallest unit still endowed with substantial governance authority, allowing greatest attention to local context along with cross-unit comparison of municipal elections.

The municipal structure today is somewhat altered. During the war, Bosnians fled persecution to areas under the control of their own ethnic group. The Dayton Peace Agreement solidified these divisions by cutting the country into two entities, the Federation and the RS. This division in many cases split pre-war municipalities into two parts across an Inter-Entity Boundary line, or divided larger pre-war municipalities into smaller units (see Appendix 1).

These pre-war boundaries remain most relevant to the thesis. NGOs report wartime events and statistics at the pre-war municipal level and war crimes courts relate cases considered to pre-war municipalities. Most importantly, wartime leaders conceptualized and organized violence at the pre-war municipal level. Toal and Dahlman (2011) refer to motivations during the war as the “ethnicization of space” across these units. Delpha (2005) argues that the impact of war crime prosecutions is most applicable at a local level and that local advocates seeking justice organize at the municipal level. These factors along with this study’s conceptualization of healing as a political

phenomenon at a local level render pre-war municipalities the most appropriate level at which to measure healing.

Research Design and Methods

This study uses a cross-sectional design based in 2008, because beginning in this year the ICTY initiated a more extensive transfer of cases to cantonal and district courts throughout Bosnia (Chetman 2011). This choice of year remains recent and excludes fewer completed domestic cases that could potentially impact the results of the ensuing analysis. Considering the lack of pertinent prior empirical research on this topic, this study first addresses whether there is any statistically significant difference in support for ultranationalist parties between municipalities with high and low prosecution rates, with high and low wartime violence, and finally between the four municipal groups shown in the hypothesis chart above.¹

Using municipalities with extreme scores tailors to the hypotheses and appropriately ensures that each group substantially differs in terms of the prosecution rate and wartime violence. To construct the municipal groups, I consider the variation across each variable to ensure sufficient differences exist between the cases termed “high” and “low” (see Appendix 2). Assessing reconciliation within these groups provides attention to local context and effective testing of the hypotheses; specifically, it will show whether a greater extent of justice positively impacts healing and how the level of violence witnessed in localities tempers or interacts with that effect.

Similar to prior works (Casperson 2004), I measure *support for ultranationalist parties* as the percentage of the population in each municipality voting for an ultranationalist party in the 2008 municipal council elections. I obtain election results from the Electoral Commission of Bosnia and Herzegovina and apply these results to pre-war municipal boundaries (see Central Election Commission 2008). I define

ultranationalist parties as those with explicit links to wartime parties and/or anti-Dayton and pro-ethnic separation policies that tailor exclusively to one ethnic group in which party leaders make explicit extremist statements.

The OSCE (2008b) reports that 389 parties, coalitions, and independent candidates registered to compete in the 2008 municipal council elections. As in previous works, this study only considers parties that earned 3% of the vote or more, the minimum requirement for earning a seat in a municipal council (Pugh and Cobble 2001). This requirement allows focus on parties with substantial local influence.

Local idiosyncrasies such as the charisma of individual candidates potentially influence support for a particular party or candidate (Tworzecki 2003). This concern is mitigated by the predominance of ethnic nationalism in Bosnian politics and the fact that a voter expressing prejudice and mistrust of the “ethnic other” will likely select a candidate based on his or her party platform as opposed to likeability. I identify ultranationalist parties by researching party websites and party leader statements using LexisNexis Academic. This measure should accurately assess municipal support for ultranationalist parties (see Appendix 3).

To calculate the *prosecution rate*, I divide the number of indicted individuals by the total number of reported war crimes in a municipality. I determine the number of individuals indicted from the ICTY and the BWCC’s online case databases as of 2008 (Court of Bosnia and Herzegovina 2012; ICTY 2012). Using information on the charges listed for each case, I associate each indicted individual with the relevant municipality in which the crimes under consideration were perpetrated. For 17 cases out of 209, I could

not associate the individual with a single locality and eliminated these cases from consideration.

I determine the number and type of war crimes committed in each municipality using the “Bosnian War Crimes Atlas” compiled by the Sarajevo Research and Documentation Center (Sarajevo Research and Documentation Center 2012). I also include reported instances of 1-sided violence by an armed group against civilians from Weidmann’s (2009) dataset, which draws on information from the Armed Conflict and Location and Events Dataset (ACLED) (see Appendix 4).

These measures may exclude unreported instances of war crimes. For example, some mass gravesites may never be located. This concern especially applies to instances of rape, which researchers suspect remain grossly underreported during the war. Despite these concerns, systematic and egregious abuses likely to highly influence the analysis were most likely reported or uncovered, mitigating the potential impact of unreported cases on the analysis. The comprehensive ACLED dataset collects information from a variety of media and NGO sources. Similarly, the Sarajevo Research and Documentation Center gathers information based on extensive field research, with war incidents so impartially detailed over the course of the war that court proceedings draw on information from the “Bosnian War Crimes Atlas” for evidence. The quality and comprehensive nature of the research compiling this measure minimizes the concern of measurement error.

I exclude from this measure 29 municipalities in which no war crimes incidents occurred. These cases are not relevant to the analysis because this study evaluates the effect of prosecuting war criminals in areas subjected to these crimes. Although they

experienced violence during the war, these areas possess no grounds for the application of justice and artificially score “perfect” application of justice without any exposure to war crimes trials. Extent of prosecutions creates a standardized comparison of how aggressively justice was pursued for war crimes across Bosnian municipalities.

I calculate *severity of sentences* by dividing the total number of years the ICTY or the BWCC sentenced to perpetrators of war crimes by the total possible number of years for each municipality. The number of reported war crimes in each municipality indicates potential war crime case litigation. As the maximum sentence for each war crime is life (“Report of the Secretary General” 1993), I multiply the number of war crimes committed in each municipality by 100 to calculate the total possible number of years sentenced. While 100 years does not perfectly correspond with a lifetime sentence, it is a reasonably equal sentence and allows for standardized comparison across municipalities

Because Balcells (n.d.) finds that exposure to severe violence most strongly influences post-conflict behavior, this study focuses on wartime casualties, the most severe form of violence, as the measure of *wartime violence*. Weidmann (2011) finds in his extensive analyses of the Bosnian war that the total number of casualties per municipality relative to the pre-war population estimate most accurately reflects the severity of local violence because instance reporting masks differences between severe and smaller-scale events. Therefore, I consider wartime violence as *per capita* casualties in each municipality in order to take population size differences into account. To assess the number of casualties by municipality, this project utilizes the “Bosnian War Crimes Atlas.” I divide the total number of confirmed casualties and missing persons by pre-war population estimates based on 1991 census results obtained from Weidmann (2009).

If the municipal group comparisons lead me to suspect any relationship between the prosecution rate and support for ultranationalist parties, I will attempt bivariate linear regression. To counteract spuriousness, I will control for several variables potentially impacting the relationship between healing and justice in the ensuing analysis.

Pickering (2006) indicates an essential control variable: the *economic conditions* in each municipality. Peacebuilding literature widely supports the idea that the solvency of the economy greatly influences the ability of a country to move forwards after conflict (Pan and Flournoy 2002). Poor economic conditions may heighten ethnic tensions and agitate feelings of prejudice (Canetti-Nisimet al. 2008).

I draw economic indicators from the *2008 Statistical Yearbooks of the Federation of BiH and Republika Srpska*, volumes that record the total number of registered unemployed persons by municipality (Federal Office of Statistics 2008; RS Institute of Statistics 2008). I divide this estimate by the 1991 census municipal population estimates obtained from Weidmann (2009), the most recent and reliable reading available.² While a more recent population estimate is ideal, current municipal population estimates in Bosnia are either unreliable or unavailable. This measurement serves as a rough indication of the unemployment rate in each locality.

I then consider the *ethnic composition* of each municipality. It is possible that homogenous municipalities are better able to move forwards from the war or retain less mistrust of the “ethnic other” by virtue of greater separation. While a campaign of ethnic cleansing largely separated ethnic groups in Bosnia, some municipalities retained ethnic diversity and the international community launched a continuing effort to facilitate the return of persons removed from their pre-war homes with reasonable success.

I use the number of minority returns, individuals currently in the ethnic minority returning to their pre-war municipality, as a percentage of pre-war population to indicate the ethnic heterogeneity of each municipality. I find these estimates in a 2005 report of the Bosnia and Herzegovina Ministry for Human Rights and Refugees (Nenadic et al. 2005). Although the report was not generated in the proper year, several scholars claim that few minority returns occurred after a spike in 2004 and 2005 (Toal and Dahlman 2005; Toal and O'Loughlin 2009). The Ministry collected this data based on years of extensive field monitoring. Considering that ethnic composition remains a controversial political issue, this government report provides the best available estimate of population composition. While this variable provides only a rough indication of ethnic composition, minority returns alone are worthy of consideration. The Dayton Peace Agreement featured the right to return as a major provision of the treaty that received much attention from the international community.

I furthermore consider the *urbanization* of each municipality, a factor that may impact societal interactions as well as prevailing political attitudes. Tworzecki (2003) finds more urban areas across three Eastern European countries generally lend greater support to liberal parties, display higher education levels, and possess less traditionalist values than rural areas. Nationalist ideology may remain more entrenched in rural societies in Bosnia by virtue of less access to new cultural ideas and education. Stefansson (2007) asserts that an urban vs. rural divide, portrayed across Bosnia as early as the 1950s, constitutes one of the most significant post-war social cleavages. He finds that urbanites in Bosnia often stereotype internally displaced persons as “rural,” uncultured, and more vulnerable to extremist political parties.³

Considering this complex social antagonism, I control for population density using a Herfindal Index based on 1991 data obtained from Weidmann (2009). To account for the influx of internally displaced persons fleeing wartime violence, I also consider the number of *internally displaced persons* per municipality as a separate variable, drawing on information from the 2005 Ministry for Human Rights and Refugees Report on the estimated number of internally displaced persons per municipality (Nenadic et al. 2005) divided by 1991 municipal population estimates. Again, a more accurate measurement is ideal but this information should still provide a reasonable estimate of both variables.

Based on these control variables, I suggest the following model for the relationship between reconciliation and justice:

$$y (\text{Support for Ultrationalist Parties}) = \beta_1 * \text{Prosecution Rate} + \beta_2 * \text{Wartime Violence} + \beta_3 * \text{Economic Conditions} + \beta_4 * \text{Ethnic Composition} + \beta_5 * \text{Urbanization} + \beta_6 * \text{Displaced Persons} + \beta_0$$

After quantitatively analyzing the relationship between support for ultrationalist parties and the prosecution rate, I select two municipalities for a case study analysis to further explore causal mechanisms driving the relationship between justice and reconciliation in post-conflict societies. I select one case characterized by both a high prosecution rate and less support for ultrationalist parties and a second case with a lower prosecution rate and greater support for ultrationalist parties.

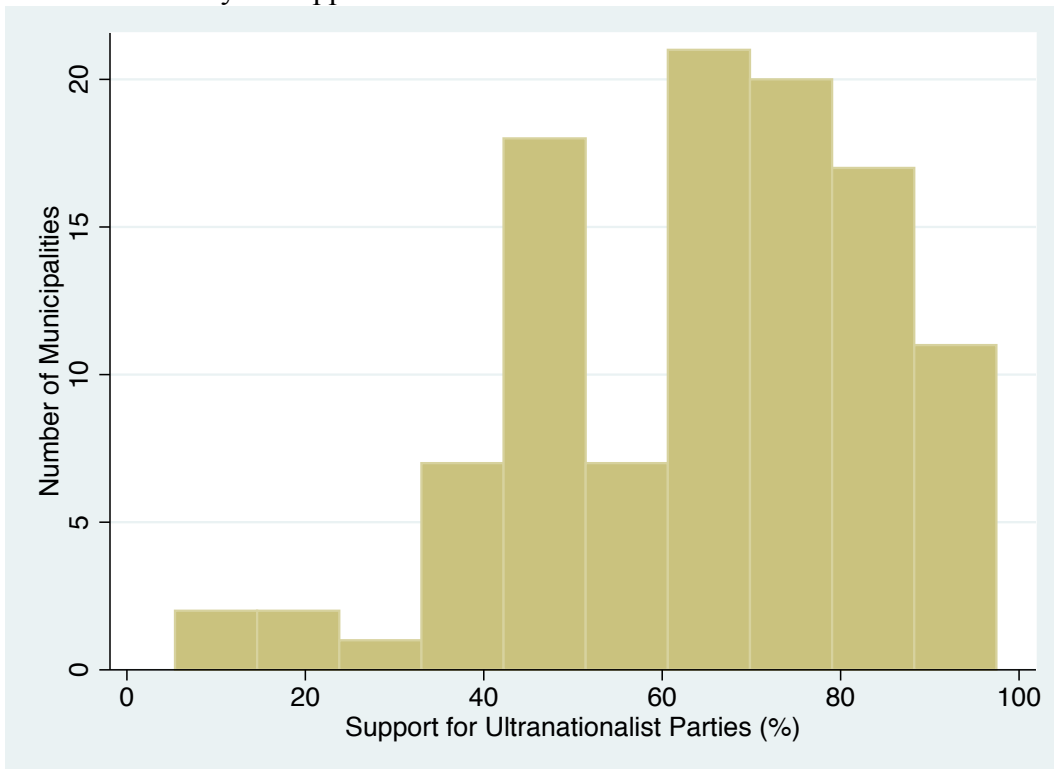
This analysis should help untangle the impact of prosecutions on reconciliation. While there exist credible causal mechanisms to support the case of healing promoting local war crimes trials, this study avoids the risk of endogeneity by focusing on internationally imposed prosecutions through the ICTY or internationally initiated and

monitored through the BWCC, as opposed to locally initiated trials. This research design sufficiently tests the hypotheses and permits conclusions, however tentative, on the efficacy of war crimes prosecutions in promoting reconciliation.

Quantitative Analysis

Municipalities across Bosnia exhibit a broad range of support for ultranationalist parties, showing considerable variation over the dependent variable. Most municipalities display fairly high support for ultranationalist parties with a mean value of 65.34%. The chart below displays the variation in municipal support for ultranationalist parties across Bosnia.

Chart 1: Diversity of Support for Ultranationalist Parties



Inspection of scatterplots reveals no association between the prosecution rate or severity of sentences and support for ultranationalist parties. A comparison of means between municipalities with high and low prosecution rates yields no statistically significant difference. This finding leads me to accept the null hypothesis for Hypotheses 1 and 2; specifically, municipalities that experienced a high prosecution rate or high

severity of sentences do not exhibit less support for ultranationalist parties than municipalities with a low prosecution rate or low severity of sentences.

Hypotheses 3-5 predict that both the prosecution rate and/or wartime violence impact support for ultranationalist parties. Support for ultranationalist parties correlates positively with wartime violence at $r=0.25$. This preliminary analysis suggests that municipalities that experienced greater wartime violence tend to display higher support for ultranationalist parties. More sophisticated analysis confirms that municipalities with the highest level of violence generally display much greater support for ultranationalist parties than those with the least wartime violence, with a 10.75 percentage point difference of means. A one-way ANOVA test shows that this difference of group means between municipalities in the highest and lowest quintiles of violence is statistically significant at the 95% level of significance.

The impact of wartime violence on support for ultranationalist parties produces no steady increase across violence level but operates above a certain threshold of violence. Although there is no association between wartime violence and support for ultranationalist parties in municipalities experiencing more moderate levels of violence, Hypothesis 3 considers only high and low violence municipalities. Therefore, I reject the null in Hypothesis 3 and accept the alternative, specifically that municipalities experiencing low wartime violence display less support for ultranationalist parties than those municipalities experiencing high wartime violence. Table 2 holds these results.⁴

Table 2: A Comparison of Wartime Violence and Support for Ultranationalist Parties

Wartime Violence	Mean Support for Ultranationalist Parties (%)	Number of Observations
Highest 20%	75.75	22
60-80%	58.80	21
40-60%	65.18	22
20-40%	61.30	20
Lowest 20%	65.01	21
p-Value for the difference of means between the highest and lowest quintiles	0.047	Significant

p-value based on a two-tailed test

To test Hypotheses 4 and 5, I consider wartime violence when comparing municipal groups with high and low prosecution rates. Considering the multiple municipalities scoring 0 on the prosecution measure, I divide municipalities in the bottom 50% from those in the top 25% based on the prosecution rate (see Appendix 2).

In areas that experienced the greatest wartime violence, municipalities with a high prosecution rate clearly display less support for ultranationalist parties than those with a low prosecution rate, with an 18.55 percentage point difference of means. This result fits Hypothesis 4 perfectly. Municipalities that experienced less wartime violence deviate from the expectations of Hypothesis 5 and show on average greater support for ultranationalist parties in municipalities with a higher rather than lower prosecution rate. In essence, the association between support for ultranationalist parties and the prosecution rate appears contingent upon the level of wartime violence.

The table below compares the average support for ultranationalist parties in all four municipal groups. Municipalities with high wartime violence and a low prosecution rate (Group 2) form the only clearly distinguishable group in terms of mean support for ultranationalist parties.

Table 3: Prosecution Rate and Wartime Violence Municipal Group Comparison

Group	Wartime Violence	Prosecution Rate	Mean Support for Ultrationalist Parties (%)	Number of Observations
Group 1	Highest 20%	Bottom 50%	80.36	6
Group 2	Highest 20%	Top 25%	61.81	7
Group 3	Lowest 20%	Bottom 50%	62.96	14
Group 4	Lowest 20%	Top 25%	67.05	12

The difference in means found between high wartime violence municipalities (Groups 1 and 2) meets statistical significance with a p-value of 0.04 for a two-tailed test. This result leads me to reject the null for Hypothesis 4 and accept the alternative; specifically, municipalities that experienced high wartime violence and a high prosecution rate exhibit less support for ultrationalist parties than municipalities that experienced a similar level of violence and a low prosecution rate.

This difference of means found between low wartime violence municipalities (Groups 3 and 4) is not statistically significant. These results lead me to accept the null hypothesis for Hypothesis 5; specifically, municipalities that experienced low wartime violence and a high prosecution rate do not exhibit less support for ultrationalist parties than municipalities that experienced a similar level of violence and a low prosecution rate or municipalities that experienced high wartime violence.

The results of the above analyses lead me to expect an interaction between the prosecution rate and wartime violence impacting support for ultrationalist parties and confirms the need to explore the impact of the prosecution rate on support for ultrationalist parties at different levels of wartime violence in a regression analysis.

These findings leave the question of why municipalities that experienced low wartime violence appear to respond differently to prosecutions than those that

experienced the most violence. Potentially, justice may promote reconciliation in the most extreme cases and provide an insubstantial impact in localities experiencing less intensity of conflict. There may also be other factors at play.

Of the municipalities in Group 2 (those with high wartime violence and high prosecution rates), highly urban areas that enjoyed the highest prosecution rates in the group tend to display the least support for ultranationalist parties. Looking solely at municipalities with high prosecution rates (top 75%) and less extreme violence (bottom 80%), municipalities with above average support for ultranationalist parties are substantially more rural than municipalities with below average support for ultranationalist parties. These findings suggest urbanization as a major factor influencing support for ultranationalist parties and indicate the need to consider the impact of prosecutions at different levels of urbanization.

The most urbanized areas clearly exhibit less support for ultranationalist parties than rural areas. Holding constant the level of urbanization, municipalities with high prosecution rates show less support for ultranationalist parties. Table 4 displays these results.

Table 4: Prosecution Rate and Urbanization Municipal Group Comparison

Group	Prosecution Rate	Urbanization	Mean Support for Ultranationalist Parties (%)	Number of Observations
1	Top 25%	Highest 20%	50.91	8
2	Bottom 50%	Highest 20%	60.05	11
3	Top 25%	Lowest 20%	69.11	8
4	Bottom 50%	Lowest 20%	85.40	10

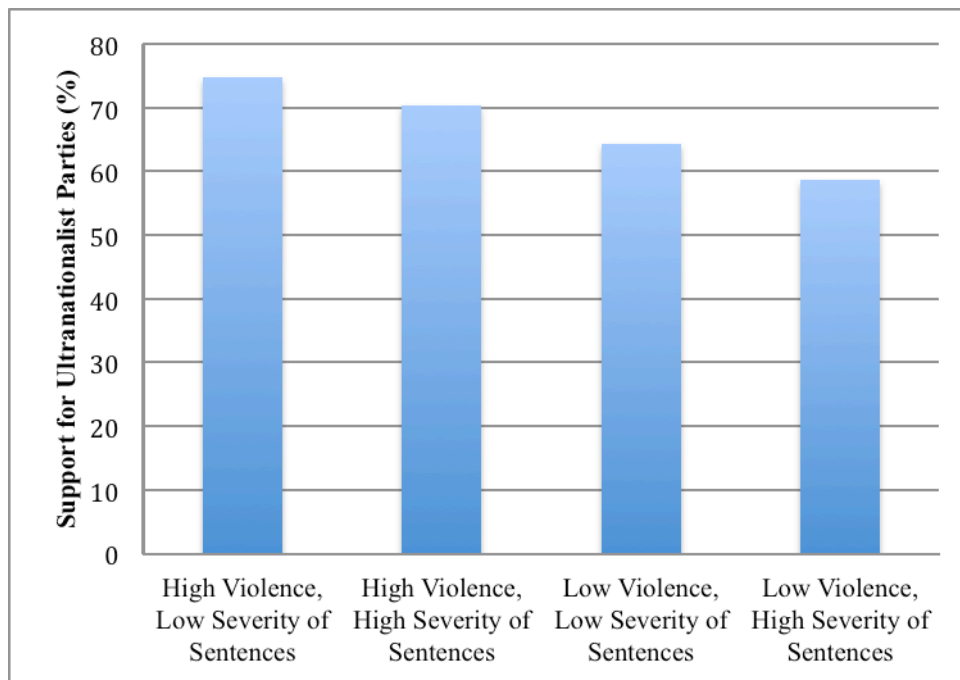
While the difference of means between the urban municipalities (Groups 1 and 2) is statistically insignificant, the difference of means between the rural municipalities

(Groups 3 and 4) meets statistical significance with a p-value of 0.05 for a two-tailed test. This result suggests that a high prosecution rate positively impacts reconciliation in the most rural communities.

These group comparisons portray a complex relationship between the prosecution rate and support for ultranationalist parties. While any clear association fell short of statistical significance, considering other influential factors reveals positive impacts of justice in specific conditions. Most notably, a higher prosecution rate reduces support for ultranationalist parties in municipalities that experienced the most intense violence of the conflict and fails to offer any significant impact in areas with more moderate exposure to wartime violence. This interesting interaction between the prosecution rate and wartime violence implies a greater role for justice in areas that suffered more extreme violence conditions and merits further analysis later in the study. Finally, while urban environments appear more conducive to reconciliation, the prosecution rate provides a statistically significant impact on support for ultranationalist parties in rural communities.

The question remains as to whether the indictment of war criminals or the severity of the sentences they receive as punishments drives these observed relationships. Municipalities with high severity of sentences tend to exhibit less support for ultranationalist parties, holding constant the level of violence. The chart below shows the mean support for ultranationalist parties in each of the four municipal groups now constructed based on severity of sentences (see Appendix 2). These results suggest that greater severity of sentences reduces support for ultranationalist parties.

Chart 2: Severity of Sentences and Wartime Violence Municipal Group Comparison



N = 42

More sophisticated analysis shows that these differences in means are not statistically significant. Therefore, this analysis cannot support the claim that high sentences promote reconciliation, a stance counter to much local research on Bosnian war crimes victims that suggests these individuals place great value on the severity of sentences delivered to war criminals.

The study now moves to a linear regression analysis that considers the relationship discovered in the previous analyses between support for ultranationalist parties and the prosecution rate. Model 1 considers a standard linear regression model; Model 2 includes an interaction effect between the prosecution rate and wartime violence. Model 3 considered an interaction effect between the prosecution rate and urbanization. As the interaction term between these two variables proved highly statistically insignificant, this model is not considered any further. Table 5 holds these results.

Table 5: Beta Coefficients and Standard Error for Models 1 and 2

Variable	Model 1		Model 2	
	Coefficients (standard error)	Standardized Coefficients	Coefficients (standard error)	Standardized Coefficients
Prosecution Rate	-0.44 (1.35)	-0.04	6.75 (3.68)	0.55**
Wartime Violence	59.48 (75.97)	0.087	363.01 (162.75)	0.53***
Urbanization	-76.67 (19.17)	-0.44***	-67.31 (19.22)	-0.38***
Displaced Persons	-0.32 (24.74)	-0.00	-12.77 (24.85)	-0.06
Ethnic Composition	29.74 (19.25)	0.17*	34.98 (18.94)	0.20**
Economic Conditions	-9.46 (15.02)	-0.07	-9.68 (14.65)	-0.07
Prosecution Rate x Wartime Violence	n/a	n/a	-431.61 (3.68)	-0.76***
R-Squared	23.15%		28.01%	
Observations	73		73	

*** $p < 0.05$

** $p < 0.10$

* $p < 0.15$

Values based on a two-tailed test

The linear regression in Model 1 identifies urbanization as a highly statistically significant variable positively impacting reconciliation with a p-value of 0.00. For every 1 standard deviation increase in urbanization, the model predicts a 0.44 standard deviation decrease in support for ultranationalist parties, controlling for economic conditions, ethnic composition, displaced persons, wartime violence, and the prosecution rate. The variable ethnic composition yields a negative impact on reconciliation nearing statistical significance, with a p-value of 0.13. For every one standard deviation increase in ethnic composition, the model predicts a 0.17 standard deviation increase in support for ultranationalist parties, again controlling for the other variables in the model.

Both wartime violence and prosecution rate yield no statistically significant impact on support for ultranationalist parties. While Model 1 portrays the predicted negative relationship between the prosecution rate and support for ultranationalist parties, the high p-value for this coefficient indicates that we would perceive this relationship 74.50% of the time if the null hypothesis that there is no relationship between prosecution rate and ultranationalist voting were true. This result clearly prohibits rejection of the null hypothesis. Additionally, neither internally displaced persons nor economic conditions held any impact on support for ultranationalist parties nearing statistical significance. Overall, Model 1 explains 23.15% of the variation in support for ultranationalist parties across these municipalities.⁵

Model 2 explains 28% of the variation in support for ultranationalist parties and reaffirms the statistically significant impact of urbanization and ethnic composition on support for ultranationalist parties. As the interaction term between the prosecution rate and wartime violence is statistically significant, the analysis now considers the impact of prosecution rate at different levels of wartime violence. Table 6 shows the results.

Table 6: Marginal Effects of Prosecution Rate at Different Values of Wartime Violence

Wartime Violence	Coefficient	P-Value
0%	6.75**	0.07
10%	3.73*	0.12
20%	2.44	0.20
30%	1.75	0.30
40%	0.64	0.96
50%	-0.41	0.76
60%	-1.45	0.30
70%	-2.79**	0.11
80%	-4.90**	0.05
90%	-12.24***	0.04

* $p < 0.15$

** $p < 0.10$

*** $p < 0.05$

Values based on a two-tailed test

This interaction between the prosecution rate and wartime violence indicates that war crimes prosecutions promote reconciliation in municipalities that experienced the most extreme wartime violence. For municipalities experiencing more moderate violence during the war, prosecutions were not associated with support for ultranationalist parties. At the very lowest level of violence, a higher prosecution rate increases support for ultranationalist parties. This result indicates that in municipalities experiencing the least wartime violence, a higher extent of prosecutions may even prove damaging to reconciliation.

These analyses indicate a fundamentally different reaction to war crimes trials in high violence areas as compared to other municipalities. In a final analysis, Model 4 considers only high violence municipalities, or those in the top 25% of wartime violence. Wartime violence is not included as a control variable, because these municipalities are already distinguished as high violence cases. Table 7 displays these results (see Appendix 5).

Table 7: A Model for High Violence Municipalities

Variable	Coefficients (<i>standard error</i>)	Standardized Coefficients
Prosecution Rate	-21.78 (6.24)	-0.67***
Urbanization	-31.94 (32.49)	-0.21
Displaced Persons	-17.40 (20.15)	-0.16
Ethnic Composition	71.43 (53.85)	0.27
Economic Conditions	27.87 (20.41)	0.27
R-squared	52.32%	
Observations	23	

* $P < 0.15$

** $P < 0.10$

*** $P < 0.05$

Values based on a two-tailed test

Model 4 identifies the prosecution rate as the *only* factor impacting reconciliation in any statistically significant manner with a p-value of 0.00. In high violence municipalities, this model predicts a 0.67 standard deviation decrease in support for ultranationalist parties for every one standard deviation increase in the prosecution rate, controlling for urbanization, displaced persons, ethnic composition, and economic conditions. Model 4 explains 52.32% of the variation in support for ultranationalist parties across these municipalities and indicates the crucial importance of providing justice in high violence areas. While it is notable that a regression analysis with so few observations produced such strong results, these findings must be considered with some caution due to the relatively small number of observations included in the regression analysis.

Case Studies

This study now considers two cases, Prijedor and Foca, in order to assess more thoroughly the impact of war crimes trials at the local level. These municipalities experienced some of the worst violence during the war, but differ markedly in the administration of justice. While Foca today gains international recognition for showing positive signs of reconciliation, there is little indication of improved conditions in Prijedor. 77.11% of the population in Prijedor supports ultranationalist parties. In comparison, only 64.8% of the population in Foca supports these parties, well below the average for municipalities that experienced a level of violence similar to that of Foca and Prijedor (75%). These cases allow exploration of the “scar” of war left locally, the administration of justice, and local processes leading to reconciliation.

Each community enjoyed peaceful interethnic relations in the early 1990s (Boyle 2007) before the descent into some of the most intense violence of the war. Prijedor witnessed one of the absolute greatest numbers of reported war crimes, while Foca suffered a greater number of total wartime casualties *per capita*. While individuals of Serb, Croat, and Muslim ethnicity committed war crimes in Prijedor and Foca, radical Serbs overthrew both municipal governments early in the war and established a “Crisis Staff” to plan the expulsion of the Muslims and Croats (Borger 1997; Cartner 1998). Citizens faced a campaign of terror orchestrated by these wartime governments, characterized by face-to-face violence, the interment of citizens into detention centers, and an appalling campaign of sexual abuse, torture, beatings, harassment, and brutal murders.

The war devastated both communities, leaving behind shattered local societies and economies. The ethnic composition was radically altered, as Muslims and Croats fled to territories under the control of their own ethnic groups. Prijedor and Foca remained volatile and dangerous areas, strongholds of ethnic intolerance and extremist nationalism. Local authorities elected into office by both communities proved divisive individuals, hindering the returns process and making inflammatory statements. In 1997, Human Rights Watch labeled Foca “a dark and closed place” (Cartner 1998).

Some truly infamous crimes left palpable impacts on the remaining population in Prijedor. Emptying citizens from surrounding villages, the municipal wartime government erected three detention centers, Omarska, Keraterm, and Trnopolje, where guards egregiously tortured and murdered citizens held in inhumane conditions. Members of the Crisis Staff ordered the mass murder of 200 men, whom perpetrators shot over the edge of an abyss en transit (McDowall 2005). To visit Prijedor, one must pass by Keraterm, a camp that sits directly across from the highway (Schiller 1999). Serif Velic, a survivor of the Prijedor camps, lives next to a marked mass grave holding the remains of some 456 persons. He indicates another area behind his yard where the grass grows especially thick, most likely the spot of another grave (Vuilivanny 2008).

The imprints of place operate strongly in Foca. The Foca Crisis Staff held Bosniak men in inhumane conditions at the KP Dom, a site of many disappearances. Residents remember the sound of bodies hitting the surrounding Drina River at night (Cartner 1998). Soldiers imprisoned women and girls as young as twelve in rape camps throughout town, one of the most infamous of these the Partizan Sports Hall, located

across the street from the central police office (McDowall 2004). These buildings still stand throughout Foca.

The lingering impacts of violence render both communities “tough” cases for reconciliation. At the same time, these initially bleak conditions leave considerable space for justice to provide some relief in facilitating reconciliation, an impact perhaps less visible in lower violence communities. The physical removal and stigmatization of the war criminals most responsible may be especially critical in these areas, considering the personal, face-to-face violence witnessed in these communities. The trials may facilitate investigations leading to the discovery of mass graves and gathering of evidence, providing closure for victims’ families, limiting space for denial, and opening dialogue in the communities.

Arrests did provide immediate relief to both communities in the late 1990s, clearing space for reconciliation although provoking segments of the Serb populations in the short-run. Following the war, indicted individuals roamed freely in Foca and Prijedor, often living openly in the same community and continuing to perpetrate crimes (Purvis and Branegan 2001). Thus, trials improved reconciliation at its barest level, as arrests prevented individuals in the indictments from continuing to engage in divisive behavior and openly obstruct the Dayton Peace Agreement. These arrests fostered preconditions for reconciliation, as these criminals in multiple cases held positions of power before their arrests and blocked efforts at promoting peace.

As detailed in a 1997 Human Rights Watch report on Foca, officials implicated in war crimes, and in several cases later indicted by the BWCC, sheltered indicted war criminals and kept society in a state of fear, withholding necessary identification

documents from Muslims and obstructing inter-entity movement and projects intended to promote reconciliation. These persons proved a menace to both Muslim returnees and Serb citizens; one Serb woman claims the government cut off any humanitarian assistance when she revealed her intent to return to her home in the Federation-run portion of pre-war Foca. Less extremist persons willing to cooperate with peacebuilding efforts were often removed from office. Most telling, war criminals continued to engage in violence, with reports of indicted criminals threatening NGO workers and in one case pulling an NGO worker from a car and physically assaulting him in Foca (Cartner 1998).

The benefits of removing war criminals vividly appear in the story of Simo Drljaca, indicted by the ICTY in 1997 for his superior responsibility in Prijedor during the war as a member of the Prijedor Crisis Staff and Chief of Public Security Station. Following the war, Drljaca continued to serve as Chief of Police in Prijedor and use his authority to terrorize the population. Reports link Drljaca to the burning of 94 Muslim- and-Croat-owned homes post-Dayton (Borger 1997; Doyle 1998). Drljaja allegedly profited from aid money intended for reconstruction projects. When given a list of indicted individuals to arrest in 1996 before his own indictment, Drljaca tossed it into the trash (McDowall 2005).

Of course, these arrests did heighten tensions in the short run. Acting in self-defense, NATO troops shot and killed both Simo Drljaca (Bennett 1997; Doyle 1998) and Dragan Gagovic (“NATO Troops Kill Bosnian” 1999), the police chief from Foca, for violently resisting arrest. These incidents provoked anger from local Serbs, especially in Foca where a group stormed the UN local office following Gagovic’s death (“Mob Injures 5” 1999). Even so, the arrests had positive consequences for local communities:

Belloni, for example, reports fewer instances of organized violence against returnees in Prijedor following these arrests (Hodzic 2010), while other writers see a connection between the arrests and the return of some displaced persons who otherwise might have been too afraid to come back to their pre-war communities (Orentlicher 2010).

While opening a space for peace by removing incendiary individuals in both communities, the prosecution of war criminals and administration of justice differs between Prijedor and Foca in extent, meeting with very different levels of success. The remainder of this case study analysis evaluates and compares the administration of justice in Prijedor and Foca.

1. Prijedor

Although the ICTY indicted a relatively high number of individuals for crimes committed in Prijedor when compared to other parts of Bosnia, the prosecution rate in Prijedor is quite low at a score of only 0.32. In many cases, the crimes committed in the municipality have not been addressed or acknowledged by any court. Reports indicate indicted war criminals lived freely in Prijedor as late as 2004. Residents held many of these individuals in good repute and continued to deny their crimes (Rozen 1996).

Despite the assertion of a UN Commission of Experts that a court will most likely confirm the wartime incidents in Prijedor as genocide (Coll 1994) and some truly shocking figures-- 50% of all pre-war residents from Kozarac, a village within Prijedor, were murdered-- neither the ICTY or the BWCC succeeded in convicting a single individual for genocide in Prijedor. A recent ICJ ruling again failed to find genocide in Prijedor (Jelacic 2001). Seida Karabasic of the *War Crimes Victims Association in Prijedor* criticized former Chief Prosecutor Del Ponte for favoring prosecution in

Srebrenica: "...all her attention was directed towards victims from Srebrenica, and maybe because of that genocide was proven for that part of Bosnia, unlike Prijedor."

(Ahmetasevic 2008, 1).

The ICTY adjudicated the majority of cases pertaining to war crimes committed in Prijedor. Victims from Prijedor raised several major issues with the handling of these cases. In 1998, the ICTY Office of the Prosecutor (OTP) dropped fourteen indictments for individuals who committed crimes in the Omarska and Keraterm camps before their arrest. Claiming that local courts could eventually pick up these cases, the OTP termed these perpetrators too "low-level" for the ICTY to consider because of its heavy caseload ("Charges Lifted" 1998). This early mistake of attempting to prosecute too many individuals and then dropping the charges likely lowered the credibility of the court for victims from Prijedor and emboldened war criminals and their supporters locally.

Victims from Prijedor lament that war criminals often returned to the city after short sentences. While seemingly light sentences angered victims of war crimes across Bosnia, locals from Prijedor especially expressed discontent with the ICTY's practice of allowing plea bargains that considerably lowered sentences. The ICTY accepted a disproportionate number of plea bargains from Prijedor that keenly impacted war crime victims. Refik Hodzic's (2010) research on victims of war crimes in Prijedor found that victims believe light sentences invalidate the severity of the crimes committed against them.

Apart from reducing sentences, plea bargains remove the need for victim testimony and evidence gathering to prove guilt. This practice limits the potential for some of the positive impacts of justice; namely, uncovering details of war crimes and

grave locations, allowing victims to share their stories, and facilitating public discussion and acknowledgement (Stephen 2005). Furthermore, Hodzic's (2010) study found the experiences of individuals who gave testimony as generally more positive than those who did not or were excluded from the process. These issues accompanied a local perception that plea bargains served as a cheap, fast way of clearing the court's docket and that the lack of testimony and evidence gathering precluded findings of more mass grave sites.

Hodzic (2010) claims that Bosniak residents of Prijedor expressed hope that the BWCC would prosecute more criminals and hand down harsher punishments. As of 2008, the BWCC tried only two cases pertaining to Prijedor, proving yet another disappointment. Creating more discontent, the BWCC ruled to revoke the first instance verdict in a case of four individuals charged with participating in the massacre of 200 men at Koricanske Stijene and temporarily released three of these indicted individuals until a retrial. According to a victim's association, individuals who gave testimony feared sleeping at home following this decision ("Protests in Front of State Court" 2011).

Considering the slow-moving start of the prosecutions and the small number of perpetrators indicted compared to the number of crimes committed, Serif Velic, a survivor of the Prijedor concentration camps, described the efforts to bring justice to Prijedor as "too little, too late" (Vulliamy 2008, 24).

The case of Predrag Banovic conveys particularly well the reasons for victims' dissatisfaction with justice in Prijedor. A locally notorious criminal, Predrag served as an especially cruel prison guard at the Keraterm Camp. While the ICTY dropped indictments against 14 individuals of similar status to Banovic in 1998 because of the

high caseload, the court upheld the indictment in Predrag's case due to the especially vicious nature of his crimes (McDowall 2005).

The ICTY convicted Predrag of beating five prisoners to death, as well as beating at least some 27 others with baseball bats, truncheons, cables, and iron balls (*Prosecutor v. Predrag Banovic* 2003). As with many other individuals indicted from Prijedor, Banovic and twin brother, Nenad, also indicted by the ICTY, continued living openly in Prijedor following the war. Newspaper articles published the address of Predrag's home (Schiller 1999) and residents of Prijedor easily pointed out Predrag, riding through the town on his motorcycle, to journalists (Rozen 1996). Before this trial, many Serb residents denied that the Banovic twins committed any crimes, with one suggesting: "Maybe they stole a few things. Cars, you know" (Rozen 1996, 5).

When NATO troops finally began hunting down war criminals and making arrests in the late 1990s, the Banovic twins succeeded in evading justice for several years. Particularly embarrassing to the international community, British troops arrested the wrong individuals in 1998 on suspicion that they were Predrag and Nenad. When he was finally captured and brought to justice in 2001 (Suljagic 2005), Predrag initially pled "not guilty," before changing his mind and issuing a formal apology while seeking a plea agreement. Predrag formally confessed to "participating regularly in abusing, torturing, beating, and murdering" (Suljagic 2005, 214). While Predrag's admission of guilt potentially provided a modicum of comfort to some victims, this plea bargain afforded him a very light sentence of eight years of which he served only five.

One judge serving on the panel, Justice Patrick Robinson, found this sentence too forgiving and issued a dissent, stating the severity of Predrag's crimes justified a longer

incarceration. Edin Ramulic, a survivor of the Keraterm camp whose father and three nephews were beaten to death at Keraterm (Stephen 2005), expressed outrage over the outcome of this trial: “What he said in that court room does not mean anything to me or any of my relatives. The only positive outcome would be if Serbs from Prijedor were to turn their heads away from Banovic, to hide their children when he appears” (Hodzic 2010, 17).

The *War Crimes Victims Association of Prijedor* similarly issued a statement of indignation: “We protest against this shamefully small punishment...Every compromise with murderers is an insult for the victims...” (“Bosnian Women’s Association” 2003, 1). In addition to expressing discontent with the sentence, the *Association* implied that the ICTY acquitted Nenad in order to reach the plea bargain deal with Predrag and suggested that a court investigation might have uncovered the location of over 300 bodies from Keraterm, the prison where Predrag committed his crimes (“Bosnian Women’s Association” 2003). A longer sentence could have delivered greater comfort to victims’ families who bemoaned that Predrag would serve less than a year and a half for each murder (Stephen 2005). The plea bargain also removed the need for victim testimony. Not a single victim or family member had the chance to share his or her story for the official record in court.

The outcome of the judicial process for Predrag included his wedding at the Schevenigen Detention Unit, where Slobodon Milosevic served as his best man (“Milosevic is Best Man” 2002), followed by a brief spell of detention in France. This almost comedic outcome and lackluster application of justice dishonors the experiences

of victims and afflicted residents of the community, diminishing chances for justice to contribute to societal reconciliation.

While many wish to move forward by forgetting these crimes, a strong call for trials and justice remains. In 2007, 100 individuals from Prijedor protested outside the BWCC to demand more trials. Poster slogans included, “You should be ashamed,” and “You have not filed one single indictment for war crimes committed in Prijedor” (“Remembering Prijedor” 2007, 1). The most famous victim of the war, Fikret Alic, whose photograph while starving in Omarska stunned the world into action, describes his feeling before the authorities arrested major perpetrators: “...while he was free, I was broken too” (Vulliamy 2008, 24).

These actions indicate a positive outlook for the potential role of international justice in providing closure to victims. The majority of victims interviewed by Hodzic (2010) stated their belief that war crimes trials can provide justice. Firket Alic shares this view: “All we want is a fair trial, the truth about what happened in the war in Bosnia” (Traynor 2009, 1).

Despite these call for justice, denial continues to dominate discourse in Prijedor. “The crimes need to be discussed openly,” said Karabasic, head of the *War Crimes Victims Association from Prijedor*. “Serb local people don’t want to hear about it” (Boyle 2007, 1). The question-and-answer section of the ICTY Outreach Programme held in Prijedor in 2005 further indicated this public denial of crimes, with individuals accusing the tribunal of conducting a witch hunt against Serbs and asking why the tribunal did not establish that Muslims triggered all crimes committed in Prijedor (McDowall 2005).

Victims feel that they still haven't received any acknowledgement for the crimes they suffered, especially not from their neighbors (Lazaroff 2009). Thus, the dissatisfaction of the Bosniaks, along with the denial of many Serbs for any crimes committed on behalf of their ethnic group, persists. Bosniaks indicate that they most ardently seek simple acknowledgment from their Serb neighbors of the crimes that they suffered. As stated by one camp victim, Mustafa Puskar, "...my Serb neighbors will not acknowledge what happened to us, that we were taken to the camp and what horrors happened to us there. That hurts me the most" (Hodzic 2010, 20).

Within this pervasive culture of denial in Prijedor, there are few positive signs for reconciliation. Ultranationalist parties are highly successful, and reports of ethnic intolerance continue. Boyle (2007) finds that Prijedor remains divided along ethnic lines. Many Serbs are hostile to returnees. In 1999, a Muslim returnee shot Pavle Dzakula, wartime Chairman of the Republic of Serb Krajina, at a local restaurant in what appears to be a politically motivated assassination, suggesting that vigilante justice was threatening to replace legal proceedings ("Bosnian Serbs Suspect" 1999).

The elected mayor, Marko Pavic, continues to make incendiary, ethnically charged comments. In his statement during the ICTY Outreach Programme in 2005, Pavic indicated his reservations with hosting the conference in Prijedor, reminding the audience that as no one from Prijedor was convicted of genocide, the violence in this area did not amount to that of other regions (McDowall 2005). The ultranationalist parties dominating the political scene and the local culture of mass denial reinforce the entrenchment of nationalism in Prijedor.

2. Foca

While some may see Prijedor as a case of failure to deliver post-conflict justice, others regard Foca as a story of success. Foca scored 1.06 on this study's prosecution rate measure. Of the local communities that experienced a large number of war crimes, Foca received a great amount of attention from the ICTY and the BWCC, with the latter indicting and sentencing individuals from this region in some of its earliest cases.

To be sure, the justice delivered in Foca was far from perfect. Many crimes have not been recognized in court. Among those, no court addressed any crimes against Serbs committed in the region, despite knowledge of their occurrence and information about the individuals responsible. As in Prijedor, some citizens of Foca condemn the fact that no international body indicted or charged any individual for genocide in the area (McDowall 2004). In addition, residents of Foca take issue with many ICTY decisions, claiming that the sentences are too light, that the court indicted too few individuals responsible for these crimes, and that some of these individuals continue to hold positions of power (Purvis 2001).

The ICTY team for Foca predominantly prosecuted crimes that took place in detention facilities with the hope that this strategy would lead them to the highest ranking perpetrators, leaving isolated mass murder incidents to the local courts. Recognizing limitations to their caseload, the ICTY carefully documented information on lower-level perpetrators for local prosecutors and revealed these names in trial decisions in order to stigmatize the individual, as opposed to indicting individuals and then withdrawing charges, as in Prijedor (McDowall 2005). The BWCC picked up some of these cases in a

timely manner, sentencing Gojko Jankovic to 34 years, one of the longest sentences issued by the BWCC (“War Criminal Gets 34 Years” 2007).

In contrast to Prijedor, fewer suspects from Foca attempted plea bargains, allowing full-scale investigation and participation of witnesses. The lack of reliance on guilty pleas allowed more victim participation. In the case of KP Dom Warden Mr. Krnojelac, who denied all charges, different witnesses told their stories to prove all 50 counts, publicly airing his crimes (McDowall 2004). In this high profile case, the Appeal Chamber ruled to double the sentence of Mr. Krnojelac (Simons 2003).

The most famous case from Foca, the trial of Kunarac, Kovac, and Vukovic, involves horrific stories of sexual abuse and sexual slavery, most shockingly the repeated rape of a twelve-year-old girl for 30 days who then disappeared after her rapists sold her to a Montenegrin soldier. This case resulted in relatively high sentences for the perpetrators when compared to other ICTY sentences: 28, 20 and 12 years respectively. Kunarac turned himself in to authorities in 1998, while SFOR soldiers arrested Kovac and Vukovic in 1999. The ICTY confirmed these sentences in 2002 (*Prosecutor v. Kunarac, Kovac, and Vukovic* 2002).

This case relied almost entirely on victim testimony from 16 women (McDowall 2004). Those giving testimony often cried or shouted angrily, gesturing at the perpetrators (Mann 2001). Even the mother of the missing twelve-year-old, another victim of the rape camps, chose to testify. She relived her intense agony on the stand, restating the last words she heard her daughter screaming before they were separated: “Don’t touch me, I’m only twelve” (Sokolovsky 2000, A12). Despite overwhelming fear

of retaliation and the enormous stress of reliving this type of intense pain in a courtroom, these women chose to face their perpetrators and offer testimony.

One woman giving testimony indicated her motives for testifying: “[I wanted]...to let it be known what really happened...I wanted everyone to hear about it” (Barkan 2002, 1). Another witness described her experience of testifying for a PBS documentary, *Women, War and Peace*: “I was proud and full of strength...I looked him in the eye...I wanted to prove what I had suffered” (Hogan 2011). The difficulty of testifying along with these statements indicates a strong desire among these women to see justice delivered.

The court rejected a plea bargain attempt from Mr. Kunarac, who admitted that he raped two women but maintained his innocence on other counts (“Guilty Plea by a Serb” 1998). The court furthermore suggested that Mr. Kunarac held the responsibility to prevent other rapes, as a leader among his soldiers. This case served not only as a landmark in international human rights law and potential deterrent in future international conflicts, but also removed from Foca three notorious perpetrators, ostensibly provided victims a sense of comfort, and established a clear record of these tragic events. Kunarac now serves out his sentence in Germany and Kovac in Norway. The court released Vukovic in 2008 (*Prosecutor v. Kunarac, Kovac, and Vukovic* 2002). This high profile case drew widespread attention to wartime rape and sexual slavery in Foca.

It is notable that Foca appears to be a success story not only for justice, but also for reconciliation. In the early 2000s, local authorities in Foca made a commitment to change the municipality’s image, putting economic concerns ahead of nationalism and the protection of war criminals. Lutvo Sukalo, a Bosniak and Speaker of the Foca

Municipal Assembly, noted these changes and asserted that “a psychological block has been removed” (Whitaker 2000). The Deputy Mayor, Mr. Stankovic, enthusiastically welcomed the ICTY Outreach Program to Foca and, unlike Mayor Pavic in Prijedor, stated his hope that more minorities will return to Foca (McDowall 2004).

These changes in Foca corresponded with the increase in arrests of indicted individuals, who lived openly in Foca as late as early 2000. Since that time, Foca also made great strides in implementing non-discriminatory property laws, achieving one of the greatest successes of all Bosnian municipalities in this area (“TV Documentary” 2003).

Serb neighbors reacted peacefully to a recent mass return of Muslims into the area. In turn, some displaced Serbs expressed their wishes to cross the Inter-Entity Boundary Line into the part of pre-war Foca under control of the Federation: “I have lived fine with them [Muslims] and I want to go back to my property and live with them again” (“Bosnia Serb Hard-Line Town” 2000, 1). This demonstrated willingness of some individuals of different ethnic groups to live together is a highly positive sign for future reconciliation.

Unlike Prijedor, Foca has not been hospitable to ultranationalist politics, evidenced by the much lower than average support for such parties in the 2008 elections as compared to other municipalities that experienced similar violence during the war. More telling, residents of Foca elected a mayor advocating tolerance, dialogue, and minority returns into office. The mayor, Mr. Krsmanovic, changed the official town name back from its post-war name Srbinje, place of the Serbs, removed Serb street names in

town, and began the reconstruction of mosques. This display of tolerance is extremely rare in Bosnia.

Reconciliation is far from complete. Nonetheless, Foca remains a success story of post-conflict justice and reconciliation. Whether the former is causally linked to the latter is the key question. The above review of these two cases hints at the possibility of such a relationship. The similarities between Foca and Prijedor in terms of several other factors potentially impacting reconciliation provide more convincing evidence of a causal relationship (see Appendix 6).

Foca and Prijedor have a markedly similar level of urbanization, the only variable identified in the previous quantitative analysis as a strongly statistically significant factor. In fact, Prijedor is slightly more urbanized than Foca. This similarity negates the possibility that urbanization drives the difference in reconciliation found between these two communities. Better economic conditions and fewer wartime casualties don't explain Foca's success story either, as Prijedor suffered fewer *per capita* casualties during the war and enjoyed slightly better economic conditions than Foca as of 2008. While a slightly greater number of minorities returned to Prijedor, both municipalities experienced relatively high numbers of minority returns.

These similarities across several pertinent variables increase the likelihood that justice, or a higher prosecution rate, promoted reconciliation in Foca. Subjected to a more extensive and smoothly executed administration of justice, Foca exhibits very positive signs for future tolerant interethnic relations. These case studies provide compelling evidence of a causal relationship between justice and reconciliation in municipalities exposed to the most severe violence.

Discussion

The quantitative analysis and case study established convincing evidence that judicial proceedings promote reconciliation in areas that experienced the greatest wartime violence. In these shattered communities, municipalities with low prosecution rates provided much greater support to ultranationalist political parties that fed on conflict-related grievances. Providing more compelling evidence, the interaction regression analysis evaluated the marginal effects of justice at different levels of violence and demonstrated that a higher prosecution rate reduced support for ultranationalist parties in municipalities with the highest levels of violence. A model considering the relationship between justice and reconciliation in only high violence municipalities again found that a higher prosecution rate significantly decreases support for ultranationalist parties.

The case study unveiled qualitative data supporting the idea that prosecuting war criminals promotes healing in these war-torn environments. The removal of war criminals cleared the space for improved interethnic relations. Victims denied justice voiced their desire for prosecutions and acknowledgement.

This study presented a clear covariation between the prosecution rate and support for ultranationalist parties in these high violence municipalities, identified logical causal mechanisms potentially driving this relationship, and considered pertinent control variables in the analysis to address spuriousness. The research design ensured an appropriate temporal relationship between these two variables by considering election results in late 2008 and trials completed and indictments issued before this time. By addressing these factors, the study presents a compelling case for a causal relationship between justice and reconciliation in high violence areas.

These results do not hold in localities exposed to more moderate violence, suggesting that high violence municipalities respond fundamentally differently to prosecutions than other areas. The lack of a significant result in these more moderate violence cases suggests that judicial proceedings may yield too indirect an influence to greatly effect reconciliation locally in most cases. These communities may be less keenly impacted by the violence and thus less invested in the trials.

Despite this finding, multiple studies highlight the deficiencies of the ICTY and the BWCC in delivering justice and the lack of sufficient court outreach efforts. Future tribunals may provide an impact in moderate violence communities with greater local outreach efforts. The physical distance of the ICTY from communities in Bosnia possibly limited the court's ability to impact local societies. It is possible that a future analysis after the BWCC has adjudicated a more substantial amount of cases may yield more significant results. The small number of indictments issued relative to the number of war crimes and the seemingly lenient sentences may have furthermore constrained the ability of the ICTY and the BWCC to affect post-conflict healing in these communities.

At the absolute lowest level of violence, the interaction effect between the prosecution rate and wartime violence demonstrated a negative impact of justice on reconciliation. Low violence municipalities with high prosecution rates displayed greater ethnic tensions than those with fewer prosecutions. This result indicates that justice-related mechanisms some scholars suspect of negatively impacting reconciliation may operate more strongly in these settings and may outweigh the positive impacts that benefit municipalities that experienced the greatest wartime violence. For example, people in these communities may be more inclined than people elsewhere to put the

violence behind them, and thus trials may inflame rather than reduce ethnic tensions. Removing perpetrators of war crimes and providing closure may be less critical in these circumstances, as ostensibly there are fewer war criminals in society, fewer victims, and fewer uncovered details such as the location of mass graves. This interesting result merits deeper analysis in future studies.

The effect of wartime violence on post-war reconciliation appears to operate above a certain threshold: municipalities suffering the greatest wartime violence display significantly more ethnic tension and nationalist sentiment than those that experienced less or more moderate wartime violence. These results indicate that violence left a distinct scar in municipalities that experienced the most intense violence of the conflict. The impact of extreme violence experienced during the war influences political behavior in these communities today.

To be sure, urbanization rather than justice proved to be the most statistically significant variable in the analysis. The most urban localities across Bosnia clearly displayed less extremist sentiment. This result suggests that urban environments prove most conducive to reconciliation and supports theories proposing that agrarian areas are more receptive to ultranationalist wartime ideology in Bosnia. Higher education levels associated with urban areas may additionally impact voting behavior in these areas. This study also offers evidence that certain ideas remain more deeply embedded in rural areas when compared to those in urban localities. Just as Tworzekci (2003) found traditional religious culture more deeply rooted in rural societies, this study found ultranationalist sentiment entrenched in rural post-war municipalities.

The most rural municipalities with high prosecution rates displayed substantially less support for ultranationalist parties than those with low prosecution rates. Although this result did not hold in an interaction analysis, it nonetheless tentatively suggested that justice provides a significant impact on reconciliation in the most rural areas. As this study found nationalism most embedded within these communities and urban communities more transient, the trials may serve a more important role in rural societies to distance communities from wartime ideology. Alternatively, other factors may drive this variation seen in the municipal group comparison.

Furthermore, the results of this study suggested that the ethnic composition in a municipality influences reconciliation in so far as places with more diverse ethnic composition find it more difficult to put the wartime past behind them. The potentially heightened perception of a security threat when confronted with a more significant population size of the “ethnic other” may cause this observed relationship. Alternatively, minority returns, this study’s proxy for ethnic composition, may drive this relationship. A greater number of minority returns may inflame ethnic tensions, by virtue of the necessary expulsion of wartime occupants from returnees’ pre-war homes and forced integration. Though short of statistical significance, this finding is particularly interesting considering the Dayton Peace Agreement’s central focus on the right to return as a focal point for establishing peace.

This study did not find that lengthier prison sentences issued by international war crime tribunals contribute to reconciliation; however, this finding should be viewed in the context of the general leniency of sentences issued in the Bosnia war crimes trials. The case study suggested that light sentences obstructed the positive impacts of justice in

Prijedor. Therefore, while this study does not rule out the idea that retribution and greater punishment of war criminals promotes healing, it provides no evidence of a positive impact either.

Last but not least, it should be noted that quantitative analyses such as this study are heavily dependent on the quality of available data. Unfortunately, reliable population estimates, census data, and economic figures are simply not available for post-conflict Bosnia. More worryingly for Bosnia's future, no international organizations systematically collect and report data on acts of interethnic hate speech, vandalism, beatings, and so forth (OSCE 2008a). This study has argued that electoral support for ultranationalist parties provides a reliable indicator of interethnic tensions in a given community; nonetheless, considering additional measures of reconciliation (including data on hate crimes) across Bosnia would have constituted a more valid, convincing measure. The fact that such data is simply not being collected represents a troubling discrepancy in the international community's efforts to monitor ethnic relations in post-conflict Bosnia.

Likewise, the measure of war crimes (factored into the prosecution rate measure) raises some concerns. It would have been preferable, for instance, to know the exact number of people impacted by war crimes in a given community as opposed to knowing only the number of crimes committed. As previously addressed in this study, some war crime instances may remain unreported. Sadly, this situation is similar in many war-torn countries and proves an obstacle to empirical research in post-conflict settings.

Despite these shortcomings in the data available, this study created reliable indicators of each measure comparable across pre-war municipalities. In an ideal world,

more detailed and contemporary statistics on the local environment would be available. Nonetheless, the data used in this study provides an indication of the local conditions, exposure to wartime violence, and extent of prosecutions in each municipality.

Conclusion

This study addressed a highly contentious topic characterized by strong opinions and no consensus. Proponents and critics of the use of war crimes trials as a strategy promoting reconciliation bolster their arguments with examples of real-world cases that can't be discounted but do not fit neatly into either the theory that prosecutions advance or obstruct reconciliation. Others identify alternative methods of handling perpetrators of mass atrocities that met with varying successes in different cases, including enacting reparations, Truth and Reconciliation Commissions, amnesty, or simply allowing a national "amnesia" towards memory of the past (Judt 2001).

Within this larger context, Bosnia constitutes a particularly contentious case. Scholars present Bosnia both as a case of successful post-conflict justice and as an example to demonstrate the severe deficiencies of international tribunals in promoting local reconciliation. Bosnia as a whole constitutes a "tough" case for reconciliation, considering the country's multifaceted transformation from a single-party communist state with a command economy as well as its long history of ethnic strife predating the civil war of the 1990s.

By empirically comparing sub-national units, this study provided a novel perspective on the relationship between justice and reconciliation. This study addressed the counterfactual- what may have transpired in certain municipalities without these trials- by comparing municipalities exposed to justice with those largely denied justice. The consideration of the *extent* of justice delivered in local contexts moved beyond the binary variables conceptualizing justice used in previous studies.

Providing more clarity to this controversial field, this study raised doubts about broad theories proposing overall positive or negative impacts of trials on local reconciliation. The data simply do not support either conclusion. Instead, this study discovered a context-specific relationship between justice and reconciliation. The evidence in this study strongly supports the idea that the “politics of place” operate in post-conflict settings such as Bosnia (Toal and Dahlman 2011). While civil war is generally associated with internal displacement and change, this study found evidence of continuity in these communities. Local factors such as wartime experience influence attempts to deliver justice and processes of societal reconciliation. Previous studies overlooked this relationship between reconciliation and justice by ignoring context, local variability, and location-specific responses to prosecutions.

The evidence suggests that a complex array of factors temper the impact of post-conflict justice on societal reconciliation. The findings of this study suggest several important policy implications for post-conflict justice. Most importantly, providing justice to severely war-torn areas improves societal reconciliation. Trials should focus on providing justice to the most shattered communities. Efforts in other regions may be less critical. The adverse impact of trials may outweigh the benefits in areas least affected by the conflict. This finding does not rule out the possibility that with more extensive outreach into local communities, trials may impact reconciliation positively in areas less keenly impacted by wartime violence.

These results stress the need for a more complex theory to understand the influence of post-conflict justice on local reconciliation. This study proposes the theory that post-conflict justice significantly promotes reconciliation in areas that experienced

the most intensive violence of the conflict. Because high conflict regions possess the greatest need for post-conflict justice, there is greater room for post-conflict justice to provide benefits in these communities.

The indictment of war criminals improves local conditions in high violence regions by removing perpetrators still potentially in positions of power, limiting their influence to continue abusive practices, and potentially discrediting them in the eyes of other community members. Indictments may facilitate the individualization of guilt and serve as a mechanism for other community members to distance themselves from the indicted individuals. The trials may also initiate the collection of evidence leading to the discovery of mass graves and promote public discourse. These contributions should increase public acknowledgement of the crimes committed and provide closure to victims.

In conclusion, this study contributed to the literature by providing an empirical study evaluating the impact of post-conflict justice on processes of reconciliation. It supports the importance of providing post-conflict justice to communities highly scarred by war and recognizes the lesser importance of these trials in areas that experienced less intensity of conflict. Through quantitative and qualitative analysis, this study proposes a more complex theory of international justice. Much remains unknown about the influence of justice, and future studies are necessary to further untangle this relationship. As this study identified these significant results by considering the amount of wartime violence experienced in each community, future studies should distinguish areas by conflict type and intensity of violence.

Appendix

Appendix 1: Municipal Units

Bosnia was divided into 109 pre-war municipal units. Ideally municipalities would be completely homogenous units, but there is some distribution in terms of area and population size that must be taken into account. According to Weidmann (2009), the average surface area of these units is 400 km squared. The average pre-war municipal population size was 41,292.76, with a range of 4,172 to 195,692.

Bosnia today is divided into 142 post-war municipal units. To transfer post-war data including election results and control variables from post-war to pre-war municipalities, I created transparency sheets out of maps produced by the Office of the High Representative (OHR) in Bosnia of 1991 (pre-war) and 1998 (post-war) municipal borders (OHR 2005a; OHR 2005b). By comparing pre- and post-war borders, I determined which post-war units constituted pre-war municipalities. Court case documents, violence statistics, and urbanization estimates were already reported at the pre-war level. I transferred data on elections and the control variables back to pre-war units by averaging post-war data.

This boundary re-construction could not be completed with certain accuracy for four municipalities in Sarajevo canton (Stari Grad, Novo Sarajevo, Centar Sarajevo, and Novi Grad Sarajevo), which were thus collectivized into a single unit. Therefore, I consider 106 pre-war municipal units in the analysis.

Appendix 2: Municipal Groups

I determine whether the differences between municipal groups are statistically significant using difference of means tests in STATA 12.0 software. As indicated in the text, I construct municipal groups considering the variation across each variable to ensure that “high” and “low” groups adequately differ. Considering the broad range of variation over the violence level and urbanization level variables, I term “high” and “low” cases as those in the top 20% and lowest 20% of violence and urbanization, respectively.

The prosecution rate measure compares the bottom 50% to the top 25% of municipalities in terms of prosecution rate. Because such a high percentage of municipalities scored 0 on the prosecution rate measure (46%), I expanded the “low” category. Fortunately, there is still a broad range of scores and sufficient variation across municipalities in terms of the prosecution rate (the average score is 0.72, with a standard deviation of 1.63). To include more municipalities in the analysis, I broadened the criteria for “high” to the top 25% of municipalities. I faced a similar situation in constructing municipal groups based on severity of sentences. 60% of municipalities score 0 on the severity of sentences measure, which thus constitute the “low” severity of violence group. To ensure an adequate difference in municipal groups with “high” and “low” scores, I term the top 20% of municipalities as the “high” severity of sentences group in this case.

Appendix 3: Party Classification

To classify parties or candidates, I analyzed all political parties based on LexisNexis searches to scan relevant newspaper articles for statements of party leaders and party websites to obtain party platform and mission statement. (In some cases, I also consulted party Facebook pages to find additional information on party mission statements.) Based on this information, I determined whether each party met my criteria for an ultranationalist party or instead clearly displayed more moderation or tolerance. I classified each party considered as “ultranationalist,” or “not ultranationalist.” Finally, I computed the total percentage support for each ultranationalist party in a municipality as the measure of *support for ultranationalist parties*.

I completed this process for each of the 142 post-war municipal units. I then applied this information to pre-war municipalities by matching pre- and post-war municipal boundaries as described in Appendix 1.

I found no information or not enough information to confidently classify nine parties or candidates out of nearly 80 parties classified in the analysis. In these instances, I excluded the party or candidate from the analysis. There is little concern that this exclusion impacts the results of the study. All parties lacking adequate information were either independent candidates or very minor, locally based political parties earning a small share of the municipal vote in a single municipality. Most small, local political parties for which I obtained information advocated an issue area as opposed to nationalist politics. Further diminishing concerns, it is likely that individuals highly prejudiced against other ethnic groups would support a candidate from a well-established, divisive political party, as these nation-wide parties dominate the discourse on ethnic issues, as

opposed to a small local party without as much influence to promote policies of ethnic separation.

Appendix 4: Reported War Crime Instances

I counted the following instances reported by the “Bosnian War Crimes Atlas” as war crimes: instances of mass or group murder, rape camps, mass gravesites, use of civilians as a human shield, prison abuse, murder, and rape. Although inherently subjective, I employ a scale to roughly distinguish between war crimes affecting large groups and single individuals, with single instances of murder, rape, and prison abuse weighted at 0.2 as compared to all other crimes. I also counted as war crimes instances in which armed forces clashed with unarmed civilians. This estimate comes from the Weidmann dataset (2009), collected from ACLED geospatial conflict reporting.

The location of an illegal detention center in a municipality indicated “prison abuse.” In order to avoid double counting, I included prison abuse only if the atlas indicated that citizens were captured or prisoners were mistreated and if the prison was not already cross listed as a rape camp prison or as the site of a mass murder where prisoners were not held for any amount of time prior to the murder. I assumed that citizens were illegally held in the prison centers only if the atlas stated that persons of a certain ethnicity were held, residents of a municipality were held, or specifically that citizens were held. If no such information was given, it was assumed that the prison camp was legal.

Please note that war crime incidents provoking two war crimes cases, one relevant to Visoko and the other to Dobož municipality, were not cited in the “Bosnian War Crimes Atlas” or the Weidmann/ACLED dataset. After investigation of the court records, the incident in Visoko was determined to be an instance of one-sided violence taking place in Hlapcevići Village, and the case in Dobož was an instance of wrongful citizen

imprisonment, as well as use of citizens from Makljenovac village as a human shield (ICTY 2012). These events were counted in the analysis as such.

Appendix 5: High vs. Moderate Violence Municipalities

Model 6 found a positive impact of justice in high violence municipalities. As far too few municipalities fell into the lowest 10% of wartime violence (where the interaction model indicates a statistically significant negative impact of justice), a low violence model is not considered.

A model *excluding* high violence municipalities confirms that different mechanisms lead to reconciliation in more moderate violence cases. In these cases, the prosecution rate is highly statistically insignificant with a p-value of 0.86. Other variables, however, provide highly statistically significant impacts on reconciliation. Urbanization, ethnic composition, and internally displaced persons all impacted reconciliation with p-values meeting the 95% level of significance for a two-tailed test. The interesting result reaffirms the importance of providing justice specifically to areas that experienced high wartime violence.

Appendix 6: Prijedor and Foca Comparison

Variable	Prijedor	Foca
Prosecution Rate	0.32	1.06
Per Capita Deaths	0.05	0.09
Urbanization	0.97	0.93
Unemployment	0.42	0.52
Displaced Persons	0.06	0.40
Minority Returns	0.13	0.08

Notes

¹ Municipal groups include the following: high violence and low justice, high violence and high justice, low violence and low justice, low violence and high justice.

² While municipalities in the Federation provide rough population estimates, municipalities in RS provide no such data. 1991 and current population size estimates for Federation municipalities correlate highly at 0.91, indicating that the 1991 population estimates constitute a reliable indication of current population size.

³ Consideration of the influx of displaced persons into different communities also addresses the issue of population movement associated with civil war.

⁴ The difference of means between municipal groups in the lowest four quintiles of violence is not statistically significant.

⁵ It is important to note that these models provide *predicted* estimates of support for ultranationalist voting. In reality, the actual observed values do not conform to a clear, straight line as proposed in the models and some of the coefficients display high standard error.

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