



Transitional Justice and DDR: The Case of Bosnia and Herzegovina

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Transitional Justice and DDR Project

This research project examines the relationship between disarmament, demobilization and reintegration (DDR) programs and transitional justice measures. It explores the manifold ways in which DDR programs may contribute to, or hinder, the achievement of justice-related aims. The project seeks not only to learn how DDR programs to date have connected (or failed to connect) with transitional justice measures but to begin to articulate how future programs ought to link with transitional justice aims. The project is managed by Ana Patel, Deputy Director of the Policymakers and Civil Society Unit at the ICTJ. For more, visit www.ictj.org/en/research/projects/ddr/index.html.

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Introduction

The Bosnian war left a legacy of horrific crimes and human rights violations committed mainly against civilians. As part of the Dayton Peace Agreement (DPA), and in an effort to assure a peaceful transition out of violence, the ethnic armies in Bosnia and Herzegovina were scaled down, with the demobilization of nearly 300,000 soldiers. This initial demobilization and subsequent disarmament, demobilization and reintegration (DDR) programs were held independently of the larger effort to seek justice. Some of those responsible for the crimes, including members of the political leadership, have faced some kind of accountability process, through the venues of the International Criminal Tribunal for the former Yugoslavia (ICTY), national courts or informal processes. In an attempt to unveil potential linkages between the arenas of transitional justice and DDR, this analysis posits that, despite the absence of formal links between the DDR processes and the transitional justice programs, DDR programs aided the cessation of violence and helped rebuild a more manageable security sector in a postconflict state. At the same time, only limited attention and funds were committed to the reintegration of former soldiers into the society.

The paper begins with an overview of the Bosnian war and follows with a brief description of the postconflict situation in the country. It then turns to a discussion of the DDR process, highlighting the demobilization of the armies and the involvement of the international community in creating unified and multiethnic armed forces. With a focus on international courts, vetting and reparations programs, the paper goes on to explore the transitional justice measures in Bosnia and Herzegovina. Finally, the paper looks at the lacking linkages and absent coordination between the DDR and transitional justice initiatives and ends by providing a few viable recommendations for bridging the existing gap between the two arenas in Bosnia and beyond.

1992–1995 Bosnian War

Although Bosnia and Herzegovina¹ seemingly represented the multiethnic heart of post–World War II Yugoslavia, ethnic cleansing, devastation and mass killings marked the lives of Bosnians in the early 1990s. Before 1991, Bosnia and Herzegovina was the most ethnically mixed of the Yugoslav

republics: its population was composed of Bosnian Muslims, or more correctly Bosniaks (43.7 percent), Bosnian Serbs (31.3 percent), Bosnian Croats (17.3 percent) and numerous minorities (for example, Roma and Jews). The ethnic groups frequently intermarried, and Bosnia's capital of Sarajevo was often recognized as a city of a highly multicultural and multiethnic character.

As communist regimes started to collapse in Eastern Europe, Serbia began to pursue political dominance over other Yugoslav republics, including Slovenia, Croatia and Bosnia and Herzegovina. Slovenia and Croatia proclaimed their independence in 1991. In response, Serbia and Montenegro, with their sole control over the Yugoslav National Army (YNA), first attacked Slovenia and later Croatia. The emergence of the nationalistic parties throughout the former Yugoslavia contributed to this situation by reestablishing the notions of ethnic separation and division. Specifically, the Party of Democratic Action [*Stranka Demokratske Akcije*] (SDA) dominated by Bosniaks, the Serb Democratic Party [*Srpska Demokratska Stranka*] (SDS) and the Croatian Democratic Community [*Hrvatska Demokratska Zajednica*] (HDZ) dominated the political stage in prewar Bosnia. In line with the majority of Bosnians who voted for an independent Bosnia at a referendum held on February 29 and March 1 of 1992, Bosnia proclaimed independence. A month later, Bosnia erupted into war. The SDS, led by Radovan Karadzic and militarily backed by the YNA, refused to recognize the independence of Bosnia and Herzegovina and established the Serb Republic [*Republika Srpska*] (RS), which expressed its unwavering loyalty to Belgrade. Consequently, the YNA (which upon the dissolution of Yugoslavia became the Army of Serbia and Montenegro), together with Serb paramilitary units that were later organized into the Army of the Serb Republic [*Vojska Republike Srpske*] (VRS) and the RS police, initiated a massive campaign of ethnic cleansing. Through massacres and massive destruction, the RS aimed to expel all non-Serbs from much of Bosnia and Herzegovina, working toward its annexation to Serbia. In the initial phase of the conflict, the Army of Bosnia and Herzegovina² and the Croatian Defense Council [*Hrvatsko Vijeće Odbrane*] (HVO) were unable to oppose the militarily superior Serbs, who quickly occupied approximately 70 percent of Bosnia and Herzegovina.

While debates continue as to whether to label Bosnia's war an international conflict or a civil war, the complex picture of on-the-ground fighting clearly suggests that both types of conflict occurred in the period from 1992 to 1995. While Serbia played the central role as the war instigator by directly partaking in the conflict and by arming local Serbs, the ethnic composition of Bosnia complicated matters further. Some of the Bosnian Serbs and Bosnian Croats sided with Serbia and Croatia, respectively, in the expectation that the two neighboring countries would eventually partition Bosnia along ethnic lines.

In selected pockets of the country and toward the end of 1992, HDZ and some HVO units turned their backs on Bosnia's central government in Sarajevo and started fighting against the Army of the Republic of Bosnia and Herzegovina (ARBiH). Croatia's army often fought alongside the Bosnian Croats. By August of 1993, HDZ proclaimed its own Croat Republic of Herceg-Bosna (*Hrvatska Republika Herceg-Bosna*) while initiating a campaign of ethnic cleansing against non-Croats from the areas under Herceg-Bosna's control. The ultimate goal resembled that of the Serbs: Croats hoped to

eventually annex the HVO-controlled areas to Croatia. With the Bosnian war spinning out of control, Fikret Abdic, a charismatic Bosniak politician, triggered an intra-Bosniak conflict when he sided with the Serbs and, in 1993, proclaimed the Autonomous Province of Western Bosnia [*Autonomna Pokrajina Zapadna Bosna*] (APWB).

From the end of 1992 until the spring of 1994, the ARBiH found itself fighting against the Bosnian Croats, the Bosnian Serbs and the rebel Bosniaks from the APWB. Notably, the situation on the ground closely resembled the territorial partition of Bosnia and Herzegovina that Serbia and Croatia agreed to in a secret 1991 meeting—which later became public—between Serbia’s Slobodan Milosevic and Croatia’s then president, Franjo Tudjman.³

The 1992–1995 war brought about the killing of approximately 200,000⁴ people, as well as mass rape, genocide and ethnic cleansing, mostly of the Bosnian civilian population.⁵ Bosnian Muslims suffered the heaviest losses, both in terms of victims and massive displacement. Though Tadeusz Mazowiecki, at the time the Special Rapporteur of the UN’s Commission on Human Rights on the situation in Bosnia and Herzegovina and the Federal Republic of Yugoslavia, recognized that while Bosniaks are “the principal victims and are virtually threatened with extermination,” crimes were committed against Bosnian Serbs and Bosnian Croats as well.⁶ In one of Mazowiecki’s situation reports, he specified that Bosnian Serbs’ human rights had been violated in the areas managed by non-Serb forces, particularly in Croat-dominated areas.⁷

Ethnic cleansing was not a consequence of the Bosnian war, but rather one of its primary goals: mass executions and organized mass rape were tools used to forcibly displace minority populations from their homes. As documented by the Bosnian government, by 1993, between 20,000 and 50,000 Bosnian women were raped by members of Serb forces in their attempt to solidify their campaign for Greater Serbia.⁸ In 1993, the European Union (EU) also estimated that the number of raped Bosnian women totaled 20,000.⁹

Ethnic cleansing continued throughout the war even though the UN Commission on Human Rights strongly criticized the perpetrators of such a crime, especially the YNA and Serbia.¹⁰ The Internal Displacement Monitoring Centre estimated that by the end of the conflict, almost half of the population had been displaced from their homes: 1.2 million Bosnians were internally displaced and an additional million persons sought refuge abroad.¹¹ The war led to a drastic change in the ethnic distribution of the country: at the end of the conflict, the ethnicity of the majority in each of the country’s subregions was that of the leading political leadership in that locality.

The conflict between the ARBiH and HVO ended in March 1994, largely due to international pressure. At this later stage of the Bosnian war, the Washington Agreement was signed, creating the Federation of Bosnia and Herzegovina [*Federacija Bosne i Hercegovine*] (Federation BiH). This meant that the HVO and Army of Bosnia and Herzegovina—even in regions where they were previously in conflict—were now to join forces against the Serbs. After the signing of the Washington Agreement, the war in Bosnia was principally fought between the two main forces: the

Bosnian Serb Army consisting of Bosnian Serbs who were armed and helped by the former YNA, and HVO and the Army of Bosnia and Herzegovina, largely consisting of Bosniaks and those Bosnian Croats and Bosnian Serbs who disagreed with the ethnic partition of Bosnia and Herzegovina between Serbia and Croatia.

Serbia faced some difficulties in mobilizing its civilian population to fight wars in Bosnia or Croatia. Only half of Serbia's reservists responded to the call of active duty. Consequently, the provision of arms to local Serbs in Bosnia and Croatia was seen as key to Serbia's military success.¹² During the 1992–1995 war, 264,500 soldiers fought on the side of the Bosnian Army, while 154,500 soldiers were part of the Serb Army.¹³ Notably, however, the military might of the Serb Army, given its maternal link with Serbia, greatly overshadowed the meager military arsenal of the Army of Bosnia and Herzegovina. Moreover, while both armies mobilized a large number of civilians, the percentage of the professionally trained officers and soldiers was markedly higher among the Serbs relative to the Army of Bosnia and Herzegovina due to the past dominance of the ethnic Serbs within the YNA.

Even though one diplomatic initiative succeeded another in the international community's attempt to halt Bosnian hostilities, the war ended only after the NATO-led air strikes against Bosnian Serbs' artillery positions throughout Bosnia. Bosnian Serbs' systematic and organized mass executions of 8,000 Bosnian men and boys in Srebrenica, one of the UN-proclaimed civilian safe areas, marked a tipping point for the international community, and the NATO forces militarily intervened in August 1995, precluding Bosnian Serbs from further ethnic cleansing in Bosnia.

Only the NATO intervention was capable of bringing Bosnian Serbs to the negotiating table. Though limited to air strikes, the U.S.-led military intervention was a success. The military intervention helped on-the-ground non-Serb forces establish control over some areas of Bosnia, as Serbs had initially occupied and later controlled about 70 percent of the country's territory. The military intervention created the necessary conditions for the Dayton Peace Agreement (DPA, or Agreement) negotiations, which were successfully concluded on November 19, 1995. Bosnian President Alija Izetbegovic, Slobodan Milosevic and Franjo Tudjman signed the DPA. Although heads of state of neighboring Serbia and Croatia, Milosevic and Tudjman signed the DPA on behalf of Bosnian Serbs and Bosnian Croats, respectively.

The political conception of multiethnic Bosnia and Herzegovina remained a broad framework at the negotiations. Currently, Bosnia functions as one state governed by several key central institutions: a Parliament, a Council of Ministers, a tripartite Presidency (composed of Bosniak, Croat and Serb members), a Constitutional Court and a Central Bank. However, the DPA also divided the country into two separate ethnic entities: the Federation of Bosnia and Herzegovina and the Serb Republic. The Federation BiH was given 51 percent of the country's territory and the Serb Republic was awarded the remaining 49 percent of Bosnia. The Federation BiH is composed of ten cantons mainly inhabited by Bosniaks and Bosnian Croats, while the RS is not further fragmented and is principally populated by Bosnian Serbs. In addition to these two entities, the town of Brcko became an independent district, following an international arbitration, in 1999.

Postwar Bosnia and Herzegovina

More than a decade after the DPA, Bosnia remains a politically weak and ethnically fragmented state. In addition to Bosnia's divided state- and entity-level governing structures, the country's political power is further diluted by an extensive bureaucracy, which serves ten cantons, 149 municipalities, and the autonomous District of Brcko. Consequently, Bosnia lacks the social and political cohesion necessary for further postwar development and reconciliation. Lack of social cohesion, high corruption, low trust in the governmental structures and ineffective public administration characterize Bosnia today.¹⁴

Prior to the onset of the Bosnian war, the country's moderate level of economic development was coupled with an adequate social safety net, including health care and an educational infrastructure for its citizenry. The war severely retarded Bosnia's economic and social development, and postwar economic recovery has been primarily fueled by international assistance. Bosnia's per capita GDP for 2003 totaled only half that of 1990.¹⁵ The year 2003 also marked the lowest period of economic growth and highest unemployment rate since 1999.¹⁶ Some recent poverty data suggests that poverty ranges from 14 percent to 24 percent.¹⁷ Some have noted that while 19.5 percent of Bosnians fall below the poverty line, another 30 percent of the Bosnian population is near the poverty line.¹⁸ Unemployment remains high at about 31.8 percent; however, it increases to 62.3 percent among youth.¹⁹

The international community continues to favor a multiethnic state as the only viable solution for Bosnia. Nonetheless, with the country's internal division along ethnic lines and the frequently obstructive behavior of the local leaders, the international community has faced difficulties in rebuilding Bosnia's state institutions. Together with the European Union, United Nations, Organization for Security and Co-operation in Europe (OSCE), World Bank (WB) and other international organizations, the Office of the High Representative (OHR) has played a particularly important role in orchestrating political processes in postwar Bosnia. Under the auspices of the international community and in preparation for EU membership, Bosnia has pursued a variety of reforms to strengthen state infrastructure and to respond to the ongoing socioeconomic and political problems. Of particular interest herein is defense reform; however, "[s]ince [its] success depends ultimately on the support of precisely those ethnic power structures that face a net loss of power should the change take effect, prospects for reform are still precarious."²⁰ In postwar Bosnia, defense reform has revolved around downsizing the ethnic armies, as well as moving them closer toward unification and building one moderately sized national army. With this postwar consolidation and downsizing of the ethnic armies, some military officers no longer possessed the same level of power and control over their units. In the process, others lost their positions and sources of income. In particular, those who did not meet specific qualifications, such as having a certain level of education, were not able to keep their wartime jobs. Over the years, the Serb Republic has tried to hold on to as much political independence as possible, often hampering the defense sector reform. Despite the

Serb Republic's hindrance of the international community's attempts to strengthen the Bosnian state, the defense reform is nearing its completion and affirming the international community's intent to persevere in building a unified Bosnian state.

Bosnia's Imperfect Peace: Legitimizing Ethnic Cleansing

After three and a half years of hostilities, it was only through international pressure and a robust military intervention that the warring parties could begin negotiating and later reach agreement on the future of the Bosnian state. The DPA, with its complex structure and ensuing territorial organization, halted the war effectively and against many expectations to the contrary. However, this stability was principally achieved through the fragmentation of the state power and elevation of the warring parties to the top level of the country's political leadership; simply put, each ethnic group received its share of political power. In the long run, this approach has precluded Bosnian society from fully rebuilding its multiethnic identity and becoming socially cohesive.

The division of the country into almost mono-ethnic units satisfied those who conducted ethnic cleansing and was largely in line with the territorial gain achieved during the war. In other words, the DPA made warlords and nationalist leaders the winners of the Bosnian war. While Bosnia's peace process gave political recognition to criminal leaderships, it was the only peace attainable considering that the international community lacked the willingness to militarily halt the ethnic cleansing. It appears highly unlikely that the DPA could have ever provided a fair peace, as its main signatories were indicted for or suspected of committing war crimes.²¹

In spite of the fact that the postwar 1996 elections were deemed free and fair by international observers, these elections hindered the country's transition from war to peace. The holding of elections in a country still recovering from a devastating war, without either freedom of information or freedom of movement, simply increased the power of the nationalist parties that only a few months earlier had waged the war. Although nationalistic leaders were the signatories of the peace agreement, they had not yet given up their political goals. The elections also gave a pseudo-democratic legitimacy to a wartime leadership that was directly linked to organized crime. In the 1996 elections, Momcilo Krajsnik, Biljana Plavsic and Jadranko Prlic—all members of the highest echelons of the Serb and Croat political leadership during the war—became the Serb member of the Presidency of Bosnia and Herzegovina, president of the Serb Republic, and minister of foreign affairs of Bosnia and Herzegovina, respectively. In the following years, they were all indicted by the International Criminal Tribunal for former Yugoslavia (ICTY), and their trials are either currently under way or already completed.²² At the time, many of the individuals indicted by the ICTY continued to freely walk around the country, regardless of the presence of the NATO-led peacekeeping mission. Furthermore, some politicians who have emerged from the conflict, such as Gojko Kljickovic, Edhem Bicakcic and Ante Jelavic, have faced criminal charges for corruption and embezzlement of public funds.

While the conflict was de facto over, the transition from the war to peace was slow. During the first two years post-DPA, conflict continued to simmer because the main provisions of the Agreement dealing with human rights, the return of refugees and centralized institutions were not implemented.²³ By the end of 1997, the international community realized that the situation had to change: Bosnia was possibly on the verge of going back to war. Ethnic tensions were very high and nationalist parties had a strong hold over the police and military. This situation precluded hundreds of thousands of internally displaced persons and refugees from returning to their homes.

In response, the international security forces began to take a more robust approach toward persons indicted for war crimes. It was at this point that the OHR was entrusted with special authority, the so-called Bonn Powers. Through the use of the Bonn Powers, the High Representative could impose or abrogate any kind of legislation, as well as dismiss officials for noncompliance with the provisions of the DPA. The imposition of some key legislations in 1998—such as a national flag, citizenship, passports, a common license plate system, the restoration of phone lines and mail systems and a more decisive push for the return of displaced persons and refugees—helped Bosnia move forward. Ethnic tensions were eased by restoring some fundamental freedoms and allowing people to travel freely within the country. Finally, the peace implementation process was revived.

The sweeping powers given to the High Representative almost turned Bosnia and Herzegovina into an internationally administered country: while domestic authorities were formally responsible for the peace process, the OHR had the power to step in and pass any legislation on their behalf. Ten years after their introduction, the Bonn Powers are not yet being phased out, although the issue is constantly being discussed. Bosnia and Herzegovina has unquestionably progressed as a country in this time, but the domestic leadership has been largely stripped of responsibility because “politicians are still at war in their heads.”²⁴ Such attitudes are particularly visible before each election; unfortunately, revisiting war aims of the different parties in the conflict is still a strategy that helps most politicians win public support.²⁵ Due to increasing disappointment with the country’s political leadership, voter turnout in Bosnia has been rapidly falling: only 54.5 percent of voters participated in the 2006 elections.

In spite of this seemingly negative view, Bosnia has come a long way since the end of the conflict. This process culminated with the signing of the Stabilization and Association Agreement with the European Union on June 16, 2008, which has irreversibly placed Bosnia on the path toward EU membership. While the political transition has stagnated, the restoration of freedom of movement, visible return of displaced persons and refugees and increasing cultural, economic and social cooperation across ethnic lines has led to a measurable improvement in the relations among the three main ethnic groups. According to a recent survey, the level of interethnic tolerance among the country’s varied ethnic groups is “good” for 39 percent of Bosnians and “acceptable” for another 32 percent of the total population.²⁶ In contrast to the immediate postwar period characterized by the collective “demonizing” of other ethnic groups, Bosnians have now begun to distinguish among individuals and their actions regardless of their ethnic affiliation. Despite some notable improvements in Bosnia’s postwar development, more work remains to be done to ensure Bosnians’

material and emotional postwar recovery, especially among the soldiers demobilized in the years following the conflict.

Process

Description of the Disarmament, Demobilization and Reintegration (DDR) Process

Bosnia's DDR Process: Conceptual Framework

To secure peace in the Balkans, the international community leveraged the momentum it had gained during the 1995 military intervention. At the time when horrific violence was still transpiring, any kind of peace was preferred to the continuation of fighting. To achieve peace among the warring parties, the DPA process legitimized the results of the ethnic cleansing, thereby partitioning the country into two separate entities. Simply put, the international community was not concerned with bringing the war criminals to justice, but rather with bringing them to the negotiating table. Under such circumstances, Bosnian Serbs were largely awarded the areas of the country they controlled as of August 1995, while the remaining parts of Bosnia were given to Bosniaks and Bosnian Croats.

The parameters under which Bosnia's peace process was initiated and later solidified, however, were not fully articulated in the DPA. In particular, the DPA lacked a detailed treatment and a long-term perspective on the disarmament, demobilization and reintegration process mainly due to the political fragility of the Agreement.²⁷ At a time when the international community could hardly bring the warring parties to the negotiating table, the cessation of violence was its primary goal. Thus, the international community did not concern itself with the particulars of the DDR process. Any discussion of a DDR process that required dramatic downsizing of the armies likely would have created anxiety among the warring parties. Each of the parties to the Agreement would interpret such an event as placing them in a potentially vulnerable position relative to their adversaries. It is hardly imaginable, for instance, that Bosniaks could have seen a future that entailed forming a national army with the Bosnian Serbs during the DPA negotiations, particularly after the Srebrenica genocide in which Serbs massacred Bosniaks in the presence of the UN forces tasked with protecting the civilians of this small town in eastern Bosnia. Consequently, the DPA did not include a detailed treatment of these issues.

Furthermore, the legitimization of ethnic cleansing and the formalization of the ensuing territorial and ethnic division of Bosnia would likely not have occurred had it not been for the Serbs' military dominance in the conflict. Thus, it is reasonable to expect that the Serbs would have also resisted any peace agreement that would greatly challenge their perspective on these delicate issues. Given the heightened ethnic tensions at the time of the DPA signing and thereafter, the elimination of the

ethnic armies and their consolidation into a state army would have been difficult to imagine even for the most optimistic Bosnians. Thus, the DPA only briefly noted that those soldiers who “cannot be accommodated in cantonment/barracks areas” should be demobilized by taking any and all military equipment from them.²⁸

First Stage of DDR: Massive Demobilization

Though the DPA calls for the solidification of the Bosnian state, the vagueness of its framework for DDR partly resulted in the perpetuation and coexistence of the ethnically separate armies within the country. The DPA’s Annex 1B outlined that, with the cessation of hostilities, the country should demobilize the ethnic armies and downsize their forces to at most 55,000 soldiers in the Federation BiH and 56,000 soldiers in the RS. However, the DPA lacked specificity as to how the ethnic armies would gradually downsize and integrate, perhaps inadvertently signaling to the ethnic groups that it was still premature to dismantle their armies. More than a decade after the signing of the DPA, Bosnia is still working on creating a truly unified and functional army within its boundaries.

By the middle of 1996, approximately 300,000 of the total 400,000 to 430,000 soldiers within the country left their respective armed forces voluntarily.²⁹ Given the substantive lack of governance and institutional capacity in Bosnia at that time, the two ethnic entities did not provide assistance to their ex-combatants.³⁰ Similarly, during this initial and ad hoc stage of the demobilization process, the OHR, the state government and international organizations did not extend assistance to the demobilizing soldiers.

In the absence of any assistance, these former soldiers were forced to immediately and individually seek employment alternatives to support their families. The former combatants reentered Bosnian society largely unprepared for such a transition, often lacking education and skills and suffering from posttraumatic stress disorder (PTSD).³¹ Despite the fact that many soldiers were civilians prior to the onset of the Bosnian war, most were lost in the war-devastated and virtually nonexistent Bosnian economy, given that there were little to no employment opportunities available.

While the DPA did not elaborate on the demobilization and reintegration stages of the DDR process, the Agreement did note the salience of adequate disarmament. The DPA provided a general framework for the initial confinement of warring armies into their ethnic entities. Specifically, the Agreement called for all parties to the conflict to “disarm and disband all armed civilian groups, except for authorized police forces, within thirty (30) days after the Transfer of Authority.”³² The Agreement also called for all of the heavy weaponry to be placed into cantonments as per the instructions of the multinational Implementation Force (IFOR) tasked with supervising the disarmament phase.³³ While the disarmament process was largely conducted right after the Bosnian war, it has continued throughout the past decade via the occasional destruction of newly collected weapons.

Subsequent Stages of DDR: Gradual Downsizing and International Assistance

Over time, the international community became increasingly aware of the need to organize some kind of support for former soldiers in order to ensure their successful integration into civilian society. The concern was that these individuals would instead participate in organized crime, human trafficking and the black markets that continue to plague Bosnia and Herzegovina. Research on aid programs for former soldiers in Bosnia found that, on average, former soldiers who received no assistance in the process of reintegration earned a monthly income of KM238 (US\$188); this sum falls well below the UNDP's extreme poverty line of KM300 (US\$237), indicating that, on average, the ex-combatant is unable to earn a minimum salary to support himself/herself and his/her family.³⁴ Under such circumstances "[m]any [ex-combatants] are driven to work in the illegal economy because no other force can use their labor. They feel cheated by the government, the state and political parties."³⁵ While extensive and systematic research is lacking on the relationship between former soldiers who live at a sustenance level and organized crime, it is certainly plausible to think that former soldiers may resort to relying on their wartime skills in the absence of alternative sources of income. This may prove particularly pertinent to the Balkans, which some have labeled the entry point to Europe for a variety of organized illegal activities.³⁶

In 1996, the World Bank's International Development Agency (IDA) initiated the Emergency Demobilization and Reintegration Project (EDRP), aimed primarily at assisting the ex-soldiers, and secondarily refugees, war victims, widows, disabled and unemployed in both entities of Bosnia and Herzegovina.³⁷ The total of US\$8.5 million was used to assist 23,323 individuals who, on average, received US\$352 in the form of short-term training, educational services, subsidized employment and job search assistance.³⁸ By 1998, the continued maintenance of the large militaries through public funds was unsustainable, and both the international community and the Bosnian government were actively engaged in defense reform, including a DDR process.³⁹ The prospect of entry into the NATO Partnership for Peace program was another motivation for defense reform.⁴⁰ In early 1999, the decision was made to cut the military budget by almost 40 percent, resulting in the overall downsizing of armed forces in the country to only 34,000 active soldiers and 15,000 reservists by the beginning of 2001.⁴¹ The international community pushed for fiscal discipline and the reduction of unsustainable military budgets in both Federation BiH and RS entities; which led to a substantive budget reduction and downsizing of the armed forces.⁴² In 2002, military spending further shrank, initiating a new wave of demobilization in 2002 of 8,000 to 9,000 soldiers and again in 2004 of around 4,000 soldiers.⁴³

The armed forces provided severance packages to some of their departing soldiers. For instance, those soldiers who demobilized in 2002 received KM10,000 (US\$7,900), while those leaving the army in 2004 were entitled to a reduced severance package of KM6,000 (US\$4,740).⁴⁴ To fully meet the requirement of reducing the total armed forces in Bosnia by 5,200 soldiers, the Ministry of Defense also decided to ask 2,500 soldiers to leave their units in 2002.⁴⁵ All received severance packages depending on their rank and the length of service. In both the Federation BiH and RS, soldiers of a junior rank were entitled to the severance packages equivalent to four months' pay

(please see Table 1 for further details). Similarly, those of a senior rank were entitled to fifteen months of their average monthly salary. In monetary terms, this equated to KM1,760 (US\$1,390) and KM1,080 (US\$853) for those of a junior rank in the Federation BiH and RS, respectively. As to those of a senior rank, their severance packages totaled KM18,300 (US\$14,457) in the Federation BiH and KM10,200 (US\$8,058) in the RS (please see Table 1 for further details). The differences in pay that existed between the two entities were a function of the lower cost of living in the RS relative to that of Federation BiH.

Table 1⁴⁶

Average Salaries, Severance Pay and Length of Service of Soldiers				
Average Salary and Legal Entitlement per Rank				
	Federation BiH		Serb Republic	
Rank	Young Junior	Old Senior	Young Junior	Old Senior
Average Monthly Pay (KM)	440	1,220	270	680
Severance Pay (months)	4	15	4	15
Total Entitlement (KM)	1,760	18,300	1,080	10,200

In addition to their severance packages, some soldiers who demobilized in recent years have also benefited from access to programs and services offered initially by the World Bank and from 2002 on by the International Organization for Migration (IOM).⁴⁷ The World Bank's program was a short-term initiative that provided support to soldiers who demobilized in 1999 and 2000. In 2002, IOM became a key actor in assisting Bosnia's ex-combatants through its Transitional Assistance to Former Soldiers program (TAFS program, or the Program). IOM's support started during the demobilization stage of the DDR process, but this organization has played a prominent role in reintegration as well. Generally, during the demobilization phase, soldiers were "[massed] . . . in assembly areas (AAs) and camps for the purpose of gaining direct control over the troops and carrying out subsequent demobilization practices, such as registration and disarmament."⁴⁸ In the case of Bosnia, IOM officers visited the cantonment sites, offering the demobilizing soldiers an opportunity to register for the IOM assistance program. This ensured that IOM registered at least a few soldiers before they were discharged and entered the broader population. During this registration process, the soldiers were asked to fill out basic questionnaires that contained personal information pertaining to their socioeconomic status and skills. Simultaneously, IOM initiated a marketing campaign that included posters, radio announcements and working through the employment institutes, as well as the Ministries of Defense in each of the BiH entities.⁴⁹

Most of IOM's work focused on the reintegration phase. Prior to receiving any assistance, ex-combatants were interviewed by IOM officers so that they could jointly determine the skills and

potentials of each former soldier. Accordingly, the IOM officers decided on the type of assistance that was most suitable for each individual soldier, including providing demobilized soldiers with livestock; basic kits to establish businesses and/or start agricultural production; vocational training; or employment.⁵⁰ To complement the economic assistance, a basic civic education course was offered that consisted of one three-hour class addressing human rights, democracy and civil society.⁵¹ Once the beneficiaries of this program and their IOM consultants decided on the best mode of assistance for each ex-combatant, each beneficiary was obliged to sign a contract with IOM. The contract served as a way of documenting the monetary value of the assistance provided, as well as its type.⁵²

Since its inception, the Program has assisted more than 2,000 ex-combatants; by 2004, IOM was processing assistance for an additional 5,000 former soldiers.⁵³ Based on recent research,⁵⁴ the average monthly income of soldiers who went through the TAFS program was higher than the monthly earnings of those still waiting for IOM's assistance. To be specific and on average, the monthly income for the Program's beneficiaries was between KM346 (US\$273) and KM594 (US\$469), while it ranged from KM203 (US\$160) to KM273 (US\$216) for those who still waited to receive IOM's help.⁵⁵

Although the Program has clearly proved effective in improving the livelihoods of ex-combatants in both the Federation BiH and RS, it has also suffered from a perpetual lack of funding that precludes this initiative from being even more widespread among former soldiers.⁵⁶ This is precisely why many soldiers who were demobilized in 2002 were still waiting to receive IOM's assistance in 2004 and why IOM has focused on assisting a limited number of soldiers rather than all ex-combatants.⁵⁷

As noted earlier, Bosnia's government conducted another wave of demobilization in 2006 and 2007 with the assistance of IOM. While this latest wave of demobilized soldiers will be given priority, IOM will also assist those ex-combatants who left the army in 2004 if they properly registered for the previous program and if they did not qualify for retirement at the time of their demobilization.⁵⁸ Even though the TAFS program has ended, IOM has obtained funds from the NATO Trust Fund (the Fund) for a new program; the Fund was set up by NATO members to assist defense reform in Bosnia.⁵⁹ As of June 2008, 2,834 former soldiers have been registered by IOM—of which 2,558 were demobilized in 2004 and 276 in 2007—while 1,355 individuals were assisted through IOM's agricultural, educational, business and employment programs.⁶⁰ As to the procedural and organizational aspects of this new initiative, it generally mirrors the TAFS program and aims to help the total of 6,000 ex-combatants over a period of three years.⁶¹

Today, Bosnia's armed forces are run by the joint Ministry of Defense and Operational and Support Commands that oversees the activities of Bosnia's joint army.⁶² In the summer of 2005, a first unit composed of thirty-six Muslims, Serbs and Croats was sent to Iraq, symbolizing a more decisive move toward creating Bosnia's unified army.⁶³ What was unimaginable in 1995 became Bosnia's reality by 2005. However, this gradual process of conjoining the Federation Army and the Serb Army has often been obstructed by the political interests of ethnic leaderships in Bosnia. In

particular, the RS was hesitant to fully endorse the unification process, as having a single Armed Forces of Bosnia and Herzegovina would lessen the power of the Serb Republic. Despite the international community's push for a unified army, the RS National Assembly (RSNA) persistently resisted the defense reform by often rejecting it, as such change would have transferred the control of the Serb Republic over the defense sector into the hands of the state-level governance.⁶⁴

The defense reform that commenced in 2004 was to downsize the ethnic armies and create a unified army through a new wave of demobilization. While more work remains to be done to fully integrate and reconcile the minds and hearts of all Bosnians, the state has at the least achieved the desired size and composition of its national army. Certain synergies have emerged from the elimination of the redundant positions within the military strata. As per the official data published by the Ministry of Defense of Bosnia and Herzegovina, the newly consolidated Armed Forces of Bosnia and Herzegovina (*Oruzane Snage Bosne i Hercegovine*) totaled 12,668 as of January 1, 2006, and were downsized to 9,392 by October 1, 2007.⁶⁵ NATO officials, in particular, have taken the lead in preparing Bosnia for this radical step of forming a joint army. By earlier NATO estimates, Bosnia's army should not exceed 9,000 to 10,000 soldiers,⁶⁶ precisely where it stands as of today. More important, and despite its resistance, the Serb Republic eventually faltered under the international pressure and reluctantly accepted that the creation of a unified and multiethnic army was an unavoidable path toward a more stable and prosperous future.

Transitional Justice Initiatives in Bosnia and Herzegovina

Even though more than a decade has passed since the 1992–1995 war, the horrific legacy of war crimes and human rights violations remained a taboo until recently. The process of addressing these issues consists of a number of transitional justice initiatives. In particular, the enhanced cooperation between the judicial systems of the two entities; the creation of special police forces, such as the State Information and Protection Agency (SIPA), which is in charge of war crimes and other serious crimes; and the cross-entity cooperation between police forces have collectively led to an increase in the number of persons arrested for war crimes.

Legal Framework for Bosnia and Herzegovina

The Legal Framework of the DPA enlists a number of human rights and humanitarian law treaties that are directly applicable to Bosnia and Herzegovina. Such treaties as the European Convention on Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR) and the Geneva Conventions are directly applicable to this context and prevail over all domestic laws. As to the amnesties for war crimes, none were passed. In fact, the prosecution of war crimes is a part of the postconflict obligations of Bosnia and Herzegovina. The governmental bodies of both entities are required to cooperate with the ICTY, including the transfer of persons indicted for war crimes.

Aside from Annex 4 of the DPA, which contains the Constitution of Bosnia and Herzegovina, particular reference needs to be made to Annexes 6 and 7 as they specifically address the issue of human rights. For instance, Annex 6 foresees the creation of the national human rights institutions—composed of a Human Rights Ombudsman and a Human Rights Chamber—to ensure the protection of those rights. The Human Rights Chamber, which is staffed by domestic and international judges, was modeled after the European Court of Human Rights: individuals claiming a violation of their rights, enshrined in the Constitution, could address the Chamber and obtain a legally binding decision in their favor. The Human Rights Chamber ceased to exist in 2003 and its functions were taken over by the Constitutional Court. Further, the DPA’s Annex 7 foresaw the right of displaced persons and refugees to return to their homes in safety and dignity. Notably, displaced persons and refugees were given the right to have their property restored or to be adequately compensated for the property that could not be restored to them.⁶⁷

A Gender-Neutral Agreement?

The conflict in Bosnia was characterized by the systematic use of rape and sexual violence as means to carry out ethnic cleansing campaigns. The ICTY, in the *Kunarac* case, found that rape was “used by members of the Bosnian Serb armed forces as an instrument of terror.”⁶⁸ The number of rape victims from the war is counted in the tens of thousands. Notably, however, the DPA does not contain any special provision dealing with gender-based crimes. Moreover, despite its numerous antidiscrimination provisions, the DPA does not call for gender equality and fails to address the legacy of gender-based crimes pursued during the conflict. As defined by the relevant organizations, the DPA remains “gender-neutral” and does not adopt a specific gender perspective.⁶⁹ Considering the number of victims of sexual violence and the number of single mothers who were in charge of maintaining their families, directly including specific gender provisions in the Constitution and DPA’s Annexes 6 and 7 was needed and would not have been out of place. In fact, the inclusion of these provisions would have contributed to a shift of the focus of the peace talks toward the victims of the Bosnian war and particularly the victims of sexual violence.⁷⁰

It was only a few years after the peace process began that gender issues started surfacing in the reforms instigated and implemented by the international community. Among these reforms, the 2001 Electoral Law introduced provisions ensuring that at least 30 percent of the candidates in each party’s list were women. In 2000 and 2002, gender-equality centers were established in the Federation BiH and Serb Republic, respectively. In 2003, a Law on Gender Equality was passed in the Federation BiH, which had the purpose of promoting and protecting the equal treatment of sexes, ensuring gender equality in both the private and public sector, and prohibiting both direct and indirect discrimination.

Ensuring gender representation was also one of the reforms introduced by the United Nations Mission to BiH (UNMIBH). UNMIBH initiated both ethnicity- and gender-sensitive hiring policies for the police forces in the country. As a result, 450 policewomen had been recruited and

another 170 were being trained at the police academy by the time UNMIBH closed down its operations in 2002.

The Evolution of the Legal Framework

In the original distribution of competencies and given the absence of the judiciary, police and armed forces at the state level, important matters, such as the judiciary, defense and internal affairs, rested with the Federation BiH and Serb Republic or with the cantons. This arrangement, combined with the ethnic dismissals and massive displacement of population, yielded a set of mono-ethnic institutions both at the entity and cantonal levels. For example, almost all the judges and policemen in the Serb Republic were ethnic Serbs, and similarly, most judges in the Federation BiH were either Bosnian Croats or Bosniaks.

This initial distribution of positions and competencies significantly changed in the years following the immediate aftermath of the war. Given the lack of progress during the first two years of the peace process implementation, by the end of 1997, the country had weak to almost nonexistent state institutions; citizens were denied their basic human rights; and warlords and war criminals still dominated the public scene. The Bonn Powers enacted from 1998 onward resulted in the strengthening of the central institutions, a comprehensive review and reappointment processes of the police and judiciary, the establishment of the Court of Bosnia and Herzegovina at the state level, and a better protection of the freedoms and rights of the displaced persons and refugees, including their right to return to their prewar homes.

In the ensuing years, the Peace Implementation Council, with increasing support from the EU, NATO and the United States, built on what had been achieved at Dayton, managing to improve the initial provisions of the DPA and overcome some of its shortcomings. The dynamic evolution of the legal framework in the course of these years, with the creation of a state court, the strengthening of the central institutions, a centralized information and protection agency and the introduction of gender provisions, significantly changed the DPA's initial framework, moving the country toward a more sustainable and effective structure.

As an indicator of these developments and in the context of the reform of the justice sector, the Ministry of Justice has endorsed the creation of the Transitional Justice Strategy. This initiative is supported by the UNDP⁷¹ through a specific project centered on consultations with domestic civil society organizations. The effort is further complemented by the War Crimes Processing Strategy,⁷² aimed at streamlining and rationalizing efforts to prosecute war crimes. Once the strategies are completely formulated, the question remains whether the Council of Ministers will endorse and proceed with their implementation.

Prosecutions

The efforts to prosecute perpetrators for the past abuses were largely dominated by the ICTY, the first international ad hoc tribunal since Nuremberg. The ICTY is progressively phasing out its activities and transferring cases and functions to the newly established or recently reformed courts in Bosnia. At the present time, there exist three different court systems, which handle a caseload of several thousand cases involving around 13,000 potential perpetrators: the ICTY, the War Crimes Chamber and the second instances courts of Bosnia. More generally, the war crime prosecutions continue to be of concern to the political, military and security force members who partook in the conflict.

Initially, the ICTY was given primacy in prosecuting war crimes, while the domestic courts were not encouraged to prosecute past abuses, for two reasons. First, the judiciary system emerging lacked the necessary independence from the political parties, and these parties had continuously interfered in the court cases. Second, the courts, following the massive population displacement, were largely mono-ethnic, and prone to partial action. For instance, after the peace agreement, domestic courts ordered arbitrary arrests, mainly of members of minority ethnic groups, to purposefully limit their freedom of movement.⁷³ In order to end this practice, the Rome Agreement was signed in February 1996. It established a set of guidelines, so-called Rules of the Road, which stated that the domestic courts could issue an arrest warrant only after the case in question had been reviewed by the ICTY. The outcome of this arrangement was a sizeable reduction in the number of war crimes cases brought before domestic courts. The ICTY's 2003 announcement that it would end its operations in 2010 prompted local capacity-building efforts to ensure that the past abuses would continue to be prosecuted beyond 2010. This led to the creation of the War Crimes Chamber within the Court of BiH in 2005, and efforts to retrain judicial officials in the domestic courts.

ICTY

The International Criminal Tribunal for former Yugoslavia was created in 1993 by UN Security Council Resolution 827 as a response to the threat to international peace and security posed by the serious violations of international humanitarian law in the Bosnian war. The Tribunal has the “power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia.”⁷⁴

The ICTY has greatly contributed to the advancement of international criminal law by setting a large number of legal and institutional precedents. However, the perception of the ICTY varies significantly in Bosnia and Herzegovina. The initial number of indictments issued against Bosnian Serbs and Bosnian Croats was used as a pretext by the Bosnian Serb and Croat leadership to claim that the court was anti-Serb and anti-Croat, respectively, while from the Bosniaks' point of view, the initial failure to arrest Radovan Karadzic and Ratko Mladic represented a key reason for major disappointment.⁷⁵ Since its establishment, the ICTY has indicted 161 persons for crimes committed in the former Yugoslavia. It has also concluded proceedings in 115 cases: out of those, fifty-six were

sentenced, ten acquitted, thirteen transferred to local courts, and thirty-six either died before reaching the Tribunal or had their indictments withdrawn. At present, forty-six proceedings are ongoing.⁷⁶ The ICTY is currently phasing out its activities. No more indictments will be issued and all trials will be finished by the end of 2010. After the arrest of Radovan Karadzic in July 2008, two indictees still remain at large. Thus, appeals have been made calling for the Tribunal to remain open until all trials are completed.

War Crimes Chamber (Court of Bosnia and Herzegovina)

The Court of Bosnia and Herzegovina (Court of BiH) was established in 2002 by the Parliament of Bosnia and Herzegovina to handle the war crimes, crimes of genocide and crimes against humanity. The Court started its first trials in September 2005; as of the end of 2007, thirty-eight indictments were confirmed against fifty-seven persons and investigative activities were ongoing in 613 cases. The War Crimes Chamber commenced thirty-two trials against fifty-six persons and handed down nineteen first instance verdicts against twenty accused. In addition, nine cases were also confirmed in appeal.⁷⁷ Among the ongoing trials, there are nine “11bis cases”—that is, cases that under Rule 11bis of the Rules of Procedure and Evidence of the Tribunal have been transferred from the ICTY to the Court, in compliance with the ICTY’s exit strategy.⁷⁸

The Office of the Prosecutor of the Court of BiH has also taken over the ICTY’s “Rules of the Road” mandate and, together with the district and cantonal courts, has collected previously filed reports on 13,000 individuals suspected of committing war crimes. Even though the Court is well equipped and staffed with both domestic and international judges (this mixed composition will last until 2009), the current caseload exceeds its capacity as well as that of the cantonal and district courts.

Second Instance Courts in the Entities and Brcko District

Recently, prosecutions have picked up both in the Federation BiH and Serb Republic. As of summer 2008, the Federation courts had prosecuted more than 140 cases of war crimes (with 25 still ongoing), while the Serb Republic’s courts have lagged behind. To date, the District Courts of the Serb Republic have concluded seven cases and have issued the indictments for eighteen additional cases.⁷⁹ However, the situation in the Federation and Serb Republic courts remains difficult, as outlined by the UNDP in a recent report: these courts are poorly equipped and staffed to deal with war crimes cases.⁸⁰

Truth-Telling Initiatives

Truth-telling is a particularly challenging issue in Bosnia and Herzegovina. Wartime propaganda served the purpose of creating separate truths about the conflict itself. The country is still bitterly divided about the representations of the past and in some cases even about its future: from time to

time, calls for a referendum for a secession of the Serb Republic take the political stage in Bosnia. For these reasons, there has never been an official attempt at a countrywide truth-seeking initiative. Within the years immediately following the DPA, truth-telling initiatives took a backseat to the competing mandate of the ICTY.

One of the key questions facing truth-telling initiatives is the nature of the conflict itself: was the Bosnian conflict an international aggression or a civil war? Most citizens in the Federation of BiH feel that Bosnia was subjected to an international aggression by the former Yugoslavia (and *mutatis mutandis* also by Croatia), as well as that the Serb Republic was the product of genocide and aggression. In stark contrast, the majority of Serbs, including reportedly moderate leaders, in the Serb Republic considered the conflict a civil war and felt that the creation of the Serb Republic was necessary to protect Bosnian Serbs from alleged Islamic fundamentalism and Croatian nationalism. For these reasons, allegations of crimes committed by one side are subject to denial and counteraccusations of similar or even worse crimes by the other side.

Prosecutions by the ICTY, the domestic courts and the international lawsuit at the International Court of Justice (ICJ) for the violations of the Genocide Convention between Bosnia and Herzegovina and Serbia can partly assist in breaking the walls of denial by establishing the facts through court proceedings. While this is starting to happen and is reflected in a decreasing number of Bosnian Serbs who adamantly deny the genocide against Bosniaks in Srebrenica, the process appears very slow. Furthermore, the process could also have a destabilizing effect by increasing ethnic tensions through the revival of the issues and questions pertaining to the nature of the conflict in BiH. Some international and domestic authorities are of the view, for example, that it would be better not to deal with such issues now,⁸¹ as discussing the past conflict inevitably raises tensions in Bosnia's political environment and often causes joint institutions to stop functioning.⁸²

Lawsuit for Genocide between BiH and Serbia and Montenegro at the ICJ

In February 2007, the ICJ decided on the lawsuit submitted in 1993 by Bosnia and Herzegovina against Serbia (at the time still named Yugoslavia) for violations of the Convention on the Prevention and Punishment of the Crime of Genocide. While the ICJ did not find that Serbia had committed genocide in Bosnia and Herzegovina, it determined that genocide occurred in Srebrenica and that Serbia breached the Convention for failing to prevent the massacre and to punish the perpetrators of the same. This ICJ decision made it increasingly more difficult for Serbs to deny that they committed the genocide in Srebrenica. The decision further singled out the Serb Republic as the sole perpetrator of the genocide and prompted immediate calls from the Bosniak authorities for the unilateral abolition of the Serb Republic. In response, Serb authorities jointly rejected the collective responsibility of the Serb people for the genocide, stating that the individuals must face prosecution for those crimes. At the same time, RS authorities expressed their condolences to all the victims of the war crimes in Bosnia, especially in Srebrenica. The joint statement also recognized that, of all the crimes committed, the genocide in Srebrenica was the biggest. The ICJ decision did finally silence the voices denying the genocide that transpired in Srebrenica: a poll of local

politicians, held a few days after the decision, indicated that none, not even Bosnian Serbs, questioned or denied the genocide committed against Bosniaks from Srebrenica.⁸³

Srebrenica, Avdo Palic and Sarajevo: Ad Hoc Commissions of Inquiry

The domestic institutions for the protection of human rights, created under Annex 6 (the Human Right's Chamber and the Human Rights Commission) of the DPA, and the Constitutional Court of Bosnia and Herzegovina (which has now inherited the functions of the Human Rights Commission) have also issued a certain number of decisions pertaining to missing and disappeared persons. The relatives of missing/disappeared persons submitted applications to these domestic human rights institutions complaining about the authorities' lack of response regarding the fate of their loved ones. In response, the domestic human rights institutions and the Constitutional Court have found that the authorities have violated the right of respect for family life and the right for the prohibition of inhumane treatment. As a remedy, the pertinent institutions have ordered the relevant authorities to fully investigate the events surrounding the disappearance of the individuals in question, in order to bring to justice the perpetrators of the related crimes, as well as to compensate the victims' families.

In a limited number of cases and due to international pressure, the local authorities set up an ad hoc commission to ensure compliance with the abovementioned decisions. The most publicized is the Srebrenica Commission, which was created by the Serb Republic's government following serious international pressure. The intent of this body was to investigate the Srebrenica genocide, as well as the fate of missing persons in the region. In 2004, the Commission produced a detailed report reconstructing the events "in and around" Srebrenica and providing details on the executions themselves. The report led to official apologies issued by RS authorities to the families of Bosniak victims. A list containing 20,000 names of persons involved in the genocide was extracted from the report and shared with the Office of the Prosecutor of BiH for further investigation.

A similar commission was created in 2006 to investigate the fate of Colonel Avdo Palic, the commander of the Bosniak forces in Zepa, who disappeared after the Serb takeover of the enclave. To date, this commission has failed to yield any results. Furthermore, families of the missing Bosnian Serbs from Sarajevo have been repeatedly asking for the establishment of a similar commission that would investigate the fate of their relatives. At the end of May 2006 and following an intense political debate, the Council of Ministers of BiH decided to establish a Commission for the Investigation on the Suffering of Sarajevo Citizens. Differing political aims between Bosniaks and Serbs and lack of funds have precluded the Sarajevo Commission from undertaking any significant activity.

Nationwide Truth (and Reconciliation) Commission

While there has never been an officially endorsed truth commission in Bosnia, there have been several unsuccessful attempts to create one. The initiatives to create a truth and reconciliation

commission were started in 1997, 2001 and, most recently, in 2005. These initiatives, mainly led by Jakob Finci of the Association for Truth and Reconciliation, did not bear any concrete results. In particular, the ICTY opposed the creation of a truth commission in 1997. The ICTY officials feared that such an initiative would conflict with their mandate and create a dangerous parallel process. In 2001, a second large conference on truth commissions, which produced a draft of the law, did not bring results. Consequently, the initiative was put to rest for the next four years.

At the end of 2005, another attempt to establish a truth commission was initiated by the three speakers of the BiH Parliament, who enjoyed the support of the United States Institute for Peace (USIP) and a local NGO called the Dayton Project. The attempt attracted criticism from the local press for the lack of transparency and openness toward the victims' associations. Moreover, its timing (during the 2006 electoral campaign) seriously hampered this initiative, leading to its discontinuation in 2007.

Nongovernmental Truth-Telling Initiatives

Research and Documentation Center (IDC)⁸⁴

The IDC is a Sarajevo-based domestic NGO, run by Mirsad Tokaca. One of the organization's main projects assessed the direct casualties of the Bosnian war. Upon completion of the project, the IDC database contained the names of 97,207 victims of the conflict in Bosnia and Herzegovina: of those victims, 65 percent are Bosniaks, 26 percent are Serbs and 8 percent are Croats.⁸⁵ The IDC gathered information from different sources, including inspections of cemeteries, municipal records and hospital reports, then cross-referenced this information with some 250,000 names of deceased persons. For each victim, the IDC also collected information regarding the location and cause of death, as well as the potential perpetrators of the killing. Being the most complete initiative of this kind, IDC's effort has led to a new discovery that the number of direct victims has been largely overestimated. These more realistic figures of the IDC bring the overall human death toll to less than 100,000, standing in stark contrast to the previous estimates of around 200,000 victims. One of the goals of the IDC's project is to prevent the manipulation of the number of war victims, a practice that had occurred in the past in former Yugoslavia. Besides this project, the Center is also promoting cross-border activities with the Dokumenta NGO in Zagreb and the Humanitarian Law Center in Belgrade, aimed at facilitating information sharing among different truth-seeking initiatives. These initiatives help preserve regional perspectives on the conflicts in former Yugoslavia, a process that is particularly important given the significant roles played by Serbia, independent Montenegro and Croatia in the conflict in Bosnia and Herzegovina.

Local Initiatives

In support of the prosecutions of war criminals, a number of local initiatives focused on gathering documentation on what occurred during the Bosnian war have emerged. Some of these institutions

have been established in the cities of Mostar, Tuzla, Konjic and Prijedor. For example, the Izvor Association of Prijedor Women has created a list of Prijedor citizens, mainly Bosniaks, who died during the Serbs' violent takeover in 1992 and their subsequent control of the municipality. In Mostar, the Center for Peace and Interethnic Relationships has gathered videos, photos and media archives on the Mostar region.

The Center for Nonviolent Action has launched another local initiative that focuses its attention on the demobilized soldiers. From 2002 to 2004, the Center for Nonviolent Action also organized a series of town hall meetings held throughout Bosnia and Herzegovina, Serbia and Croatia. During these meetings, fifteen demobilized soldiers who had served in different armies during the conflict shared their experiences. The soldiers told their personal stories, while the public was invited to ask questions and comment. Reportedly, all the town hall meetings led to positive interactions between the speakers, as they helped the public understand the “other” side. Including former soldiers, each of the meetings was attended by approximately 70 to 100 people, and questions were regularly asked about the war crimes committed by the “other” side. As reported by the organizers, the war veterans' associations were initially hostile to these meetings, but gradually acclimated to the idea of having soldiers directly participate in these events.

Vetting

Given the divisive nature of the conflict and subsequent division of the prewar state institutions along ethnic lines, vetting played a key role in Bosnia and Herzegovina. It started with a large certification process of the police forces, then the judiciary and, to a limited extent, the military and political sectors. The international community designed and implemented these initiatives.

In particular, Article I.3.e of the DPA's Annex 7 obliges the parties to carry out immediately “the prosecution, dismissal or transfer, as appropriate, of persons in military, paramilitary, and police forces, and other public servants, responsible for serious violations of the basic rights of persons belonging to ethnic or minority groups.” This provision of the DPA imposes an obligation onto the parties involved to vet not only the members of the police and armed forces but also other public servants. However, the screening of the election candidates and appointed officials was not systematic; thus, persons responsible for serious human rights violations continued to serve in local institutions for many years after the conflict. Some in fact continue to serve even today.⁸⁶ In the case of the judiciary and the armed forces, vetting was part of a larger institutional reform. The vetting process was not public, instigating protests and complaints by those who had been removed from or not appointed to certain positions.⁸⁷

Thus far, UNMIBH conducted the largest vetting effort by restructuring the police forces. UN Security Council Resolution 1088 gave UNMIBH the power to investigate abuses of local police forces; consequently, two agreements on restructuring and democratizing the police forces were signed with the Federation BiH and RS. The wartime activities of police officers were taken into consideration as part of the “certification” procedure, which aimed at reviewing the integrity of

currently serving police officers. In total, 23,751 police officers were registered. Out of those, 15,786 were granted full certification, 481 were denied certification, and 228 cases were pending at the end of the UN mission.⁸⁸ The review procedure took into account inter alia police officers' individual actions and omissions during and after the war that demonstrated his/her unwillingness to comply with international human rights standards.

Nonetheless, the UNMIBH certification procedure had two main shortcomings. First, there was a lack of accuracy. In spite of being successfully certified, a number of police officers were subsequently arrested for committing war crimes, and they are currently awaiting trial. Second, the process lacked proper procedures, as decertified police officers complained that they did not have the right to appeal. The UNMIBH procedures were not incorporated into the domestic legislation; the files produced in the process were removed; and no follow-up mechanism was put in place. This created discontent among the decertified police officers, which has not yet been put to rest. In December 2006, the authorities of Bosnia and Herzegovina tried to address this situation with the Office of the High Representative, but their attempt was unsuccessful, mainly due to the UN's resistance to review its previous decisions.⁸⁹

Between 2002 and 2004, the judicial system underwent a major reappointment and overall restructuring reform. This reform included a dismissal of all judges, followed by their reapplications for their former positions. When reapplying, the candidates were required to document their qualifications, compliance with property laws, political affiliation and activities during the war years. Upon receiving completed applications, the High Judicial and Prosecutorial Council (the Council) was tasked with making the reappointment decisions. It is unclear whether the Council took into account gender and ethnic balance in its decision-making process.⁹⁰

As to the elected and appointed officials, the Electoral Law prescribes that the war crimes indictees who did not surrender could not run in the elections. Besides these formal requirements, the OHR retained the power to vet candidates for the most important ministerial positions. As part of its exit strategy, OHR transferred its approach to the domestic authorities: a committee of the BiH Parliament will question all potential ministerial candidates about their wartime activities. This particular committee, however, will not be in a position to vet unsuitable candidates.

Finally, concerning the armed forces, in the spring of 2004 and as part of the defense reform of the BiH armed forces, a few high-ranking officers could not continue their service in the newly joined armed forces of BiH for the role they played during the conflict and suspicions that they committed war crimes.⁹¹

Reparations

In Bosnia's postwar society, there exists a general understanding that the victims of serious human rights violations have not been provided sufficient support. Most strikingly, an attempt to draft a state law on compensation for the victims of torture started eleven years after the conflict ended. The

process resulted from the recommendations put forth by the Committee Against Torture (CAT) and after the examination of the first periodic report submitted by Bosnia in compliance with the Convention Against Torture. While an overall framework for reparations is still lacking, a few specific forms of reparation, such as property restitution, have emerged as the by-product of a broader set of measures aimed at facilitating the return of the displaced persons and refugees.

A possible reason for the slow progress of reparations is the fragmentation and the lack of a united approach among various victims' associations in BiH. Since the war ended, several associations for the camp inmates, relatives of missing persons, and women subjected to sexual violence have been divided along ethnic lines. Consequently, most lacked autonomy from political influences. Moreover, they frequently coordinate their actions with other similar organizations, including the war veterans' associations that, paradoxically, may have some of the war crimes perpetrators in their ranks, as we will see in the following paragraphs. This analysis continues with a detailed discussion of the most relevant reparations provisions to consider for Bosnia at the present time.

Civilian Victims of War

At the state level, there are not any reparations laws for civilian victims of war. In fact, these victims are not given explicit recognition. At the entity and cantonal levels, there exist laws providing support to the civilian victims (for example, former camp inmates, landmine survivors and families of killed civilians), but such support is given only to the members of the main ethnic group in the area. Moreover, the legislative framework for the reparations at this level is incomplete and the implementation of the laws is often deterred by chronic budgetary deficits.⁹²

In November of 2005 and following the examination of the first periodic report submitted to it by Bosnia and Herzegovina, the CAT acknowledged the failure of the state to investigate and prosecute acts of torture that had occurred during the conflict, as well as to recognize the status of and carry out a reparations program for the victims of torture and sexual violence. In response to this negative assessment, Bosnia's Ministry for Human Rights and Refugees initiated consultations with the relevant victims' organization, aimed at creating a state-level law on the civilian victims of war, victims of torture and victims of sexual violence. Unfortunately, the effort did not produce any significant results.

Missing Persons

A law on missing persons was passed at the state level in 2004. The law recognized the right to information for the families of missing persons and obliged the authorities to disclose such information on missing persons. The law also recognized the right to financial support for the families and relatives of missing persons and called for the establishment of a Missing Persons Institute to improve procedures for locating missing persons and expediting the identification of

mortal remains. At the present time, there are insufficient funds to implement the law. Similarly, the Missing Persons Institute is not functioning as of yet.

Property Restitution

The majority of persons who fled or were forced to leave their homes during the war have managed to regain their property, thanks to the adoption of special laws that enabled displaced persons and refugees to repossess their prewar homes. The entire property restitution process was tightly monitored by the international community via the Property Law Implementation Program (PLIP). This program resulted in the return of almost 200,000 properties to their prewar owners.⁹³ The process of housing reconstruction has also been extensive. While it was initially carried out by international donors, domestic authorities gradually took the lead through numerous programs for the return of displaced persons and refugees. It is estimated that around 317,000 properties were reconstructed after the war.⁹⁴

Interrelationships between the DDR Process and Transitional Justice Measures

DDR and Transitional Justice: *Kruske i Jabuke* (Pears and Apples)⁹⁵

The DDR and transitional justice measures in Bosnia and Herzegovina had no formal points of contact. The vast majority of ex-combatants in Bosnia did not participate in a DDR program, but simply returned to their prewar activities or sought new forms of employment without the help of any reintegration measures. Limited assistance programs, such as IOM's Transitional Assistance to Former Soldiers program, were available for later waves of demobilization related to army reform. These programs did not formally address any relationship between DDR and various transitional justice measures. IOM's TAFS program supported the demobilized soldiers and their families. IOM officials stated that this program differed from transitional justice initiatives in that it avoided dealing with any specific issues arising from the conflict.⁹⁶ For instance, there was suspicion among combatants that the information requested during IOM's registration process would be used as evidence in the war crimes prosecutions. In fact, some soldiers later expressed their regret for not registering with IOM once they realized that the registered soldiers received assistance upon demobilization without any threat of later prosecution.

Due to the abovementioned reasons, no screening of the former combatants for war crimes or human rights abuses was carried out. Any screening would most likely have been perceived as an indicator of ongoing criminal proceedings against former soldiers, inhibiting them from participating in the program. Generally, the participation of former combatants in transitional justice initiatives has not been given proper consideration, nor have former combatants participated in the drafting of laws on truth and reconciliation.

During the implementation of the TAFS program, IOM obtained detailed and highly confidential information on the demobilized soldiers, but this database was utilized only for the purpose of implementing the TAFS program. Additionally, the members of the Bosniak-Croat forces also shared with IOM highly confidential information, including their military database. On a number of occasions, IOM staff reported that some former soldiers talked extensively about their war experiences. However, the IOM staff was not in a position to systematically record and process these accounts.

Additionally, there was a critical lack of governmental engagement in helping former soldiers face the material and psychological challenges of returning to normalcy. In war-devastated and traumatized Bosnia, IOM was the only place where the ex-combatants could seek refuge from everyday hardships of civilian life. Aside from helping ex-combatants reintegrate into civilian society and despite IOM's limited resources, its programs also had small reconciliation effects. With the help of the IOM's DDR programs, a relatively limited number of former adversaries initiated business ventures together. As an IOM official has noted, a few ex-combatants went "from enemies to partners."⁹⁷ As reported by IOM, such incidents of former enemies becoming partners or building friendly relationships were not isolated, and they could certainly be utilized to enhance the reconciliation efforts in Bosnia and Herzegovina.

In postconflict Bosnia, there was not any real stigmatization of the former combatants within their respective ethnic groups. The media, along ethnic lines, played a salient role in ensuring that war crimes and atrocities were perceived as the doings of other ethnic groups. In most cases, Bosnians regarded their demobilizing soldiers as "their boys coming home," and their local communities usually treat them with respect.

Because of the positive and welcoming public attitudes toward the demobilized soldiers, who most often belonged to the dominant ethnic group in the area to which they returned, victims' resentment of former combatants was minimal. Unlike DDR efforts seen elsewhere, this is an idiosyncratic feature of the BIH case, because DDR was not part of the civil war reconstruction efforts. It should be noted that even if some resentment was present, it never reached the critical mass needed for the issue to be taken up by various civil society groups. According to IOM officials, while some vulnerable groups (for example, displaced persons and returning refugees) received assistance through different programs, the reparations programs largely neglected the civilian victims of the war. Despite this preferential treatment of the ex-soldiers relative to the civilian victims, the civilian victims did not complain about the disparities between their assistance packages and those given to former soldiers. In contrast, the members of veterans' associations appear to have only partial or limited sympathy for the civilian victims, particularly victims of sexual violence.⁹⁸

War Veterans' Associations

Although they were not included in DDR programs, discussions of the DDR and transitional justice linkages in Bosnia and Herzegovina would not be complete without an analysis of the demobilized soldiers' and war veterans' associations. In the absence of extensive DDR assistance programs, the war veterans' associations offer continuous support to the war veterans. These associations' activities are particularly indicative of the incomplete transition of Bosnia and Herzegovina and of the fact that the wartime agendas are still present in Bosnia's society. In fact, they have been one of the most common features of postconflict Bosnia and Herzegovina.

These associations often work together with other associations involving families of killed soldiers or the war invalids. In most instances, they were created either during the war or immediately after it ended, and they provide support to former soldiers. The *Boracka Organizacija Republike Srpske* (Veterans' Organization of Serb Republic) represents the veterans of the Army of Serb Republic; *Jedinstvena Organizacija Boraca* (United Veterans Organization) represents the veterans (mostly Bosniaks) of the Army of Bosnia and Herzegovina; and the *Udruga Dragovoljaca Veterana Domovinskog Rata* (Organization of War Volunteers) represents the veterans (mostly Croats) of the Croatian Council of Defense. While in some cases these associations have cooperative relationships with other associations across ethnic lines,⁹⁹ this cooperation is not made public. Many Bosnians regard veterans' organizations as protectors of ethnic and/or national values; thus, seeing them cooperate with associations representing other ethnic groups could be perceived as a betrayal of those values.

The statute of the Veterans' Organization of Serb Republic states that it works to protect the rights and interests of the demobilized soldiers, as well as those of the war invalids and of the killed soldiers' families. This organization's principal aim is to improve its beneficiaries' socioeconomic status via social security and other initiatives. The statutes of the Bosniak and Croat associations have similar aims. Membership in these associations is voluntary, and if there is a membership fee, it is symbolic. Each of these organizations reportedly has tens of thousands of members. For example, the smallest of the three, the Croats' Organization of War Volunteers, has between 50,000 and 60,000 members (although a review of its current membership has been ongoing for some time). Besides having central coordination boards, war veterans' associations also have local boards at the municipal level¹⁰⁰ and, in some cases, even within public companies or institutions. The Serb Republic organization has its own magazine called *Serb Fighter*, which prints 10,000 copies every month.

In general, the international community operating in Bosnia and Herzegovina has, intentionally or not, chosen not to deal with these veterans' organizations. These associations cannot be considered part of civil society: their rhetoric and stance are regularly in line with those of the nationalist political parties. In addition, they receive budgetary support from the political authorities. Further, they carry out political agendas and pragmatically obstruct the peace implementation process. In fact and in many cases, they have been used by the nationalistic parties to raise certain issues and maintain or even exacerbate ethnic tensions, which the political parties themselves would hesitate to

do out of fear of international sanctions. For example, if a politician would publicly call for a refusal to cooperate with the ICTY or to comply with the property laws, his/her statements would result in a severe reprimand or dismissal by the international community. If these same statements are made by a spokesperson of a war veterans' association, no sanctions would be imposed, as the OHR can exercise its exceptional powers only over elected and appointed officials.¹⁰¹

The war veterans' associations have de facto slowed down the postwar transition by preserving the status quo and refusing to help the peace implementation process. The war veterans' associations have often advocated against the return of the displaced persons and refugees who belong to the minority ethnic groups, and even in some cases attempted to block their physical return. In other instances, these associations have tried to disrupt the institution-building processes outlined by the DPA. For instance, in 2001, the Croatian War Veterans Association supported the political parties opposing the strengthening of the central institutions in the Federation by calling for a referendum on self-rule.¹⁰² Additionally, the association leaders in some cases have been directly involved in or have even committed war crimes. In the spring of 2006, the president of the Croat War Veterans' Association of Mostar, Marko Radic, was arrested by SIPA for war crimes. The Bosnian Croats' political leaders, including the Croat member of the Presidency, openly complained about the manner in which he was arrested, as the arrest took place in front of children and the family was informed about the arrest with a delay of a few hours.

Furthermore, the war veterans' associations directly compete for state funds with the civilian victims of war. The budgetary allocations regularly neglect civilian victims and discriminate in favor of other categories: in the canton of Sarajevo, civilian victims can obtain a maximum disability status of 70 percent, while war-wounded soldiers can receive 100 percent disability status. The monthly allowance for a war-wounded civilian is KM88 (US\$70), while a war-wounded soldier receives KM308 (US\$243). Under the constrained state budget, this disparity could yield an understandable tension between the groups in question. Despite these differences, substantive tensions between the war veterans' associations and other organizations are unlikely to occur due to the difficulties that the victims' organizations would face if they were to challenge the "patriotic" organizations, such as those of war veterans.

Victims and Former Combatants: A Unique Relationship

The lack of formal connections between the programs for former combatants and transitional justice initiatives can be better understood if more attention is given to the issue of the civilian victims vis-à-vis the war veterans' associations. The lack of attention toward the civilian victims often increases these individuals' demands for the retributive justice and criminal prosecution of the persons responsible for the war crimes.¹⁰³ This lack of attention toward victims generates resentment and bitterness, which are, however, rarely directed toward the war veterans from their own ethnic group. Instead, the resentment is often directed at the members of the other ethnic groups and their respective armies. When the government of the Serb Republic offered to provide legal support or proposed financial incentives to encourage persons indicted for war crimes to surrender, such

initiatives were widely criticized by non-Serbs. From the Bosniak and Croat perspectives, it was simply scandalous that Bosnian Serbs accused of war crimes have been monetarily supported while their victims are still suffering the consequences of the crimes these individuals committed. Indeed, “in today’s Bosnia and Herzegovina, it is better to be a war criminal than a victim of war crimes.”¹⁰⁴

The divisive nature of the conflict in Bosnia and Herzegovina led to the compartmentalization of society into ethnically monolithic units. For this reason, the victims’ associations and veterans’ associations frequently find themselves on the same side of political issues. Only recently have the victims’ associations of all ethnic groups begun to develop some sense of solidarity and to overcome ethnic barriers; in fact, the victims’ organizations’ spokespersons are now making joint appearances at conferences and working together toward a state law on the civilian victims of war.

As of yet, such solidarity is not fully developed, and many victims’ associations are still subject to political manipulation. For example, without providing an explanation for its action, the Serb Republic Camp Inmates’ Association withdrew from the organization of a large conference on reparations that was held in September 2006. According to some observers, the 2006 electoral campaign was the cause for such a withdrawal. As is true of the veterans’ associations, cooperating with former enemies is still not very popular among the victims’ organizations. Moreover, the financial support offered by the local authorities—which are usually represented by the nationalist parties—greatly influences the attitudes of the local associations. This dependence on the local authorities undermines interethnic solidarity and cooperation among victims’ associations.

This tension between solidarity among victims and loyalty to the establishment is described as “schizophrenic” by domestic observers.¹⁰⁵ For example, the president of the Serb Republic’s Camp Inmates’ Association had declared that he recognized Bosnia and Herzegovina as his own country; thus, he was working on drafting the state law for civilian victims of war.¹⁰⁶ Yet he was also the chairperson of a board of Serb NGOs, including the war veterans’ associations, that, in 2006, had initiated a petition to hold a referendum for the secession of the Serb Republic from Bosnia and Herzegovina.

Ethnic and political ties do therefore prevail over solidarity among the victims from different ethnic groups. Another illustration of this tension are calls for the abolition of the Serb Republic by the victims’ associations in the Federation BiH. Their reasoning is that since the formation of the RS is considered to be the “result of genocide and ethnic cleansing,” it should be abolished.¹⁰⁷ Notably and on this issue, the victims’ associations do find themselves side by side with the Federation BiH veterans’ associations and demobilized soldiers because belonging to the same ethnic group prevails over the victims’ solidarity.

DDR, Transitional Justice and the Current State of Peace

Bosnia and Herzegovina's transition from war to peace has been gaining momentum. The beginning of domestic prosecutions of persons indicted for war crimes is a notable step forward. In the case of arrest warrants issued by the courts in the Federation BiH, enhanced judicial cooperation across the entities has resulted in an increasing number of arrests by the Serb Republic's police forces.¹⁰⁸ These changes are indicative of an increasing willingness to tackle past abuses and war crimes.

It appears, however, that Bosnia and Herzegovina is transitioning from war to peace only gradually and with substantive difficulties. More than a decade after the war, the nationalistic parties have retained a firm grip over the country's political leadership and continue to foster their wartime aspirations. Specifically, these parties continue to work with and favor the war veterans' associations, which act as the "spoilers" of the peace process. They have often slowed down Bosnia's peace process and postwar reintegration by continuously reviving the memories of the conflict.

The lack of DDR assistance, as well as the clear separation of DDR from the transitional justice initiatives, has only contributed to the difficult postconflict rehabilitation of Bosnia. The absence of DDR programs has possibly created an institutional vacuum that was filled by the war veterans' associations, allowing them to play a dominant role within their own ethnic groups, because they were often the sole providers of assistance to the demobilized soldiers. In the case of the Serb Republic, the war veterans' associations have even acted as investment fund managers on behalf of ex-combatants.¹⁰⁹

Instead, an early DDR assistance program, run by an international organization in cooperation with the state government, could have offered an alternative framework or allegiance to that of the war veterans' associations. Nonetheless, it is possible that other factors have helped foster the growth of these associations: notably, they have always been close to the sources of political power by helping prevent the return of minorities via postponing the restitution of properties to their members or by providing financial support to families of indicted war criminals.¹¹⁰ Therefore, while the linkages between the missing DDR programs and viable war veterans' associations appear plausible, additional research is needed to work toward establishing the causality.

Lessons Learned and Recommendations

Given the weakness of the judiciary and the politicization of the justice-related initiatives in the Bosnian context, discussing the matters of truth and justice with ex-combatants immediately following the cessation of war would have been a challenging and politically sensitive endeavor. Indeed, there is an evident lack of formal linkages between DDR and transitional justice processes in Bosnia and Herzegovina. However, establishing a link between the two processes could prove

beneficial, particularly in the context of the Bosnian war. Specifically, the ex-combatants were the first witnesses of atrocities and war crimes. While none of the current transitional justice initiatives in Bosnia address demobilized soldiers, some Bosnians feel that they should certainly take part in these programs.¹¹¹

As noted earlier, a substantial segment of Bosnia's armed forces left the military immediately after the cessation of hostilities. These soldiers were provided neither material nor psychological help as they departed their military units. Aside from noting that programs like those run by IOM should have accompanied such initial and mass waves of DDR, an attempt should have been made to educate ex-combatants on justice and truth-related issues. Not doing so has helped create a society with separate and often ethnically based visions of truth and justice. Indeed, Bosnia's main ethnic groups continue to maintain differing versions of the past and differing notions of what constitutes truth and justice, precluding the country from solidifying state institutions, building a socially cohesive society and moving forward toward EU membership.

Specifically, transitional justice issues could have been introduced as part of the orientation and civic education component of IOM's TAFS program. By talking with ex-combatants about justice issues without necessarily detailing, for instance, the war crimes specific to Bosnia, former soldiers would have been provided with a general understanding of such topics as war crimes, human rights and other justice-related issues. Such educational initiatives could have helped ex-combatants begin the process of self-examination as to their individual roles in the war. As a part of the DDR assistance program, the educational segment could have also covered the role of the media in shaping national perceptions of truth and justice. Additionally, soldiers could have been informed about the NGO activities in the sector of transitional justice by involving NGOs in these programs.

In addition, the war veterans' associations should not be disregarded. While local authorities appear lenient toward these organizations' obstructive behaviors, the country's transition could actually benefit from limiting their freedom of action. If DDR assistance programs were to offer seminars for mayors, municipal councilors and heads of war veterans' associations, they could prepare these local leaders to effectively face the challenges of the demobilization and reintegration processes. Working with local officials on the issues surrounding transitional justice and human rights law to provide reparations could also help address the existing imbalance, in favor of the war veterans' associations, between the funds going to the war veterans and those going to the civilian victims.

Last, the civic education programs could have served to explain war crimes and witness protection programs, prompting some soldiers to talk about war crimes. In fact, IOM team members who worked with ex-combatants emphasized that former soldiers frequently opened up during the IOM interviews, as they lacked other venues where they could share their war experiences. Unfortunately, those experiences were not recorded, as doing so was out of the scope of IOM's mission in Bosnia. Yet systematically recording ex-combatants experiences could have provided invaluable information about the Bosnian war.

Based on IOM's positive impact on the DDR process in Bosnia, more programs of a similar character should be introduced in the immediate postwar period. Not only would these programs have a positive socioeconomic impact on the lives of their beneficiaries, but they would also have the potential to bring ex-combatants closer together, even across ethnic lines, thereby aiding the reconciliation process in the country. For instance, DDR programs often provide special incentives for joint business ventures by demobilized combatants of various backgrounds. So, if carefully presented, these exemplars of cross-ethnic interaction among ex-combatants can help build an image of a socially cohesive country and contribute to the normalization of relations between different ethnic groups. Bosnia has already undergone several major waves of DDR; therefore, introducing the abovementioned measures may have a limited impact. However, these recommendations may prove valuable in building effective linkages between DDR and transitional justice initiatives beyond the Bosnian context.

¹ For ease of writing, “Bosnia and Herzegovina” and “Bosnia” will be used interchangeably to refer to the entire territory of Bosnia and Herzegovina. Similarly, “Bosnian and Herzegovinian” will be used interchangeably with “Bosnian.”

² For ease of writing, “Army of Bosnia and Herzegovina” will be used interchangeably with “Bosnian Army” or “Army BiH.”

³ International Criminal Tribunal for former Yugoslavia, *Prosecutor vs. Martinovic and Naletic*, Case No. IT-98-34-T, 31 March 2003, para. 13.

⁴ The widely reported overall death toll in Bosnia and Herzegovina is 200,000 casualties. Recently, however, the Research and Documentation Center (a Sarajevo-based NGO) carried out a “census” of the victims of the conflict by verifying lists of the dead and inspecting the country’s graveyards. The Research and Documentation Center came up with the surprising finding that the total number of casualties is around 100,000. Out of this new total, 65 percent of the dead are Bosniaks, 25 percent Bosnian Serbs and 10 percent Bosnian Croats.

⁵ Filippo Andreatta, “The Bosnian War and the New World Order: Failure and Success of International Intervention,” EU-ISS Occasional Paper 1 (Paris: Institute for Security Studies of the Western European Union, October 1997), aei.pitt.edu/667/01/occ01.html (accessed September 28, 2008); Javier Solana, “From Dayton Implementation to European Integration,” *NATO Review* (Winter 2004), www.nato.int/docu/review/2004/issue4/english/art2.html (accessed September 28, 2008); and John Norris, “The Costs of a Distracted White House,” *Globe and Mail* (December 15, 2005), www.crisisgroup.org/home/index.cfm?id=3840 (accessed September 28, 2008).

⁶ Payam Akhavan, “Punishing War Crimes in the Former Yugoslavia: A Critical Juncture for the New World Order,” *Human Rights Quarterly* 15, no. 2 (1993): 267.

⁷ *Ibid.*

⁸ Vesna Peric-Zimonjic, “International Women’s Day: Bosnia Rape Victims Forgotten,” IPS (March 7, 2006), <http://www.ipsnews.net/news.asp?idnews=32406> (accessed September 26, 2008).

⁹ *Ibid.*

¹⁰ Akhavan, “Punishing War Crimes in the Former Yugoslavia,” 262–89.

¹¹ Internal Displacement Monitoring Centre, *Bosnia and Herzegovina: Broader and Improved Support for Durable Solutions Required*, August 28, 2008 (Geneva: Internal Displacement Monitoring Centre, 2008), 1–12, [www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/D15C9EEBD742366FC12574B30045E386/\\$file/Bosnia+and+Herzegovina++August+2008.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/D15C9EEBD742366FC12574B30045E386/$file/Bosnia+and+Herzegovina++August+2008.pdf) (accessed September 26, 2008).

¹² John Mueller, “The Banality of ‘Ethnic War,’ ” *International Security* 25, no. 1 (Summer 2000): 42–70.

¹³ Defense Reform Commission, “The Path to Partnership for Peace: Report of the Defense Reform Commission” (Sarajevo: Defense Reform Commission, 2003), 1–245, www.ohr.int/archive/drc-report/pdf/drc-eng.pdf (accessed September 25, 2008).

¹⁴ Maria Shkaratan, “Bosnia and Herzegovina: Diagnostic Surveys of Corruption” (Washington, D.C.: World Bank, 2000), 1–72, www1.worldbank.org/publicsector/anticorrupt/Bosniananticorruption.pdf (accessed September 28, 2008).

¹⁵ Mufid Memija, ed., “Early Warning System in BiH Quarterly Report April–June 2003” (Sarajevo: United Nations Development Programme, 2003), 1–58, unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN013156.pdf (accessed September 28, 2008).

¹⁶ Jessica Alexander and Amra Sabic-El-Rayess, “DDR Evolution: Learning from the Case of Bosnia and Herzegovina,” in *From Conflict to Community: A Combatant’s Return to Citizenship*, ed. Ann M. Fitzgerald (Shrivenham, UK: Global Facilitation Network for Security Sector Reform at Cranfield University, 2005), 8–24.

- ¹⁷ United Nations Development Programme BiH, “Poverty Reduction,” September 26, 2008, www.undp.ba/index.aspx?PID=25&RID=26.
- ¹⁸ International Monetary Fund, *Bosnia and Herzegovina: Poverty Reduction Strategy Paper—Mid-Term Development Strategy*,” International Monetary Fund Country Report No. 4/114 (April 2004), 1–272, www.imf.org/external/pubs/ft/scr/2004/cr04114.pdf (accessed September 26, 2008).
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- ²¹ Slobodan Milosevic was indicted for war crimes in 1999 in relation to events that took place in Kosovo. The indictment for Ante Gotovina, a former lieutenant general in Croatia’s army, had indicated that Franjo Tudjman, the former president of Croatia, was responsible for Operation Storm in 1995. With regard to Alija Izetbegovic, the former president of Bosnia, the ICTY confirmed that he was investigated for possible war crimes but that the investigation ended upon his death in 2003.
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- ²³ Gerald Knaus and Felix Martin, “The Travails of the European Raj,” *Journal of Democracy* 14, no. 3 (2003): 63.
- ²⁴ Refik Hodzic, XY Films, interview by Massimo Moratti, May 15, 2006.
- ²⁵ For example, hints are often made by the Serb Republic’s current prime minister, Milorad Dodik, about the possibility of having a referendum in BiH similar to the one that took place in Montenegro.
- ²⁶ United Nations Development Programme, “Justice and Truth in BiH: Public Perceptions,” Early Warning System in BiH: Special Report, 2006, 32.
- ²⁷ Alexander and Sabic-El-Rayess, “DDR Evolution,” 13–14.
- ²⁸ Dayton Peace Agreement [hereafter DPA], Annex 1A, 1995, www.ohr.int/dpa/default.asp?content_id=368 (accessed September 26, 2008).
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- ⁴² Ibid., 10.
- ⁴³ Alexander and others, “From Barracks to Business,” 5–6.
- ⁴⁴ Ibid., 8.

- ⁴⁵ Ibid., 49.
- ⁴⁶ Organization for Security and Co-operation in Europe (OSCE), “Analysis and Comments on 2002 Severance Pay to Redundant Professional Soldiers,” OSCE, March 10, 2003, table cited from Alexander and others, “From Barracks to Business,” 50.
- ⁴⁷ Alexander and Sabic-El-Rayess, “DDR Evolution,” 17.
- ⁴⁸ Alexander and others, “From Barracks to Business,” 53.
- ⁴⁹ Ibid., 11.
- ⁵⁰ Ibid., 5.
- ⁵¹ Ibid., 12.
- ⁵² Ibid., 11.
- ⁵³ Ibid., 5.
- ⁵⁴ Ibid., 20.
- ⁵⁵ Ibid., 20. (Note: These findings relating to the average income and/or income differential were statistically significant.)
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- ⁵⁷ Ibid., 16–17.
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- ⁷³ International Criminal Tribunal for the former Yugoslavia (ICTY), “Partnership and Transition Between the ICTY and National Courts,” www.un.org/icty/cases-e/factsheets/partnership-e.htm (accessed September 12, 2006).

⁷⁴ Statute of the International Criminal Tribunal for former Yugoslavia, UN Security Council Resolution 827/1993, art. 1.

⁷⁵ Minna Schrag, “Lessons Learned from ICTY Experience: Notes for the ICC Prosecutor” (The Hague: ICC Office of the Prosecutor, 2003), 3; and Vesna Bojicic-Dzelilovic, “Peace on Whose Terms? War Veterans’ Associations in Bosnia and Herzegovina,” in *Challenges to Peacebuilding: Managing Spoilers During Conflict Resolution*, ed. Edward Newman and Oliver Richmond (Tokyo: United Nations University Press, 2006), 213.

⁷⁶ ICTY at a Glance, www.un.org/icty/glance-e/index-t.htm (accessed September 18, 2008).

⁷⁷ Court of Bosnia and Herzegovina, *Registry Annual Report, 2007*, 10–12, www.registrarbih.gov.ba/files/docs/ANNUAL_2007_report_2.pdf (accessed September 18, 2008).

⁷⁸ Nidzara Ahmetasevic, Aida Alic, and Mirna Mekic, “Busy Year for Bosnia’s War Crimes Chamber,” Balkan Investigative Reporting Network’s *Justice Report*, December 22, 2006, www.bim.ba/en/43/10/1990/ (accessed May 16, 2007).

⁷⁹ Human Rights Watch, *Still Waiting, Bringing Justice for War Crimes, Crimes against Humanity, and Genocide in Bosnia and Herzegovina’s Cantonal and District Courts*, July 2008, 2, www.hrw.org/en/node/62137/section/1 (accessed September 18, 2008).

⁸⁰ UNDP Report, *Solving War Crime Cases in Bosnia and Herzegovina—Report on the Capacities of Courts and Prosecutor’s Offices within Bosnia and Herzegovina to Investigate, Prosecute and Try War Crimes Cases*, August 13, 2008, 18, www.undp.ba/index.aspx?PID=36&RID=78 (accessed September 18, 2008).

⁸¹ For example, after Slobodan Milosevic’s death, RS authorities’ position and that of the general Serb populace was to move forward quickly, while the people in Federation BiH expressed disappointment that Milosevic would not face consequences for his actions and not all the truth would be disclosed.

⁸² Slavo Kukic, Vehid Sehic, and Branko Todorovic, ed. Lynne O’Donoghue and Alma Dedic, “Justice and Truth: Public Perceptions,” *EWS Special Report* (Sarajevo: United Nations Development Programme, 2005), 30.

⁸³ Press article published in a Bosnian newspaper, *Dnevni Avaz*, March 15, 2007.

⁸⁴ For more information on the Research and Documentation Center, Sarajevo, see www.idc.org.ba.

⁸⁵ The presentation of the results of the IDC can be found at www.idc.org.ba/prezentacija/sadrzaj.htm (accessed September 18, 2008).

⁸⁶ International Crisis Group, *War Criminals in Republika Srpska*, Europe Report No. 103, November 2, 2000, 11, 15, 17, 23. Persons responsible for war crimes and human rights abuses continued to hold public offices for a long time after the conflict. Many of them were also elected in the course of regular elections. Some of them still hold public office today. A few egregious cases include those of Mirko Blagojevic, Dusko Kornjaca, Miodrag Josipovic and Miroslav Deronjic. Blagojevic was leader of the Serb Cetnik Unit in Bijeljina during the conflict and, until 2006, a member of the BiH Parliament. The ICG report refers to him as one of the persons responsible for ethnic cleansing in Bijeljina. Kornjaca and Josipovic, both of whom are suspected of being responsible for war crimes in the RS municipalities of Cajnice and Bratunac, were mayors of these respective areas until 2004 and 2001. Deronjic, recently deceased, was Municipal Councillor in Bratunac until 2000 and had been sentenced to ten years imprisonment by the ICTY.

⁸⁷ Alexander Mayer-Rieckh, “Vetting to Prevent Future Abuses: Reforming the Police, Courts, and Prosecutor’s Offices in Bosnia and Herzegovina,” in *Justice as Prevention: Vetting Public Employees in Transitional Societies*, eds. Alexander Mayer-Rieckh and Pablo de Greiff (New York: Social Science Research Council, 2007), 486.

⁸⁸ United Nations Security Council, *Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina*, UN Doc. S/2002/1314, 3. These figures do not add up and there is no explanation for this inconsistency in official documents.

⁸⁹ European Stability Initiative (ESI), “On Mount Olympus,” February 15, 2007, 16.

⁹⁰ Mayer-Rieckh, “Vetting to Prevent Future Abuses,” 489.

⁹¹ NATO/Stabilization Force, “Complete Vetting Process for Armed Forces of BiH General Staff,” Press Statement, www.nato.int/sfor/trans/2004/p040615a.htm (accessed September 18, 2008).

⁹² Viktorija Ruzicic, OHCHR, interview by Massimo Moratti, Sarajevo, May 28, 2006.

⁹³ For the official statistics on property restitution, see OHR, “Statistics: Implementation of the Property Laws in Bosnia and Herzegovina,” www.unhcr.ba/protection/plip/pdf/PLIP_03_2006.pdf (accessed September 15, 2008). For more information on the process, see Rhodri Williams, “The Contemporary Right to Property Restitution in the Context of Transitional Justice,” ICTJ, Occasional Paper Series, 38–39, www.ictj.org/static/PropertyRestitution/Rest_Pub_07.pdf (accessed September 17, 2008).

⁹⁴ Ministry for Human Rights and Refugees Bosnia and Herzegovina, “*REVIDIRANA STRATEGIJA BOSNE I HERCEGOVINE, za provedbu Aneksa VII Dejtonskog mirovnog sporazuma*” (“Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement”), September 2008, 18, www.mhrr.gov.ba/PDF/Izbjeglice/Nacrt%20revidirane%20Strategije-septembar-rujan%20sa%20aneksom.pdf (accessed September 18, 2008).

⁹⁵ Translated from Bosnian/Serbo/Croatian to mean “pears and apples.” The expression is used to express two items or concepts that are not the same.

⁹⁶ Regina Boucault, Head of IOM’s mission in Bosnia and Herzegovina, interview by Massimo Moratti, Sarajevo, May 25, 2006.

⁹⁷ Ibid.

⁹⁸ Alisa Muratcaus, President of the Camp Inmates’ Association of Canton Sarajevo, interview by Massimo Moratti, Sarajevo, May 21, 2006.

⁹⁹ Mirza Hajdarevic, Jedinstvena Organizacija Boraca (United Fighters Organization), Unija Veterana, interview by Massimo Moratti, Sarajevo, May 22, 2006.

¹⁰⁰ Obviously, local boards of veterans’ associations are present only at municipalities controlled by “their” ethnic group.

¹⁰¹ Bojicic-Dzelilovic, “Peace on Whose Terms?,” 13.

¹⁰² Ibid.

¹⁰³ Hodzic, interview by Massimo Moratti, Sarajevo, May 3, 2006.

¹⁰⁴ Slavko Jovicic, Vice President of the RS Camp Inmates’ Association, interview by Massimo Moratti, Sarajevo, May 4, 2006.

¹⁰⁵ Hodzic, interview by Massimo Moratti, Sarajevo, May 3, 2006.

¹⁰⁶ Branislav Dukic, President of the RS Camp Inmates’ Association, interview by Massimo Moratti, Banja Luka, May 16, 2006.

¹⁰⁷ See, e.g., the rally held in Sarajevo in 2007 for the abolition of the RS, organized by members of the victims’ associations, www.banjalukaalive.com/rs-i-bih/miting-u-sarajevo-zatrazeno-ukidanje-republike-srpske.html (accessed September 19, 2008).

¹⁰⁸ This is an important development that began at the end of 2005. RS police now regularly carry out arrest warrants issued by Federation BiH courts.

¹⁰⁹ The investment fund managed by the RS Combatants’ Organization is one example. This fund helps former soldiers invest vouchers they received under privatization laws in RS. For more information on this initiative, see www.borsinvest.org.

¹¹⁰ See the Annual Report 2004 of the “Pomoc” Foundation from Banja Luka, detailing the exact amount of money given to each Serb indictee by the ICTY. Similar initiatives were attempted for Croat and Bosniak indictees as well. On file with the authors.

¹¹¹ Hodzic, interview by Massimo Moratti, Sarajevo, May 3, 2006; Branka Rajner, Human Rights Office Tuzla, interview by Massimo Moratti, Tuzla, May 14, 2006; and Nenad Hasimbegovic, Center for Nonviolent Action, interview by Massimo Moratti, Sarajevo, May 3, 2006.