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## Time for Change: Aid, NGOs, and Transitional Justice in Bosnia-Herzegovina

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# Time for Change: Aid, NGOs, and Transitional Justice in Bosnia-Herzegovina

## **Cover Page Footnote**

The idea for this article came after a discussion with Marie Tuma, former Prosecutor at the International Criminal Tribunal for the former Yugoslavia and current Director at the Raoul Wallenberg Institute at Lund University, Sweden, during the Second Biennial War Crimes Conference 'Justice? Whose Justice? Punishment, Mediation or Reconciliation,' in London. The conference was organized by the Institute for Advanced Legal Studies at the University of London, and held from 3-5 March 2011. I wish to thank Ms. Tuma for arranging interviews with Swedish Embassy representatives in Sarajevo, Bosnia and Herzegovina. Additionally, I wish to thank Jo-Marie Burt, Anna Di Lellio, Elin Skaar, Allison Sherrier, Eric Wiebelhaus-Brahm, two anonymous reviewers, and the editors of this journal for reading earlier drafts of this article and providing valuable comments to help clarify certain aspects. I am also indebted to Maria O'Reilly, Vjeran Pavlaković and other colleagues and friends for the many conversations that helped improve this article.

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**Time for Change:  
Aid, NGOs and Transitional Justice in Bosnia-Herzegovina**

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**Introduction**

In the 1990s the former Yugoslavia, and in particular Bosnia-Herzegovina (BiH), was ravaged by violent conflict. As a result, BiH has been under the tutelage of different international and regional actors since the signing of the Dayton peace agreements in 1995, including the Office of the High Representative (OHR).<sup>1</sup> These actors first rebuilt physical and infrastructural damage and subsequently monitored BiH's democratization process to strengthen its political institutions and support its war-torn society during the post-conflict transition. Several authors argue that despite numerous reform initiatives BiH's society continues to grapple with ethnic divisions, which fuel persistent political crises and institutional instability.<sup>2</sup> In addition to the political turmoil at both the federal and

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<sup>1</sup> The OHR is an ad hoc international institution that oversees the implementation of the peace agreement and represents the countries involved in the peace accords through the Peace and Implementation Council. For more information see OHR website at <http://www.ohr.int/>, accessed February 20, 2012. While its current head the Austrian Valentin Inzko used to also be the European Union (EU) Special Representative for BiH, since 2011, the EU has decided to appoint a separate representative for this position. Currently, Peter Sørensen, from Denmark has been chosen for the EU Special Representative position. The aim of decoupling both positions is to prepare BiH for the EU accession process, according to the EU.

<sup>2</sup> Florian Bieber, "Constitutional Reform in Bosnia and Herzegovina: Preparing for EU Accession," *Policy Brief European Policy Center*, 2010; Roberto Belloni, "Bosnia: Dayton Is Dead! Long Live Dayton!" *Nationalism & Ethnic Politics* 15.3-4 (2009): 355-75; Bruce Hitchner, "From Dayton to Brussels: The Story Behind the

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state level, Bosnian civil society fell below expectations of Western aid actors and evaluations of international nongovernmental organizations (INGOs), which operated in the region with funding from Western donors.<sup>3</sup> Ironically, in spite of weak civil society structures, early literature on development aid and democracy promotion examined why donors showed a greater interest in providing assistance to nongovernmental organizations (NGOs) rather than to government institutions.<sup>4</sup> Although this trend applies to the overall political and democratic transition processes in BiH,<sup>5</sup> this study illustrates that development aid for transitional justice strategies does not follow this pattern. On the contrary, international government donors have been reluctant to support civil society initiatives, and instead favor government-backed projects.

In view of a growing debate on the role of civil society in transitional justice processes around the world,<sup>6</sup> this article examines

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Constitutional and Governmental Reform Process in Bosnia and Herzegovina,” *The Fletcher Forum of World Affairs* 30 (2006): 125.

<sup>3</sup> Roberto Belloni, “Civil Society in War-to-Democracy Transitions,” in *From War to Democracy: Dilemmas of Peacebuilding*, ed. Anna Jarstad (Cambridge: Cambridge University Press, 2008), 182–211; Martina Fischer, *Peacebuilding and Civil Society in Bosnia and Herzegovina: Ten Years after Dayton* (Berlin: Lit Verlag, 2005); Adam Fagan, “Civil Society in Bosnia Ten Years after Dayton,” *International Peacekeeping* 12.3 (2005): 406–19; David Chandler, “Democratization in Bosnia: The Limits of Civil Society Building Strategies,” *Democratization* 5.4 (1998): 78–102.

<sup>4</sup> Marina Ottaway and Thomas Carothers, *Funding Virtue: Civil Society Aid and Democracy Promotion* (Carnegie Endowment, 2000); Gordon Crawford, “Promoting Democracy from Without - Learning from Within (Part I),” *Democratization* 10.1 (2003): 77–98.

<sup>5</sup> Chandler, “Democratization in Bosnia: The Limits of Civil Society Building Strategies;” Adam Fagan, “Transnational Aid for Civil Society Development in Post-Socialist Europe: Democratic Consolidation or a New Imperialism?” *Journal of Communist Studies and Transition Politics* 22.1 (2006): 115–34; Jorgen Skov Sorensen, “Pluralism or Fragmentation,” *War Report* 35 (1997).

<sup>6</sup> David Androff, “Can Civil Society Reclaim Truth? Results from a Community-Based Truth and Reconciliation Commission,” *The International Journal of Transitional Justice* 6.2 (May 24, 2012): 296–317; Cath Collins, Lorena Balardini, and Jo-Marie Burt, “Mapping Perpetrator Prosecutions in Latin America,” *The International Journal of Transitional Justice* 7.1 (December 12, 2012): 8–28; Christoph Sperfeldt, “Cambodian Civil Society and the Khmer Rouge Tribunal,” *The International Journal*

the relationship between international donors and domestic civil society actors engaging in alternative post-conflict justice activities, including fact-finding initiatives and memory-related projects. As research on international aid for post-conflict justice efforts has only found limited scholarly attention thus far, this study focuses on Scandinavian aid practices in BiH. It explores in particular Sweden and Norway's involvement, as Scandinavian countries have been norm-shaping and innovative development actors in the past.<sup>7</sup> In spite of an increasing number of restorative justice projects implemented by local NGOs in BiH, transitional justice aid from Scandinavian state donors to Bosnian human rights advocates remains insubstantial. This begs the question as to why Norwegian and Swedish governments are reluctant to provide financial support to local civil society initiatives engaged in post-conflict justice. Drawing on extensive fieldwork data, the author argues that several factors, including institutional and ideological obstacles, have fueled this problematic trend.

The first part of this article reviews a selection of the literature on post-conflict development and transitional justice to stress the importance of interdisciplinary analysis and the role of civil society in post-conflict justice contexts. Additionally, it calls for further academic research on international donor practices in transitional justice contexts to better understand persisting state-centric aid strategies despite the burgeoning role of NGOs. The second part summarizes the research design and methodologies used

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*of Transitional Justice* 6.1 (2012): 149–60; Aron Boesenecker and Leslie Vinjamuri, “Lost in Translation? Civil Society, Faith-Based Organizations and the Negotiation of International Norms,” *The International Journal of Transitional Justice* 5.3 (2011): 345–65; E. Haslam, “Subjects and Objects: International Criminal Law and the Institutionalization of Civil Society,” *The International Journal of Transitional Justice* 5.2 (2011): 221–40; Sari Kouvo and Dallas Mazoori, “Reconciliation, Justice and Mobilization of War Victims in Afghanistan,” *The International Journal of Transitional Justice* 5.3 (2011): 492–503.

<sup>7</sup> Sunniva Engh and Helge Pharo, “Nordic Cooperation in Providing Development Aid,” in *Regional Cooperation and International Organizations: The Nordic Model in Transnational Alignment*, ed. Norbert Götz and Heidi Haggrén (New York: Routledge, 2009), 112.

in this study. The research is based on qualitative data collected during extensive fieldwork, including semi-structured interviews, government reports and other official documents. Against the backdrop of the growing role of post-conflict NGOs in BiH presented in the third part of this article, the last part analyses the reasons as to why donors are reluctant to support alternative transitional justice initiatives led by Bosnian NGOs.

### **Post-Conflict Development, Transitional Justice and NGOs**

The issues examined in post-conflict development studies, peace studies, and transitional justice studies are complementary, leading to an increase in interdisciplinary analyses in the last few years.<sup>8</sup> Such work, however, is still in its initial stages and this article provides additional insights for cross-boundary research. At present, it remains difficult to link different issues across disciplinary lines. As a case in point, transitional justice “often comes to represent a trade-off of sorts between justice *or* development, rather than promoting development *with* justice.”<sup>9</sup> In fact, transitional justice is a relatively new field. Early literature that influenced transitional justice studies was concerned with the question of post-authoritarian regime change in different regions across the world, such as Latin America and Eastern Europe.<sup>10</sup> Practitioners and scholars who built on democratic transition concepts eventually coined the term transitional justice in

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<sup>8</sup> For a discussion on these issues see for instance the special issue on development of the *International Journal of Transitional Justice*, 2 (3), 2008. See also Chandra Lekha Sriram et al., *Transitional Justice and Peacebuilding on the Ground: Victims and Ex-Combatants* (New York: Routledge, 2012).

<sup>9</sup> Rama Mani, “Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development,” *International Journal of Transitional Justice* 2.3 (2008): 253–65.

<sup>10</sup> See for instance Guillermo O’Donnell and Paul Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore, MD: Johns Hopkins University Press, 1986); Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman, OK: University of Oklahoma Press, 1993); Juan Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore, MD: Johns Hopkins University Press, 1996).

the 1990s.<sup>11</sup> The burgeoning advocacy-oriented work now includes legal, normative, socio-political and anthropological scholarship, to name only a few areas of inquiry.<sup>12</sup> Over time, the thematic and geographic map of transitional justice grew globally and, with it, the number of those who are involved. The list of actors engaged in transitional justice practices today contains not only states, but also international organizations, NGOs and individuals.<sup>13</sup>

As research in this newly established field transgressed disciplinary boundaries, critical debates have emerged, including for example work situated at the intersection of post-conflict studies and transitional justice.<sup>14</sup> While the linkage between these disciplines is a positive development, critics of the liberal peacebuilding paradigm,<sup>15</sup> such as Chandra Lekha Sriram, have nonetheless expressed concerns:

The field known as transitional justice, once potentially separate from the field known as peacebuilding, is thus now tightly linked to it. This is certainly appropriate and necessary:

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<sup>11</sup> Neil J. Kritz, *Transitional Justice: How Emerging Democracies Reckon With Former Regimes: General Considerations* (Washington, DC: US Institute of Peace Press, 1995); Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, USA, 2000). For a genealogy of the emergence of the field see Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice," *Human Rights Quarterly* 31.2 (2009): 321–67.

<sup>12</sup> Leslie Vinjamuri and Jack Snyder, "Advocacy and Scholarship in the Study of International War Crime Tribunals and Transitional Justice," *Annual Review of Political Science* 7.1 (2004): 345–62.

<sup>13</sup> Jelena Subotić, "The Transformation of International Transitional Justice Advocacy," *The International Journal of Transitional Justice* 6.1 (2012): 106–25; Christine Bell, "Transitional Justice, Interdisciplinarity and the State of the 'Field' or 'Non-Field,'" *The International Journal of Transitional Justice* 3.1 (2009): 5–27; Ruti G. Teitel, "Transitional Justice Genealogy," *Harvard Human Rights Journal* 16 (2003): 69.

<sup>14</sup> See for instance the edited volume on victims and ex-combatants Sriram et al., *Transitional Justice and Peacebuilding on the Ground..* For work on the nexus between peace and justice from an accountability-oriented perspective see Jessica Lincoln, *Transitional Justice, Peace and Accountability: Outreach and the Role of International Courts After Conflict* (Abingdon: Taylor & Francis, 2011).

<sup>15</sup> The 'liberal peacebuilding critique' is research, which is skeptical about the benefits of transforming war-shattered states into liberal democracies with market economies. For a detailed discussion see for instance Roland Paris, *At War's End* (Cambridge: Cambridge University Press, 2004).

it would be a mistake to seek to “do justice” in a political vacuum, or to seek to build peace without addressing the horrors of the recent past. To treat each separately would be to risk both. However, the subsumption of transitional justice by the liberal peacebuilding apparatus potentially subjects transitional justice to some of the same flaws and critiques of the peacebuilding agenda.<sup>16</sup>

One of the flaws she mentions, for instance, is the culturally insensitive institutionalization and liberalization strategies of international actors that potentially constitute new sources of conflict.<sup>17</sup> While her work showcases several issues associated with post-conflict development, it does not seek to answer the question of why external actors nevertheless continue these practices. Moreover, her analysis is centered on a state-level perspective, addressing grassroots and civil society initiatives only in passing. To go beyond these limitations, the present article particularly explores donor practices in view of the role of NGOs in transitional justice contexts. Many Bosnian NGOs emerged over the past decade to address wrongdoings of the past using completely different strategies than the established international and domestic war crimes trials. Yet, despite this trend, it is puzzling as to why many external government donors have shied away from directly supporting these grassroots transitional justice efforts.

The need to improve the role of civil society in transitional justice processes has received some scholarly attention, globally as well as regionally.<sup>18</sup> Notwithstanding the descriptive insights of several cases, little has been written on the relationship between

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<sup>16</sup> Chandra Lekha Sriram, “Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice,” *Global Society* 21.4 (2007): 587.

<sup>17</sup> Sriram, “Justice as Peace?” 586-587.

<sup>18</sup> Martin Albrow, Helmut K. Anheier, and Hakan Seckinelgin, *Global Civil Society 2011: Globality and the Absence of Justice* (New York: Palgrave Macmillan, 2011), pt. IV; Olivera Simić and Zala Volčič, eds., *Transitional Justice and Civil Society in the Balkans* (New York: Springer, 2013); Cath Collins, *Post-Transitional Justice: Human Rights Trials in Chile and El Salvador* (University Park, PA: Pennsylvania State University Press, 2011).



international state donors and local non-profit actors in post-conflict justice settings. Instead, scholarship has generally expanded existing normative-oriented research. As a case in point, David Backer's study, which is part of this normative body of scholarship, provides a general framework to trace the links between civil society activities and government practices. He claims that "both government and civil society can contribute to and stand to gain from the [post-conflict reconciliation] process, but only if they achieve an appropriate balance of roles."<sup>19</sup> Contrary to Backer's work, however, this article focuses on the imbalanced roles that are in place. In fact, aid is favorably provided to government institutions. The study underlines the current struggle of different local NGO initiatives, explaining the reasons behind the persistence of state-centric aid. Moreover, Backer does not question the impact and influence of international post-conflict justice advocates, such as organizations including the United Nations and the International Center for Transitional Justice, on local transitional justice processes.

Other authors have challenged this trend.<sup>20</sup> Unsatisfied with the top-down structure applied by international post-conflict actors, Patricia Lundy and Mark McGovern argue that

the agenda being set for transitional justice, as it is currently constituted, tends to marginalize issues, questions, and approaches that might either challenge the forms and norms of Western governance, or implicate dominant global economic relations in the causes of conflict, rather than its solution.<sup>21</sup>

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<sup>19</sup> David Backer, "Civil Society and Transitional Justice: Possibilities, Patterns and Prospects," *New York Law School Journal of Human Rights* 2.3 (2003): 299.

<sup>20</sup> Patricia Lundy and Mark McGovern, "Whose Justice? Rethinking Transitional Justice from the Bottom Up," *Journal of Law and Society* 35.2 (2008): 265–92; Anna Di Lellio and Caitlin McCurn, "Engineering Grassroots Transitional Justice in the Balkans The Case of Kosovo," *Eastern European Politics and Societies: EEPS* 27.1 (2013): 129–48.

<sup>21</sup> Lundy and McGovern, "Whose Justice?"; Di Lellio and McCurn, "Engineering Grassroots Transitional Justice," 274.

The authors discuss how excluding local communities as active participants in transitional justice efforts raises basic questions of legitimacy, local ownership, and participation.<sup>22</sup> Zala Volčič and Olivera Simić's edited volume contributes to this debate with a number of case studies analyzing civil society actors across the Balkans.<sup>23</sup> The authors take a critical look at national strategies and local practices by closely examining international transitional justice priorities and exploring the complex justice processes currently underway in the region. Jill Irvine and Patrice McMahon's chapter, for example, scrutinizes domestic transitional justice efforts and especially the local actors who implement these initiatives.<sup>24</sup> Drawing on social movement theory, they show that 'grassroots efforts to promote transitional justice must overcome significant obstacles in framing issues, creating coalitions and engaging the state.'<sup>25</sup> Several other authors, including Arnaud Kurze and Iva Vukušić, have also looked at regional human rights activists and civil society organizations involved in the creation of a transnational fact-finding initiative.<sup>26</sup> They find that in addition to external causes that have

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<sup>22</sup> Lundy and McGovern, "Whose Justice?"; Di Lellio and McCurn, "Engineering Grassroots Transitional Justice," 266. Their research is grounded in a growing scholarship on critical development studies and transitional justice. See also Christine Bell, Colm Campbell, and Fionnuala Ní Aoláin, "Justice Discourses in Transition," *Social & Legal Studies* 13.3 (2004): 305–28; Colm Campbell and Fionnuala Ní Aoláin, "The Paradox of Transition in Conflicted Democracies," *Human Rights Quarterly* 27.1 (2005): 172–213; Peter Uvin, "Difficult Choices in the New Post-Conflict Agenda: The International Community in Rwanda after the Genocide," *Third World Quarterly* 22.2 (2001): 177–89.

<sup>23</sup> Simić and Volčič, *Transitional Justice and Civil Society in the Balkans*.

<sup>24</sup> Jill A. Irvine and Patrice C. McMahon, "From International Courts to Grassroots Organizing: Obstacles to Transitional Justice in the Balkans," in *Transitional Justice and Civil Society in the Balkans*, ed. Olivera Simić and Zala Volčič, Springer Series in Transitional Justice (New York: Springer, 2013), 217–37.

<sup>25</sup> Irvine and McMahon, "From International Courts to Grassroots Organizing," 218–219.

<sup>26</sup> Arnaud Kurze and Iva Vukusic, "Afraid to Cry Wolf: Human Rights Activists' Struggle of Transnational Accountability Efforts in the Balkans," in *Transitional Justice and Civil Society in the Balkans*, ed. Olivera Simić and Zala Volčič (New York, NY: Springer New York, 2013), 201–15.

hampered the creation of a regional truth commission, internal factors also encumbered the efforts on the ground to establish additional measures to deal with past mass atrocities.<sup>27</sup>

The focus of this research, however, goes further, exploring the link between donor practices and transitional justice. Some recent work already examines the effects and impact of local justice in relation to global transitional justice practices.<sup>28</sup> Although the need to address remedies within specific contexts is crucial to successfully implement transitional justice strategies, many of the current practices fail to embrace locality. As Moses Okello points out, “transitional justice language would undeniably have to move from hierarchical understanding of justice processes to one based upon place.”<sup>29</sup> As a result, a number of authors have elaborated on the question between a global post-conflict justice discourse, especially in view of international law norms, and the consequences of these practices on the ground.<sup>30</sup> Despite the growing interest in the impact of civil society in transitional justice settings, it is still unclear why notably innovative and norm-shaping international state donors continue with liberal development strategies that are not adequately tailored to the needs of local populations. The work by Sara Kendall, for instance, addresses this question by framing development and post-conflict justice accountability in terms of a market-oriented discourse. According to her, the creation of consulting firms by former prosecutors and investigators

illustrates the emerging triangulation between justice, security, and development. While the scholarly field of international criminal law tends to look inward to its evolving

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<sup>27</sup> See also Alex Jeffrey, “The Political Geographies of Transitional Justice,” *Transactions of The Institute of British Geographers* 36.3 (2011): 344–59.

<sup>28</sup> Moses Chrispus Okello, “Elevating Transitional Local Justice or Crystallizing Global Governance?” in *Localizing Transitional Justice: Interventions and Priorities After Mass Violence*, ed. Rosalind Shaw, Lars Waldorf, and Pierre Hazan (Stanford, CA: Stanford University Press, 2010), 275.

<sup>29</sup> Okello, “Elevating Transitional Local Justice,” 281.

<sup>30</sup> Rosalind Shaw and Lars Waldorf with Pierre Hazan, eds., *Localizing Transitional Justice: Interventions and Priorities after Mass Violence* (Stanford, CA: Stanford University Press, 2010).

jurisprudence with the occasional turn to political analysis of its structures, the broader relations between tribunals, ‘rule-of-law’ and governance agendas, and the provision of security to foster economic development is rarely considered.<sup>31</sup>

Thus, she explores the relationship between normative notions of justice and economic liberalism. While her findings stress the emerging symbiosis between market-driven objectives and the dissemination of international norms, this study scrutinizes the imbalanced post-conflict justice support by Western donors who favor retributive justice mechanism. It concentrates on Scandinavian governments, in particular Sweden and Norway in BiH, with the goal of discussing the reasons behind donor practices that rely predominantly on war crimes trials and accountability strategies, which hamper more comprehensive strategies within Bosnian society.

### **Research Design and Methodology**

The selection of BiH as a case study is primarily based on its history in global politics and international development assistance patterns. BiH constitutes a post-conflict zone that has been on the agenda of foreign aid donors for more than a decade. The country went through multiple assistance phases each of them corresponding to various stages of the Balkan conflict, including humanitarian aid, post-conflict reconstruction, and, as of now, democratization assistance. Therefore, the goal of studying BiH lies in generating new insights on current Scandinavian aid strategies. The findings can then serve as a catalyst that triggers a broader discussion on post-conflict justice funding to implement more comprehensive practices on the ground.

An important number of international development actors, such as the European Union (EU), EU member states, the United States, and the United Nations (UN), among other states and international organizations, have supported and are currently assisting BiH during its transition phase. This study, however, focuses on

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<sup>31</sup> Sara Kendall, “Donors’ Justice: Recasting International Criminal Accountability,” *Leiden Journal of International Law* 24.03 (2011): 605.

Scandinavian aid, notably on Norwegian and Swedish donor assistance with regards to alternative transitional justice mechanisms. This choice is based on two reasons. First, despite the important role of EU assistance across the former Yugoslavia, Brussels's engagement in comprehensive transitional justice efforts that go beyond retributive justice mechanisms remains limited.<sup>32</sup> Second, Scandinavian states are often seen as 'norm entrepreneurs' in world politics, especially with regards to the provision of aid.<sup>33</sup> While their unique position could be instrumental to strengthen bottom-up initiatives in post-conflict justice, there has been little involvement in either of the two cases. This selection therefore helps to shed light on why these countries have not followed previous policy patterns, which would consist of spearheading efforts to support new, alternative transitional justice practices.<sup>34</sup>

The study is based on extensive fieldwork in BiH between 2009 and 2011, including over three-dozen interviews with official representatives of donor countries, activists and experts. Embassy representatives from the Swedish and Norwegian Missions in Sarajevo kindly responded to interview requests, providing valuable reports and official documentation. Moreover, the research project includes interviews with staff of the High Judicial and Prosecutorial Council (HJPC),<sup>35</sup> the United Nations Development Program (UNDP), the Organization for Security and Cooperation in Europe (OSCE), the EU Special Representative, and the OHR. Several interviews and discussions with human rights activists including staff from the Coalition for RECOM (a regional fact-finding initiative

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<sup>32</sup> Katy A. Crossley-Frolick, "The European Union and Transitional Justice: Human Rights and Post-Conflict Reconciliation in Europe and Beyond," *Contemporary Readings in Law and Social Justice* 3.1 (2011): 33–57.

<sup>33</sup> Christine Ingebritsen, "Norm Entrepreneurs Scandinavia's Role in World Politics," *Cooperation and Conflict* 37.1 (March 1, 2002): 11–23.

<sup>34</sup> Ingebritsen, "Norm Entrepreneurs."

<sup>35</sup> The HJPC is a national institution that serves as a watchdog within the judicial system in BiH. The members of the Council appoint, train, and discipline judges. The HJPC is also responsible for advising other government entities about judicial budgets and administration. See also HJPC website at <http://www.hjpc.ba/>, accessed January 15, 2013.

created in 2008), the Research and Documentation Center, and the Youth Initiative for Human Rights in Sarajevo are also a part of the project data. The interviewees were chosen by their relevance to the current transitional justice process and development aid strategies in BiH and supplementary research subjects were added by using snowball sampling.<sup>36</sup> Several participants agreed to be interviewed only under the condition of anonymity. Their institutional affiliation is nonetheless indicated.

In the following, this article provides an overview of Sweden and Norway's current aid for institutional reform and rule of law as part of their transitional justice support in BiH. These state-centric aid efforts are then contrasted with an analysis of new emerging alternative post-conflict justice initiatives by local NGOs. Despite the increasing role of civil society in restorative transitional justice efforts in BiH, however, Swedish and Norwegian donor practices have not adapted new broad strategies to shift larger parts of their aid to local NGO actors. Drawing on these observations, the last part explains why these changes in aid policies have failed to materialize.

### **Current Donor Practices and Challenges for Local NGOs**

The primary internationally-sponsored post-conflict justice efforts in BiH since the end of the conflict consisted of cooperating with the ICTY and after 2005 holding domestic trials at the Court of BiH War Crimes Chamber.<sup>37</sup> During the past decade, however, civil society

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<sup>36</sup> Chaim Noy, "Sampling Knowledge: The Hermeneutics of Snowball Sampling in Qualitative Research," *International Journal of Social Research Methodology* 11.4 (2008): 327–44. Notwithstanding the openness of interviewees to participate in this study, many of them refused to be referenced by their name due to potential political consequences on the ground.

<sup>37</sup> Jelena Subotić, *Hijacked Justice: Dealing with the Past in the Balkans* (Ithaca, NY: Cornell University Press, 2009); James Gow, "The ICTY, War Crimes Enforcement and Dayton: The Ghost in the Machine," *Ethnopolitics* 5.1 (2006): 49–65; Claire Garbett, "Localising Criminal Justice: An Overview of National Prosecutions at the War Crimes Chamber of the Court of Bosnia and Herzegovina," *Human Rights Law Review* 10.3 (2010): 558–68.

actors supporting transitional justice practices have grown.<sup>38</sup> Although Scandinavian donors have a reputation of engaging in innovative development policies, post-conflict justice strategies pursued in BiH follow more conventional goals—including institutional reform and the rule of law, which are also part of the EU integration strategy.<sup>39</sup> These observations are based on official reports issued by the Bosnian government as well as donor reports. The first set of data was extracted from a series of BiH aid reports published by the BiH Ministry of Finance and Treasury, between 2006 and 2012.<sup>40</sup> Whereas the reports define ten different sectors that receive aid—ranging from environmental protection to education—this study focuses only on two sectors—‘Good Governance and Institution Building’ henceforth governance and ‘Conflict Prevention and Resolution, Peace and Security’ henceforth conflict prevention—in order to analyze disbursements that are relevant for post-conflict justice activities.

The second set of data was drawn from an analysis of both the Norwegian and Swedish project grants since 2000. It exemplifies

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<sup>38</sup> Iavor Rangelov and Marika Theros, “Transitional Justice in Bosnia and Herzegovina: Coherence and Complementarity of EU Institutions and Civil Society,” in *Building a Future on Peace and Justice: Studies on Transitional Justice, Conflict Resolution and Development: The Nuremberg Declaration on Peace and Justice*, eds. Kai Ambos, Judith Large, and Marieke Wierda (London: Springer, 2009), 362.

<sup>39</sup> Although Norway is not a member of the EU, officials at the Norwegian Mission in Sarajevo emphasized that aid policies are increasingly implemented in coordination with other bilateral EU member countries and EU staff in BiH. Interview by author, 17 May 2011.

<sup>40</sup> BiH Ministry of Finance and Treasury, “Donor Mapping Report 2006,” Donor Coordination Forum, 2006; BiH Ministry of Finance and Treasury, “Donor Mapping Report 2007,” Donor Coordination Forum, 2007; BiH Ministry of Finance and Treasury, “Donor Mapping Report 2009-2008,” Donor Coordination Forum, 2009; BiH Ministry of Finance and Treasury, “Donor Mapping Report 2011-2010,” Donor Coordination Forum, 2011; BiH Ministry of Finance and Treasury, “Donor Mapping Report 2012-2011,” Donor Coordination Forum, 2012. Although some report data for earlier periods are also available, most of the data are missing or were only partially recorded and are therefore inapt for analytical purposes.

a state-centric disbursement strategy.<sup>41</sup> Norway, for example, has directed a large part of its post-conflict justice assistance to the HJPC. Although the autonomous institution was created in 2004 with the goal of promoting general judicial reform in BiH,<sup>42</sup> Sven Marius Urke, a seconded Norwegian civil servant who is an international member of the HJPC,<sup>43</sup> believes the HJPC is crucial for promoting war crimes prosecutions. To this end, the HJPC appoints judges to the War Crimes Chamber (WCC) of the BiH Court, he explained. Other members of international organizations share Mr Urke's view and stress the HJPC's role for transitional justice processes not only in BiH, but also across the region.<sup>44</sup> One of Norway's principal aid goals therefore consists of a so-called institutional knowledge transfer model, in which best practices from the Norwegian judicial system are applied to BiH's judiciary, as some government representatives put it.<sup>45</sup> Such a strategy remains nonetheless restricted to state institutions and government elites rather than including grassroots members of society.

In 2010, an internal evaluation report questions the effectiveness of the established goals, stating that "Norway may have exited too soon... or has not established operational clarity for

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<sup>41</sup> See the donor database website from the BiH Ministry of Finance and Treasury at <http://db.donormapping.ba/>, accessed February 3, 2013. The data used for the analysis are post-2000, because in the years immediately after the end of the conflict donor support consisted primarily of infrastructure-related aid to rebuild physical damage within societies. This study, however, is specifically interested in aid for post-conflict justice efforts.

<sup>42</sup> Total judicial and legal sector reform funding for the period of 1996-2008 was about 10 million Euro (\$13.4 million USD), excluding secondment salaries to its experts and civil servants working in BiH institutions.

<sup>43</sup> Before becoming an international member of the HJPC, Mr. Urke was also part of the international team working on the Independent Judicial Commission (IJC) in BiH.

<sup>44</sup> Interviews by author with several members of international organizations, including the OSCE, UNDP, and the EU, among others in May 2011.

<sup>45</sup> Interview by author with several representatives of the Norwegian Embassy in Sarajevo in May 2011.



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expected longer-term effects (reconciliation, democratisation).<sup>46</sup> In addition, attempts to successfully embrace a more NGO-focused approach to implement alternative transitional justice efforts remain limited. The report further criticized Norway's development performance in BiH, and since then the government has made an effort to strengthen its ties with NGOs on the ground.<sup>47</sup> In addition to existing smaller projects, the Norwegian government initiated support to a handful of projects that include civil society organizations, such as the Association of War Victims,<sup>48</sup> and Kuca Povjerenja<sup>49</sup> and the Youth Initiative on Human Rights in BiH.<sup>50</sup> Yet, these examples reflect neither common donor disbursement patterns, nor established aid practices.<sup>51</sup> Furthermore, Norwegian post-conflict justice projects that promote civil society show only limited signs of direct collaboration with local non-profit organizations. This is the case with the following two examples that receive Norwegian aid support. The International Commission for Missing Persons (ICMP), an international non-profit organization established in 1996 to monitor state cooperation in locating and identifying the disappeared during the conflict, and other regional reconciliatory initiatives, such as the Nansen Dialogue Network,<sup>52</sup> have had little effect in empowering local grassroots actors. Instead of strengthening local ownership from the bottom up, these organizations carry out top-down initiatives and develop sustainable government structures,

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<sup>46</sup> NORAD, "Evaluation of Norwegian Development Cooperation with the Western Balkans Volume I" (Oslo: Evaluation Department, Norwegian Agency for Development Cooperation, 2010), 5.

<sup>47</sup> NORAD, "Evaluation," 8.

<sup>48</sup> Support for the Women's section in form of a knitting program to foster inclusion and empowerment.

<sup>49</sup> Support of theatre performance based on a century-old legend in Srebrenica.

<sup>50</sup> Although some of YIHR's activities are related to transitional justice, many of the activities fall into the broader umbrella category of human rights.

<sup>51</sup> For a full list see the Norwegian Embassy's website at [http://www.norveska.ba/Embassy/Embassy\\_Fund/](http://www.norveska.ba/Embassy/Embassy_Fund/), accessed April 15, 2014.

<sup>52</sup> See official website at <http://www.nansen-dialogue.net/>, accessed January 7, 2013.

employing international NGOs to implement their work rather than handing over responsibility to local actors.

Despite an NGO-friendly discourse, the Swedish case resembles Norwegian practices. The Swedish International Development Cooperation Agency, (Sida),<sup>53</sup> for instance, summarizes Sweden's main development policy goals as follows: “[The cooperation dialogue] with the country's authorities will mainly be focused on closer relations with the EU, but it will also cover... the need to continually strengthen civil society and local ownership.”<sup>54</sup> Thus, Sweden's main concern lies in supporting the EU integration process, including coordinating and streamlining multilateral development aid efforts.<sup>55</sup> Swedish assistance in the governance sector concentrates on state prison reform and the support of the HJPC. As for the latter, it is very technical and aims at institutional reform:

We have been supporting the HJPC with a case management system, an IT system, which... was a very technical project, [creating] a link between those technical solutions and making the system more effective but also more accountable.<sup>56</sup>

Priority is thus given to projects that improve effectiveness and accountability of post-conflict justice processes. Additionally, the selection of cases illustrates that donors remain in control, managing each project through an array of bureaucratic procedures.<sup>57</sup> While some assistance to civil society initiatives in the conflict prevention sector exists, these efforts are very elitist, with donors relying on their own domestic civil society actors to implement the support. The Swedish government, for instance, uses national non-profit

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<sup>53</sup> A government agency of the Swedish Ministry of Foreign Affairs.

<sup>54</sup> Sida, “Strategy for Development Cooperation with Bosnia and Herzegovina: January 2011 – December 2014” (Stockholm: Government Offices of Sweden, Ministry of Foreign Affairs, 2010), 2.

<sup>55</sup> BiH Ministry of Finance and Treasury, “Donor Mapping Report 2012-2011,” 144, 146.

<sup>56</sup> Interview by author with representative of the Swedish Embassy in Sarajevo, 11 May 2011.

<sup>57</sup> Interviews by author with several Scandinavian donor officials during fieldwork in May 2011.

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organizations, including the Olof Palme International Center—a Sweden-based NGO with ties to the national labour movement—and the Kvinna till Kvinna Foundation, which is also headquartered in Sweden. Such a trend, however, contributes to a local-international disconnect, often ignoring local initiatives within society. This disconnect is readily evident when looking at civil society transitional justice efforts in BiH.

To illustrate this issue, the article turns its attention to post-conflict justice NGO projects, describing their role in the process as well as the problems they faced. Regardless of the limited support Bosnian civil society actors receive from Scandinavian donors, the number of local NGOs supporting alternative transitional justice practices in BiH has grown in the past decade. These activities fall into different categories, such as documentation, support for criminal prosecutions, truth-seeking initiatives, reparations and advocacy of victims' groups, peace-building and reconciliation, memorials, education, and public opinion. For this study, the author draws on a selection of cases associated with documentation and truth-seeking.<sup>58</sup>

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<sup>58</sup> For a discussion on education see Janine Natalya Clark, "Education in Bosnia-Herzegovina: The Case for Root-and-Branch Reform," *New York Law School Journal of Human Rights* 9.3 (2010): 344–62; Briony Jones, "Exploring the Politics of Reconciliation through Education Reform: The Case of Brčko District, Bosnia and Herzegovina," *International Journal of Transitional Justice* 6.1 (2012): 126–48; Clare Magill, Alan Smith, and Brandon Hamber, *The Role of Education in Reconciliation. The Perspectives of Children and Young People in Bosnia and Herzegovina and Northern Ireland*, Special EU Programmes Body (University of Ulster, 2009). For more details on reparations see Quirine Eijkman, "Recognising the Local Perspective: Transitional Justice and Post-Conflict Reparations," *Global Jurist* 10.3 (2010), <http://www.degruyter.com/view/j/gj.2010.10.3/gj.2010.10.3.1370/gj.2010.10.3.1370.xml>; Stephan Parmentier, Marta Valinas, and Elmar Weitekamp, "How to Repair the Harm after Violent Conflict in Bosnia-Results of a Population-Based Survey," *Netherlands Quarterly of Human Rights* 27 (2009): 27; Amnesty International, "Whose Justice? The Women of Bosnia and Herzegovina Still Waiting" (Amnesty International Publications, 2009). Alexander Jeffrey's study examines the role of civil society in war crimes prosecutions in BiH. Jeffrey, "The Political Geographies of Transitional Justice." For a study on the question of memorials in Omarska see Manuela Brenner, "The Struggle of Memory. Practices of the (Non-) Construction

They emphasize not only the importance of NGOs in transitional justice contexts, but also reveal the difficulties activists are confronted with.

As early as the beginning of the BiH conflict, different organizations started documenting war crimes and missing persons. The Research and Documentation Center (RDC) in Sarajevo, for instance, created a comprehensive database on human rights violations, publishing a book with the findings in 2007 as well as a website that uses Google Maps in order to provide information on the crime type, the number of victims and their gender, the location of the crime, and details about the perpetrator.<sup>59</sup> This documentation initiative, the ‘Human Losses Project,’ aimed at creating a collective memory of the victims in BiH and helped promote a human rights dialogue in the country. Yet, RDC’s efforts to quantify the victims of the war in the hope of demystifying the number of deaths, fell short of reshaping Bosnian public opinion at large. On the contrary, the publication of a report that lowered the number of Bosnian victims—around 100,000 instead of the 250,000 generally referred to in Bosnian society—fueled uproar in Bosniak elite circles and triggered threats against the RDC and Mirsad Tokača, its director.<sup>60</sup> In the end, Mr. Tokača’s choice to solely focus on a bottom-up perspective without including local elites backfired and ultimately

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of a Memorial at Omarska,” *Südosteuropa. Zeitschrift Für Politik Und Gesellschaft*.03 (2011): 349.

<sup>59</sup> Lara Nettlefield, “Research and Repercussions of Death Tolls : The Case of the Bosnian Book of the Dead,” in *Sex, Drugs, and Body Counts: The Politics of Numbers in Global Crime and Conflict*, ed. Peter Andreas and Kelly M. Greenhill (Ithaca, NY: Cornell University Press, 2010).

<sup>60</sup> Nettlefield, 186. While this documentation project includes war crimes and human rights violations committed across the entire Bosnian territory, more locally-oriented initiatives were also launched, such as an archive on the Mostar region by the Center for Peace and Interethnic Relationships; see also Olga Martin-Ortega, “Transitional Justice in the Quest for Just and Durable Peace in Bosnia-Herzegovina,” in *Rethinking Peacebuilding: The Quest for Just Peace in the Middle East and the Western Balkans*, ed. Karin Aggestam and Annika Björkdahl (London: Routledge, 2012).

sealed the fate of his initiative.<sup>61</sup> Even though the project struggled to shape a collective memory process in BiH by setting the record of war crimes victims straight, it created a number of new opportunities.<sup>62</sup> Inspired by this impressive project, the OSCE launched a website with a BiH war crimes case map in February 2014, which provides information on all the war crimes cases adjudicated in BiH.<sup>63</sup> While the OSCE project is less ambitious, it nevertheless uses the ideas and technology created at the grassroots level, proving the innovative catalyst function of NGOs for transitional justice processes in BiH.

Civil society attempts with the goal of implementing restorative justice initiatives, including truth and reconciliation commissions, are another fundamental part of post-conflict justice processes in BiH.<sup>64</sup> Yet, these efforts have also struggled to gain international support, such as a regional bottom-up truth and reconciliation commission (TRC) attempt. It is called the Regional Commission to determine and disclose the facts about war crimes committed in the former Yugoslavia, in short: The Coalition for RECOM. It was launched in 2008 by a group of NGOs across the former Yugoslavia and focused on war crimes in BiH, among other issues, and is an excellent showcase of the reluctance expressed by public authorities and international donors to support alternative post-conflict justice mechanisms.<sup>65</sup> While both external and internal

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<sup>61</sup> Nettlefield, "Research and Repercussions of Death Tolls: The Case of the Bosnian Book of the Dead.", 186-187.

<sup>62</sup> Reminiscent of the RDC's initiative, the Serbian NGO, Humanitarian Law Center, launched its first volume of a book, *The Kosovo Memory Book 1998-2000*, on 7 September 2011.

<sup>63</sup> See for instance the website of the OSCE Mission for BiH at <http://www.warcrimesmap.oscebih.org/>, accessed April 17, 2014.

<sup>64</sup> See, for instance, a UN report on various transitional justice mechanisms in post-conflict contexts. Kofi Annan, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General" (United Nations, 2004).

<sup>65</sup> Arnaut Kurze, "Democratizing Justice in the Post-Conflict Balkans: The Dilemma of Domestic Human Rights Activists," *CEU Political Science Journal* 7.3 (2012): 254.

problems contributed to the fate of RECOM, its innovative regional approach created a new space for stalled post-conflict justice processes.<sup>66</sup> Creating a dialogue with different actors at the local, national and international level differs from the war crimes trials strategies used until now. Yet, earlier TRC attempts in BiH faced similar challenges. Iavor Rangelov and Marika Theros describe the difficulties of local NGOs in overcoming institutional obstacles and creating sufficient political momentum to implement Bosnian truth and reconciliation commissions. They note that:

Civil society has been both active and largely ignored in the process of establishing a [TRC] for BiH. The Citizens Association for Truth and Reconciliation was established by Jakob Finci in order to lobby for the creation of a TRC. It successfully liaised with the [ICTY] and secured their support for a truth-telling body. But the draft law that resulted from this effort failed to attract political backing. The second TRC initiative involved the United States Institute of Peace (USIP) taking the lead in partnership with the local NGO Dayton Project, created to facilitate the process. This initiative coordinated a working group composed of the eight leading political parties to draft legislation. It provoked an outcry among civil society and the public since both were excluded from the process of consultation and negotiation.<sup>67</sup>

The above examples highlight the obstacles activists had to overcome to implement alternative post-conflict justice mechanisms in BiH, while also pointing to the valuable contributions of NGOs to improve larger transitional justice processes in this fragile environment. More importantly, however, these cases also demonstrate that the reasons for the lack of international support are complex and often hidden behind multiple layers of problems. The intricacies of the RDC and RECOM cases therefore serve as

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<sup>66</sup> Kurze, 252-253 and Jelena Subotić, “The RECOM Initiative: The Promise and Peril of Regional Truth Seeking in the Balkans,” *Puls Demokratije*, February 10, 2010.

<sup>67</sup> Rangelov and Theros, “Transitional Justice in Bosnia and Herzegovina: Coherence and Complementarity of EU Institutions and Civil Society,” 364.

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excellent examples to illustrate that donors are not the only ones to blame for the lack of support.

### **Reasons for Scandinavian Reluctance to Support Transitional Justice NGOs**

Notwithstanding the promising potential of NGOs for transitional justice in BiH, progressive and innovative development actors, such as Norway and Sweden, have been hesitant to systematically and substantially increase their support for post-conflict justice advocacy on the ground. Why did Norwegian and Swedish donors give priority to government-run projects, instead of supporting local civil society initiatives? Analyzing the rationale behind retributive justice mechanisms at the ICTY and at the WCC at the BiH Court, this section offers an ideological explanation for the poor Scandinavian support for restorative transitional justice activism in BiH. This explanation is complemented with empirical evidence on current institutional conditions, which further fuels this phenomenon. Last, the section critically discusses the role of NGO agency in post-conflict justice efforts.

Sweden and Norway's strong adherence to international humanitarian law explains their preference to support domestic war crimes trials and retributive justice related projects instead of alternative transitional justice initiatives by civil society. These normative beliefs were predominantly shaped by international war crimes trials for the former Yugoslavia put in place by the ICTY. In fact, the creation of the UN ad hoc Tribunal constituted a watershed moment leading to a spill-over effect of international humanitarian law across the region and worldwide.<sup>68</sup> Due to the difficulties faced by the Tribunal in The Hague, ICTY advocates—such as its first Chief Prosecutor Richard Goldstone—were initially against any truth

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<sup>68</sup> Robert Cryer and Paul Mora, "I. The Coroners and Justice Act 2009 and International Criminal Law: Backing the Future?" *The International and Comparative Law Quarterly* 59.03 (2010): 805; Mark Drumbl, *Atrocity, Punishment, and International Law* (Cambridge University Press, 2007), 46; Ruti G. Teitel, "Global Transitional Justice," *Center for Global Studies Working Paper Series on Human Rights, Global Justice & Democracy*.8 (Spring 2010).

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commission attempts. They believed this would undermine the initially fragile work of the Tribunal.<sup>69</sup> While this discourse changed over time to include more comprehensive practices,<sup>70</sup> accountability efforts in The Hague and across many Balkan states continued to follow a results-driven dogma to equate a successful transition model with the number of processed war crimes cases.<sup>71</sup> Indeed, Scandinavian donors are among the supporters who prioritize bilateral aid for war crimes trials to systematically measure the outcome of their aid allocations.<sup>72</sup> A Norwegian official even stressed the importance of ‘streamlining’ these funding processes to improve efficiency and transparency.<sup>73</sup>

Moreover, adequate evaluation processes and assessment practices, including streamlining, are important cornerstones in Scandinavian donor strategies. Years of prosecutions in The Hague and at domestic courts in BiH produced a large archive of detailed court records, triggering a culture of assessment at the ICTY and in the Balkans. By increasing the number of war crimes sentences, retributive justice advocates sought to optimize international criminal law. Donors, such as Norway and Sweden, willingly funded judiciary and prosecutorial activities as aid effectiveness could be easily assessed.<sup>74</sup> These assessments were for the most part based on widely disseminated ICTY accountability guidelines.<sup>75</sup> As a case in point, the findings and recommendations of an international evaluation report on the BiH State Court – which also included a Norwegian donor

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<sup>69</sup> Viktor Peskin, *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation* (New York: Cambridge University Press, 2008), 41–43.

<sup>70</sup> Annan, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General.”

<sup>71</sup> OSCE, “Delivering Justice in BiH: An Overview of War Crimes Processing from 2005 to 2010” (Sarajevo: OSCE Mission to Bosnia and Herzegovina, 2010).

<sup>72</sup> Interviews by author with Scandinavian donor officials and EU representatives in May 2011.

<sup>73</sup> Interview by author with representative of the Norwegian Embassy on May 17, 2011.

<sup>74</sup> Interview by author with representative of the Norwegian Embassy.

<sup>75</sup> See ICTY website at <http://www.icty.org>, accessed February 17, 2013.



report –used statistical data confirming these ICTY objectives.<sup>76</sup> Many of the studies documented the exact number of completed cases by the court and employ quantitative analysis, such as bar graphs, pie charts, and statistical forecasts. In addition, an OSCE report, which compared the outcomes and the work performance of the judiciary’s war crimes section, observed that the prosecution of war criminals in BiH progressively improved since 2005. One of the figures at the end of the report, for instance, indicated that the number of accused brought to trial annually from January 2005 until September 2010 rose from 16 in 2005 to 28 in 2010.<sup>77</sup> As a result, collecting and evaluating statistical trial data became an integral part of a performance monitoring policy by Norway and Sweden. Their transitional justice aid strategies were thus conditioned by prevailing war crimes trials and accountability efforts.

The impact assessment of alternative transitional justice efforts, however, represents an intricate task as quantifying and measuring restorative, reconciliatory, and memory-centered projects in post-conflict societies poses many difficulties. Not surprisingly, local NGOs are less inclined to employ assessment and streamlining processes in their work on restorative post-conflict justice efforts. As a consequence, Scandinavian donors were skeptical and expressed concerns as to how some of the local alternative transitional justice practices could be properly measured and their outcomes evaluated.<sup>78</sup> These obstacles persist and pose a real conundrum with some scholars and practitioners arguing that only long-term assessments can provide answers to questions on reconciliation and how to deal with the past within traumatized societies.<sup>79</sup> While others also

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<sup>76</sup> NORAD, “Evaluation of Norwegian Development Cooperation with the Western Balkans Volume I.”

<sup>77</sup> OSCE, “Delivering Justice in BiH: An Overview of War Crimes Processing from 2005 to 2010,” 98.

<sup>78</sup> Interviews by author with several Scandinavian donor officials during fieldwork in May 2011.

<sup>79</sup> Eric Stover and Harvey M. Weinstein, *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (New York: Cambridge University Press, 2004).

questioned the performance-driven evaluation trend,<sup>80</sup> it nevertheless incited positive change. On the one hand, regardless of the challenges of generating statistically meaningful data, some NGOs developed quantitative evaluation tools to measure reconciliatory post-conflict activities. The creation of databases with archives of missing persons and documentation of war crimes and other human rights violations serve as excellent examples.<sup>81</sup> On the other hand, human rights activists felt the pressure and adapted to this environment. For instance, several organizations expanded their institutional knowledge and initiated processes to reform their organizational structures; both reforms are important steps in the eyes of Scandinavian donors to build aid recipients' capacity and legitimacy.<sup>82</sup>

The question of local NGO capacity, however, is a double-edged sword, further exacerbating the range of Norwegian and Swedish grassroots support. In fact, Scandinavian aid agencies do not necessarily recognize the potential and power of civil society for transitional justice due to the institutional gap that runs between donors and recipients on the ground, as a Swedish representative described:

Our support is very much focused on our partners and the governments in the countries themselves. This is a very significant aspect of how we work, which comes from top-down. It comes from above; it comes from these global processes; it comes from Stockholm headquarters; rather than specific experiences in the field... Administratively, we can't work with smaller NGOs. When we get requests from local NGOs, we say no straight away, because our aid agenda

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<sup>80</sup> Hugo Van der Merwe, Victoria Baxter, and Audrey R. Chapman, eds., *Assessing the Impact of Transitional Justice: Challenges for Empirical Research* (Washington, DC: United States Institute of Peace Press, 2009); Geoff Dancy, "Impact Assessment, Not Evaluation: Defining a Limited Role for Positivism in the Study of Transitional Justice," *The International Journal of Transitional Justice* 4.3 (2010): 355.

<sup>81</sup> Interviews by author with representatives of the Research and Documentation Center on May 17, 2011.

<sup>82</sup> Interviews by author with representatives of the Norwegian Embassy and the EU Delegation in Sarajevo in May 2011.

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stipulates that we should work on fewer but larger projects. There is a whole bunch of steps that we have to go through in our own internal procedures—both in terms of making the assessment and in terms of carrying out the administrative tasks—that take a lot of time. We wouldn't be able to manage if we had lots of projects.<sup>83</sup>

Defending the institutional top-down structures and processes in place, a Norwegian representative argued that “We are trying to balance this as well as we can and we could have been much more into smaller, local organizations, if we were better staffed.”<sup>84</sup> According to her, it is the responsibility of local advocacy leaders to seek funding support by initiating a dialogue with the Norwegian Embassy in Sarajevo. On the topic of the NGO, RECOM, for instance, she explained:

Since I've been here, we haven't been working with [RECOM]. I don't know very much about them and they haven't been here to present their work. But [introducing your work to donors] is how we get aware of you. If there is a project that would like to receive Norwegian funding... then [the NGO leaders] should come here and tell us what they would like to do.<sup>85</sup>

With regards to other required steps in the funding process, she continued that a project proposal is based on the art of grant writing, requiring specific resources and skills:

A good proposal is indicative about a stringent way of thinking. It helps [the applicant] to ask basic questions, such as: what aspects are the most important? What would they exactly like to do? It also helps them to prioritize the issues, because they have to fill in a form describing the entire

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<sup>83</sup> Interview by author with representative of the Swedish Embassy in Sarajevo on May 11, 2011.

<sup>84</sup> Interview by author with representative of the Norwegian Embassy in Sarajevo on May 17, 2011.

<sup>85</sup> Interview by author with representative of the Norwegian Embassy.

process. And in the end they have to show that they deliver, so that they can ask for more funding the next year.<sup>86</sup>

Oftentimes, however, applying for funds requires filling in very lengthy and technical application forms. Activists working for smaller local organizations do not have the means to cope with these challenges. On the contrary, several local NGO representatives complained that they often lack the staff and expertise in grant writing to apply for available funds.<sup>87</sup> As a result, the absence of these essential skills frequently impedes many local organizations from establishing sustainable professional relations with Scandinavian donors. The above elaboration of the varied issues demonstrates that determining a scapegoat for the absence of grassroots funding for restorative justice mechanisms is difficult.<sup>88</sup> While ideologically driven Norwegian and Swedish development strategies are partly to blame for this controversial trend, civil society organizations carry nonetheless a degree of responsibility to improve their relationship with Scandinavian donors.

### Conclusion

This article discussed the role of two international donors, Sweden and Norway, and their aid engagement with local NGOs carrying out restorative justice projects, such as fact-finding initiatives and memory-related projects. The author argued that despite a growing number of restorative justice projects by civil society organizations in BiH, post-conflict justice aid from Scandinavian donors to Bosnian NGOs working in the field remain very limited. Drawing on extensive fieldwork data, he illustrated that different factors, including institutional and ideological obstacles, were at the heart of

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<sup>86</sup> Interview by author with representative of the Norwegian Embassy.

<sup>87</sup> Interviews by author with representatives of the Coalition for RECOM, Youth Initiative for Human Rights BiH and Research and Documentation Center in May 2011.

<sup>88</sup> A related issue in this context is the politicization of aid. United States foreign aid policies are an excellent example of this problem. For an in-depth discussion of this issue see Carol Lancaster, *Foreign Aid: Diplomacy, Development, Domestic Politics* (Chicago, IL: University of Chicago Press, 2007).

this problem. In the first part, he reviewed a selection of post-conflict, development and transitional justice literature, highlighting the importance of interdisciplinary analysis and the role of NGOs in transitional justice processes. Furthermore, he pointed to the need of further scholarship on international donor practices in transitional justice contexts to better understand persisting state-centric aid policies. In the second part, he outlined the research design and methodology. The third part focused on the growing but difficult role of NGOs in post-conflict contexts. Finally, the article scrutinized the reasons as to why donors remain reluctant to support alternative transitional justice initiatives led by Bosnian NGOs.

These findings have important implications for policy strategies not only in the region, but also for transitional justice donor practices in other post-conflict contexts. First, the study stresses the difficulties with regards to policy coordination. Despite collaborative efforts of different agencies and various donor countries on large transitional justice projects, the relationship between actors on the ground and their international counterparts who support local efforts is weak. While the above case study illustrates the obstacles in view of a holistic post-conflict justice strategy largely due to the persisting political challenges, these conditions are not unique to the former Yugoslavia. In fact, Tunisia's transition process faces similar issues. The Tunisian political elite that still consists in large part of members of the old regime is grappling with a political force that for decades was constrained to operate in the opposition, made up mainly of Ennahda's Islamists. Second, establishing a sustainable working relationship between donors and local actors requires trust and availability. Often, however, donors are not aware of local projects and initiatives that need funding due to a limited network of partners and resources. Consequently, it is not only the responsibility of international donors to reach out to local actors. Instead, grassroots activists and smaller civil society organizations are also responsible for mobilizing their local resources to receive funding for their ideas and initiatives. It is time for both sides—civil society actors engaged in restorative justice activities and Scandinavian donors—to enhance collaborative efforts by mapping common guidelines to ensure access

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to smaller funding for local organizations, streamlined outcome assessments, and the creation of stronger relations between state institutions and society in BiH. The potential for such a dialogue exists, and the moment for encouraging the necessary steps to bridge this gap is now.

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