

2016

The Puzzle of Post-Conflict Justice: Identifying Factors That Influence State Selection of Mechanisms

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THE PUZZLE OF POST-CONFLICT JUSTICE:
IDENTIFYING FACTORS THAT INFLUENCE
STATE SELECTION OF MECHANISMS

By Taylor V. Knoop

An Independent Study Thesis
submitted to the Department of Political Science
at The College of Wooster
March, 2016
in partial fulfillment of the requirements of I.S. Thesis

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Abstract

The period of post-conflict is wrought with frustrations, broken trust and intense hurt as a state works to bring its society out of internal conflict. Post-conflict justice mechanisms are designed to provide tools to move a state towards stability. While scholars have evaluated the different post-conflict justice mechanisms in reaching their goals, there is limited research into understanding why a state may implement one post-conflict justice mechanism over another. Specifically, what factors impact the form of post-conflict justice mechanisms in states? This research presents six post-conflict justice mechanisms through three theoretical-derived categories, retributive justice, restorative justice and immunity measures, before examining three influencing factors: magnitude of violence, external military funding and conflict termination type. Utilizing bivariate and multivariate regression, the relationship between these influencing factors and the six post-conflict justice mechanisms (trials, purges, truth commissions, reparations, amnesty and exiles) is tested. The results emphasize the importance of analysis at the mechanism level, which reveal that the role of the influencing factor changes greatly depending on the type of post-conflict justice.

Acknowledgements

I must begin by extending my deepest gratitude for Dr. Kille, who has supported and encouraged my interest in international relations the last four years. Dr. Kille's mentorship on this project has been incredibly valuable – his commitment continually pushed me to try harder. I am left inspired by Dr. Kille's dedication to his students and their work.

Dr. Leiby, thank you for the enthusiasm you bring to research, for the encouragement to attempt a statistical study and for the extra hours of assistance on this project.

To the Political Science Department, I am in awe at your capability to mix intellectual pursuits with professorship, creating such a strong and engaging learning environment. My critical thinking skills, writing ability and worldview have matured with the Department's assistance.

The various mentors, on and off campus, who have guided me, professionally and personally, I thank you. Jillian, Charlie, SB – you have been especially important in helping me ask bigger questions and act with more compassion.

Miller Manor community, I am grateful for the many conversations and resulting relationships. Amy, Katie, Dani and Gillian: I am thankful for your friendship. Peter, thank you for rebalancing me when I am unsteady.

To my parents and McKinley, I am a product of your support and love. Your faith in me encourages me to try harder, think bigger and do more. It is the foundation you provided that frames the way I wish to interact with the world.

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Chapter One: Introduction

When the news comes that an internal conflict has ended, there is a collective sense of relief that the conflicting sides are putting down their arms. The unfortunate reality is that, although the elites have declared an end, stability and peace do not immediately return. Not only can the physical violence endure for an extended period, but the frustrations of injustice, broken trust and intense hurt can simmer for much longer. This period between conflict and stability is referred to as “post-conflict.” It is a time wrought with the difficulties of transition and change as the state labors to move away from the violence and militarized period of conflict. The harm from the civil conflict continues to reverberate throughout the state, making progress forward a difficult and laborious process.

During this post-conflict period transitional justice often occurs. Included under transitional justice are post-conflict justice mechanisms, which vary in their benefits and drawbacks. These tools aim to help a society move forward through different manifestations of justice; some seek accountability and some cultivate forgiveness. The famous South African truth commissions are an example of these tools in action, but the options also include trials, reparations, purges, amnesty and exiles. Trials and purges often manifest as legal repercussions, while truth commissions and reparations are reparative and more holistic in their approach. Amnesty and exiles supply a different form of justice as they provide the space to move on from the conflict. Though the projected end goal is justice, these mechanisms vary greatly in their means. With different post-conflict justice

mechanisms to choose from, this study seeks to answer: *what factors impact the form of post-conflict justice mechanisms in states?*

A great deal of scholarly attention has focused on evaluating these post-conflict justice mechanisms. Many of these studies seek to grade the mechanisms' ability to reach their goals of achieving justice. Often studies identify shortcomings or even harmful ramifications of implementing a particular mechanism. However, the existing scholarship is limited in that it has only just barely begun to wonder about the implementation of a particular tool instead of another mechanism. The literature alludes to potential influencing factors, but very little empirical research has been conducted to back up these statements. There are a few studies that have worked to identify some of the patterns of implementation. However, the literature is limited as the majority of potential reasons and correlations have yet to be evaluated. This study's value lies in helping to fill in the gap by testing the relationships of several central factors alluded to in the literature through empirical, quantitative research.

Utilizing the literature available that discusses the advantages and shortcomings of the different tools, careful consideration was given to the selection of three specific factors evaluated in this study. With the literature alluding to many potential influencing factors, this study chose factors that were quantifiable and testable, but were also built out of findings from previous research. The factors are the magnitude of violence during conflict, external military funding, and conflict termination type. Magnitude of violence captures the impact of the conflict on society, while external military funding addresses the role of external actors and

their support in the conflict. Termination type serves to demonstrate the type of political environment following the end of the conflict. Testing the relationship of three different influencing factors to post-conflict justice mechanisms adds to the scholarly work.

This thesis begins with a detailed literature review of the post-conflict justice mechanisms and the influencing factors. The mechanisms are arranged into three-theoretically derived categories: retributive justice, restorative justice, and immunity measures. The value of this framework comes from understanding the fundamentally different means through which the mechanisms in the given category achieve justice. For example, the way in which an immunity measure, like amnesty, achieves justice utilizes a significantly different approach than trial, which is categorized as retributive justice. Each mechanism is presented with its relative merits and demerits.

Following this overview is a discussion of the influencing factors. With a gap in the literature about specific factors, this section is briefer. To bridge this gap, the section reviews various referenced ideas and previous studies that have tested specific influencing factors and their relationship to post-conflict justice mechanisms. Cherif Bassiouni (2002) provides a guideline of points that should be considered by a state when deciding to implement a post-conflict justice mechanism, which gives a starting point for considering influencing factors. Dawn Rothe and Scott Maggard (2012), who have conducted the primary research testing influencing factors, look specifically at the role of international organizations, length of conflict and number of casualties. Other literature alludes to potential influencing

factors, like external aid, foreign direct investment and the crossover between mechanisms, but does not provide specific hypotheses or tested outcomes.

The methods chapter follows the literature review. This chapter reiterates the study's research question and defines the variables. In carefully reviewing the influencing factors, the independent variables, and the post-conflict justice mechanisms, the dependent variable, the specific datasets used are introduced. For the first influencing factor, magnitude of violence, the dataset is "Major Episodes of Political Violence," which comes from the Integrated Network for Societal Conflict Research (INSCR). External military funding utilizes the Uppsala Conflict Data Program which has a specific dataset called "External Support Project: Primary Warring Party Dataset." Conflict termination is included in the Post Conflict Justice Dataset. This dataset is also the provider of the post-conflict justice mechanisms. With a solidified understanding of the variables, the hypotheses are presented. The hypotheses are arranged by independent variable, but then separated into different predictions according to the theoretical framework, with the categories of retributive justice, restorative justice, and immunity measures. Lastly the chapter explains how the hypotheses were tested using STATA, specifically through bivariate and multivariate regression.

The analysis begins with the descriptive statistics for each of the variables in the regressions. Following this overview, the hypotheses are reviewed in tandem with the regression results. This evaluation reveals that only one of the hypotheses can be evaluated, as the theoretically derived categories used to create the hypotheses appear to be too aggregated. As a result, the study adjusts the method of

evaluating the hypotheses, to explore potentially meaningful statistically significant relationships at the mechanism level. This modification reveals the need to maintain the post-conflict justice mechanisms as disaggregated units, removing the use of the theoretically derived categories during the analytical process. The results of the regressions, in connection to each of the six mechanisms, are then presented, in order of the independent variables: magnitude of violence, external military funding and conflict termination type.

A reflection on the research concludes this study, covering the results, strengths and limitations of the study and recommendations for future research. This study's answer to the research question is nuanced, with different findings for each mechanism. Trials find the influencing factors to be telling of implementation, with increased magnitude of violence and the presence of external military funding decreasing its likelihood, while a victory increases a trial's likelihood of implementation. Reparations' implementation was more likely with the presence of external military funding and a bargained outcome. Amnesty and exile both decrease in likelihood of implementation with increased magnitude of violence, and a victory increases the likelihood of exile. The influencing factors had no discernable relationship to purges and truth commissions. This application of the analysis to the research question reiterates the importance of mechanism-level analysis. Each post-conflict justice tool has very different findings.

The variety of results emphasizes the need to maintain disaggregation of the post-conflict justice mechanisms in future research. In reflecting across the research, the strength and limitations are established, which helps to supply

recommendations for future analysis. While this study adds to the literature by identifying potential influencing factors that are referenced in the literature, its research only tests three factors. The potential role of interactive tendencies of the mechanisms or the natural tendencies of the post-conflict justice mechanisms reveals that additional research is needed. Understanding the patterns of implementing post-conflict justice mechanisms also has normative implications. Being able to predict the type of post-conflict justice mechanism implemented can help mobilize relevant actors and resources efficiently. In answering the research question the value of continued research is exposed, which can improve the transition to stability for states emerging from conflict.

Chapter Two: Conceptualizing Post-Conflict Justice Mechanisms And Identifying Influencing Factors

I. Introduction

For states emerging from interstate violence, there are identifiable mechanisms to aid in the process of achieving justice. These tools vary in form, from prosecutions to reparations to exiles. Though states use different post-conflict justice mechanisms the factors that influence the presence of different mechanisms remain a puzzle. This research seeks to identify why states use different mechanisms when they emerge from internal conflict, focusing on the a period categorized as “post-conflict.” The specific research question asks: *what factors impact the form of post-conflict justice mechanisms in states?* As a result, this chapter will cover literature on both post-conflict justice mechanisms and on potential influencing factors.

This chapter opens with a review of the literature related to post-conflict justice mechanisms. The range of information is essential to understanding this phenomenon and for framing the research carried out in this thesis. Experts do not clearly or concisely delineate the array of post-conflict justice mechanisms. Six of the most commonly mentioned mechanisms are presented: prosecutions, purges, truth commissions, reparations, exiles and amnesty.



Figure 1: Theoretically Derived Categories

These six mechanisms differ in how they achieve the end goal of justice. To best understand these six mechanisms, they are framed into three theoretically derived categories, demonstrated in the diagram above. In this research, the categories used are retributive justice, restorative justice and immunity measures. These categories group together mechanisms that are similar in how they go about achieving the end goal of post-conflict justice. The importance of these similarities, and thus the categories, goes beyond merely increasing intellectual accessibility of the concepts, but will be useful in formulating hypotheses to answer the research question. With this intentionality, prosecutions and purges are placed under retributive justice. Truth commissions and reparations come under restorative justice, and amnesty and exile fall under immunity measures.

With this background on the dependent variable of post-conflict justice mechanisms, this chapter also casts a wide net over the different identifying factors of implementation. Information feeding this variable is primarily weaved into the literature surrounding the topic of post-conflict justice mechanisms, although there are several studies that specifically research influencing factors. Cherif Bassiouni's (2002) appropriate accountability mechanism factors are used as a starting point. His factors, which he intended to be reviewed and weighed in the decision process of choosing post-conflict justice mechanisms, will provide an overview of influencing factors. Other influencing factors either reinforce his outlined factors or rise out of different scholars. This section aids in justifying the independent influencing factors that are used in this study.

II. Post-Conflict Justice Mechanisms

Post-conflict justice mechanisms exist as tools that aid in the process of transitioning out of conflict. They differ drastically in terms of the process and means that they use to assist in the transition. Post-conflict justice mechanisms fall under the sweeping peace tool of reconciliation and within the overarching classification of transitional justice. Jennifer Llewellyn (2006) acknowledges that transitional justice often used encompasses all forms of justice that are initiated during a time of change. However, this wider net is notable as it “broaden[s] the idea of transitional justice beyond a demand for prosecution and punishment to cover such concerns as compensation, distributive and restorative justice” (Llewellyn 2006). These post-conflict justice mechanisms are the various sub-tools that arise as means to achieve these broader goals; they are the actual instruments which are implemented and through which justice is carried out.

Linking post-conflict justice mechanisms together is the idea that “what should be achieved is not only a sense of justice, but the elimination of a sense of injustice” (Bassiouni 2002 40). However, each sub-tool differs in its means of generating justice and accountability and it is this variation that creates the three categories that are used in this section. The division of these mechanisms into three categories provides an intentional analytical framework to emphasize the nuances between the different paths to reach this bigger goal.

A. Retributive Justice: Prosecutions & Purges

The category of retributive justice stands within post-conflict justice, representing a route that channels vengeance and revenge in manners that are deemed properly sophisticated and orderly by many societies, while yielding a direct form of accountability (Santa Barbara 2007). Retaliatory measures are directed through organized pathways; in the case of this research it is seen in the form of prosecutions and purges. Retributive justice provides a structured means through which to carry out limited versions of the “eye for eye” mentality (Santa Barbara 2007). The mechanisms under retributive justice focus on holding perpetrators accountable for their actions. This form of justice utilizes a direct form of punishment, which is the manifestation of violence that is frequently imagined by the public.

i. Prosecutions

Prosecutions are a widely known tool for post-conflict justice. This term is often interchanged with the term “trial.” Key actors for executing this mechanism have emerged like the International Criminal Court and the International Court of Justice. However, the literature surrounding prosecutions generates the consensus that this tool is not best utilized under every circumstance, with attention specifically focused on its merits and drawbacks (King 2013, Santa Barbara 2007, Bass 2004). With the iteration of debated positives and negatives of prosecutions across the literature, the statement by King (2013) that “although prosecution serves many purposes in the quest for justice and peace in the wake of atrocity, it may not always

be a country's best option," emphasizes that the implementation of post-conflict justice mechanisms is nuanced. Highlighting these differences that arise from the relative merits and drawbacks provides the ability for drawing connections to potential influencing factors.

Prosecutions "remove dangerous leaders from politics and stigmatize them for their brutality, minimize their denial of past atrocities, and preempt vigilantism by victim groups" (Bass 2004 404). This individualization of justice identifies specific perpetrators, mitigating the tendency of post-conflict societies to blame entire sub-sets of the population for the violence. Such a tendency undermines the peace process and is likely to increase structural violence in the future (King 2013). As a result, Bass (2004) holds the belief that prosecutions are morally mandated because they place focus on the individuals who made the choices of violence, taking blame away from the state.

The ability for prosecutions to signify a change of culture in a post-conflict society holds multiple merits. Trials reveal "a clean break from the prior regime and announce to the nation and the world that this new government upholds human rights and the rule of law" (King 2013). Prosecutions act as a signal that the rule of law within a state is being re-instated. This signaling of progress aids in "rebuilding civic trust in public institutions" (Prosecutions of Massive Violations). This new culture generates two major benefits arising from prosecutions. Trials "communicate that the culture of impunity that permitted the abuses is being replaced by a culture of accountability, giving a sense of security to victims and a warning to those who might contemplate further abuses" (Kritz 2002 58). Scholars

see the duality of providing security for victims and warning to perpetrators to hold merit in the end goal of generating long-term peace.

Providing security to victims is fostered through the identifying and prosecution of specific perpetrators, which brings a layer of trust and change into a transitioning society (King 2013, Kritz 2002). Acting as a warning, prosecutions can be viewed as a deterrent moving forward, dispelling an “aura of invincibility and impunity” that exists during periods of conflict (King 2013). While scholars detail these merits, there is also consensus in the literature in acknowledging the significant drawbacks of trials. Insistence on criminal prosecutions, specifically of high level individuals, can generate intensified and drawn out conflict, or renew previously settled conflict, as the losing side does not want to be put to trial (Bass 2004, King 2013).

Drawbacks of prosecutions include the limited implications of trials of individuals. By identifying individual perpetrators, prosecutions narrow the scope of truth seeking, and thus do not create a societal historical record. The role of prosecutions, with their individual focus, does not lead to a comprehensive and detailed reporting and recording of the conflict in its entirety (King 2013). Additionally, individual prosecution is a high resource task, increasing the tendency for governments to choose a different path. The enormity of undertaking such a task, especially domestically, is an intimidating factor, particularly for a resource-depleted post-conflict state (Prosecutions of Massive Violations). These drawbacks, alongside the previously discussed merits, begin the process of theorizing what incentives exist for a post-conflict state to undertake a trial.

ii. Purges

The second mechanism in the category of retributive justice is purges. This term is also referred to as lustrations. The act of purging is when “individuals who supported or participated in violations committed by a prior regime may be removed from their positions” (Bassiouni 2002 34). This process can also be extended to include the prohibition of these individuals from holding office or decision-making powers for a certain period of years and may include the loss of certain benefits. Another framing of lustrations is that they are “a symbolic purification through the assignment of collective responsibility for the previous regime’s sins and subsequent collective punishment for that responsibility” (Chiu 2011). Lustrations tend to target segments of the previous regime, so while they do place restraints on the individual, they are systematic in their targeting of a particular segment of society (David 2006).

This particular tool was first recognized in the international system in 1991 when it was implemented by Czechoslovakia. Its implementation produced a great deal of attention and controversy as it “either disqualified high-ranking Communist cadres, secret police members and their collaborators from senior posts in the new administration and security forces, or it downgraded them to lower posts in the state hierarchy” (David 2006 348). The actors targeted were identified according to their positions in creating a society of distrust. For example, secret police forces, who spied on friends, co-workers and family, raised levels of distrust during and following the conflict (Horne 2014). Despite concerns that the lustration process would be utilized for political manipulation, Czechoslovakia was still able to

streamline democracy and join the North Atlantic Treaty Organization (NATO) and the European Union (EU), which helped to elevate its perceived success (David 2006). The trend to see purges implemented in post-communist countries is correlated to the “communist legacy of distrust,” which new regime leaders sought to dispel (Horne 2014). Understanding the history of purges provides insight into how the international community views this post-conflict mechanism.

Bassiouni reflects that “though punitive in nature, [this tool is] used essentially as a political sanction which carries moral, social, political and economic consequences.” Yvonne Chiu (2011) in an article titled “Liberal Lustration” works to defend lustrations as an acceptable post-conflict tool. The author links four specific justifications that arise from the belief that the best post-conflict justice mechanisms respect moral individualism. These justifications include (1) complicity in actions undertaken by the “illegitimate regime,” (2) responsibility for representing the institutions that conducted harm, (3) holding a politically-appointed office, and (4) dissolving the old regime legitimizes the implementation of a new social contract (Chiu 2011). The justifications from Chiu also demonstrate the role relegated to old regime elites when a state chooses to implement purges. Throughout this defense, Chiu confirms purges’ placement under retributive justice as the four justifications she makes reiterate the need to hold perpetrators accountable.

The call for individualism to help build trust is not always accepted. Purges can be extremely costly in their implications for the individual. With wide-sweeping purges, the process relies on stereotypes from the past violence about class and categories of people, regardless of the reality of the individual. As a result, tensions

can increase and perpetrators may become more likely to act out against the new regime (Bassiouni 2002). However, states that have utilized purges as a mechanism of post-conflict justice are attempting to break clear from the former regime, providing a platform for new leaders to start with a fresh slate (Lie, Binningsbo and Gates 2007). This form of retributive justice is utilized because the investment input from the state is minimal and it addresses a large number of perpetrators at one time (Kritz 2002). The conduct and implementation of purges is often less publically scrutinized, which provides a perpetrator with less harsh public reputation damage than a prosecution (Kritz 2002). The history of purges, their justifications, their targeted population and the resource to outcome ratio are key components throughout the literature. These various components can translate into multiple leads to the potential pieces of the puzzle for understanding why a state may implement this form of post-conflict justice.

B. Restorative Justice: Truth Commissions & Reparations

Restorative justice fills a very a different role than retributive justice. While this category still seeks to produce accountability for conflict, restorative justice focuses its energy in matters that are reparative (Santa Barbara 2007). Santa Barbara (2007) writes,

In a restorative process, the perpetrator remains in the community, working to restore the trust of others, and to compensate for the harm done. The process itself is victim-centered, unlike retributive processes, and has far more possibility of healing and compensation for the victim. (182)

This form of justice goes beyond punitive measures and cultivates a process of conversion to peace that is victim-centered. Restorative justice is also seen as more

culturally adjustable than other categories of justice, as the various types of mechanisms, ideally, are formed to best address the context within which they are situated (Santa Barbara 2007). Post-conflict justice mechanisms that fall under this category include truth commissions, memorialization, formal apologies and reparations. (Lie, Binningsbo and Gates 2007). Specifically, this literature review will feature truth commissions and reparations due to their prominence in the literature and their embodiment of the key features of restorative justice.

i. Truth Commissions

Truth commissions are a post-conflict justice mechanism that push past the traditional view of justice by creating a forum for healing. While the example of the South African Truth and Reconciliation Commission is globally known, this mechanism exists in many more forms. Its utilization as a post-conflict justice tool, especially in more recent years, has been questioned, and a schism exists in the literature in reflections about truth commissions.

There are four traits that help define the constitution of a truth commission. As a standard, a truth commission is (1) centered on past events, (2) rooted in a desire for an overall understanding, not a specific event, (3) in existence for a finite period, and (4) authorized in some way by a mandate (Bassiouni 2002). When using truth commissions the means to peace is focused on researching and documenting facts. They work to tell the story of human rights violations, particularly of the victims (Lie, Binningsbo and Gates 2007). These characteristics are not all-

encompassing, but they begin to illustrate how truth commissions differ from the post-conflict justice mechanisms listed under retributive justice.

The role that truth-discovery can play in bringing about justice is not consistently iterated, and “traditional justice scholars have viewed [truth commissions] variously as a sacrifice of justice, an attempt to do partial justice” (Llewellyn 84). This assessment of truth commissions demonstrates its separation from the retributive justice tools, and highlights a thread within the literature about the definition and role of justice in post-conflict reconciliation. Implementing a truth commission, some believe, limits the ability to pursue the traditional, Western conception of justice (Lundy and McGovern 2008). This debate offers direct insight to the difference of approach by retributive justice and restorative justice. It exposes a critique of truth commission that arises from the traditional, Western views of justice that are fulfilled by retributive processes, such as prosecutions.

The statement by Kritz (2006) that “an effective truth commission process needs to engage and confront all of society in a painful national dialogue and search for a deep understanding of what they did to one another, and what to do about it” illustrates the argument that justice must include difficult conversations that can lead to a collective version of truth. However, even the role of truth commissions as a tool that generates a narrative of truth has received pushback from scholars. Rosalind Shaw (2005), in a report for the United States Institution of Peace, looks to Sierra Leone as an example of where truth commissions are implemented for reasons that do not match the needs of the public, particularly given Sierra Leone’s cultural tradition of societal forgetting. In the report, the follow statement illustrates

the belief that this mechanism often oversteps its role in post-conflict justice:

Ideas concerning the conciliatory and therapeutic efficacy of truth telling are the product of a Western culture of memory deriving from North American and European historical processes. Nations, however, do not have psyches that can be healed. Nor can it be assumed that truth telling is healing on a personal level: truth commissions do not constitute therapy. (Shaw 1)

In this case, the role of Western perspectives of justice is seen as overshadowing the state's traditional means of coping post-conflict. While restorative justice is often seen as being more culturally adjustable than a mechanism under the category of retributive justice, the above quote highlights that Western perspectives are still present in truth commissions. Shaw's report emphasizes that truth commissions may not be able to adjust to cultural differences, even if a state prefers a particular path forward post-conflict, due to the wide-spread Westernized conceptions of justice mechanisms.

There is a trend, in states emerging from conflict, for the public to adopt a policy of forgive and forget. This mentality deviates from that Western perspective and is not conducive for truth commissions as it forbids delving back into the past and generating a common history. This "social forgetting," or pushback against truth commissions derives from "fear of retaliation by perpetrators; fear of government reprisals; and concerns arising from the concurrent operation of different transitional justice mechanisms (Shaw 2005 4)." Social forgetting is also present in states that have sustained a long history of violence and have thus created social coping mechanisms for recovery (Shaw 2005 4). Patricia Lundy and Mark McGovern (2008) hypothesize that the implementation of truth commissions are "linked to authoritarian regimes where there has been a breakdown in the rule of law and

where human rights abuses have been carried out with impunity” (269). The variation regarding truth commissions as a post-conflict justice mechanism, particularly under the category of restorative justice, stresses the different purposes the tool serves and the impact of different cultural perspectives.

ii. Reparations

The other post-conflict justice mechanism placed under the category of restorative justice is reparations. This particular tool utilizes compensation. The tool is a symbolic gesture from the perpetrators in acknowledging the inflicted suffering of victims (Santa Barbara 2007; Bass 2004). This gesture is an effort to aid in symbolic closure of conflict. Reparations stress restorative justice’s emphasis on the trauma of victims and creates space for this trauma to be amended through concrete measures (Hamber and Wilson 2002).

The manifestations of reparations are often separated into either symbolic or materialistic acts. These symbolic acts can take the form of reburials, memorials or formal apologies. Significance of symbolic acts is attributed to the dissemination of “the memory of the victims in a public matter, they disburden their families of their sense of obligation to keep the memory alive and allow them to move on” (UNCHR 2008). Such measures, “particularly if the symbols are personalized, can concretize a traumatic event, and help re-attribute responsibility.... labeling responsibility can appropriately redirect blame towards perpetrators and relieve the moral ambiguity and guilt survivors often feel” (Hamber and Wilson 2002 38). This specific type of reparations is increasingly implemented in tandem with truth commissions. When

paired with truth commission, symbolic reparations could come in the form of a hard copy of the final truth commission report and/or an individualized letter from the highest level of government (UNCHR 2008).

A material act of reparations is often related to economic compensation. The economic compensation could be hard cash, health services, new livestock or education packages (Lie, Binningsbo and Gates 2007, UNCHR). When possible, the cost of this tool is paid for by leaders in order to directly take ownership of past harm. This process of amends to the victims focuses energies on tangible forms of apology (Bass 2004).

There are major limitations to reparations. Like any of the tools discussed in this chapter, reparations cannot meet all the needs of victims, and victims may very well feel unsatisfied, even angry with the reparations delivered. There is no way to retract the past violence, and it is likely that in the vast amount of cases no amount of money will equal the cost of conflict (Hamber and Wilson 2002). A report published by the Office of the United Nations High Commissioner for Human Rights (2008) acknowledges that:

The violations that reparations benefit are meant to redress are frequently of the sort that is, strictly speaking, irreparable. Nothing will restore a victim to the status quo ante after years of torture and illegal detention, or after the loss of a parent, a sibling, a spouse or a child. No amount of money or combination of benefits can erase either such experiences or some of their consequences. (10)

Bass (2004) also acknowledges that reparations will never fix what has occurred, but argues that it is important that reparations be chosen with prudence and proportionality to the severity of the grievances. A United Nations High Commissioner for Human Rights (UNCHR) report puts forth that reparations are

meant to be implemented in situations where human rights violations have been “gross and systematic” (UNCHR 2008). Therefore, the “contexts in which reparations programmes are established are frequently characterized by weak institutional capacity, fractured social relations, very low levels of trust and a scarcity of financial resources” (UNCHR 2002 10).

Furthermore, using this post-conflict justice mechanism forces victims to face their trauma and loss, even if they are not ready. In a variety of cases studied by Hamber and Wilson (2002), the sentiment was expressed that “accepting reparations implies giving up hope that the disappeared will return alive” (45). In the case of Brazil’s reparations process, which included a symbolic act of naming streets after deceased (or missing) persons, there were families that refused to attend the re-naming ceremony, as recognition of the reparation would signal a relinquishing of hope (Hamber and Wilson 2002). Reparations focus attention on the redress of victims, and, despite their limitations, the literature provides a variety of potential answers to the puzzle of why some states may implement reparations as a form of post-conflict justice.

C. Immunity Measures: Amnesty & Exile

The category of immunity measures covers two post-conflict justice mechanisms: amnesty and exile. Immunity measures remain separate from retributive and restorative justice as the process through which they address justice is fundamentally different. Binningsbo et al (2012) define post-conflict justice as “any process initiated...following an armed conflict that attempts to address wrongdoings

which took place as part of that conflict” (733). As such, they include amnesty and exiles in their list of post-conflict justice mechanisms. The immunity measures category covers a path that concedes immediate and direct accountability of perpetrators or restorative efforts for victims in order for the larger society to move forward. This category recognizes alternative ways to address wrongdoings, specifically through amnesty and exiles. In this way, immunity measures fit under the umbrella of transitional justice in that it is focused in moving a state out of and away from conflict. However, it is important to note that immunity measures are widely discussed alongside and employed in tandem, or sometimes instead of, other post-conflict justice mechanisms.

This category has been questioned in the more contemporary literature, and international acceptance of these possible post-conflict justice mechanisms has been declining (Jeffrey 2014). Within the literature, the ability to even call amnesty or exile justice is contested, as some scholars cite that these mechanisms promote impunity and fail to provide closure or accountability for society (Jeffrey 2014; Bassiouni 2002; Greenwalt 2000). Impunity versus immunity is an important distinction that scholars repeatedly draw upon when framing the role of amnesty and exile as post-conflict justice mechanisms. Impunity is widely seen as counterproductive to peace, even as the “antithesis of accountability” (Bassiouni 2002 52). Contrarily, the role of immunity is seen as a path to prevent extended or future violence. For this category, amnesty and exiles are catalogued under immunity, because they are initiated for preventative and punitive measures (Lie,

Binningsbo and Gates 2007), which is to be viewed as a form of justice in and of itself.

i. Amnesty

Amnesty offers a way forward in transitional justice by providing an official pardon to the perpetrators of violence. Amnesty can also be granted to top government or military officials, military members or participants in the conflict (Binningsbo et al 2012). This granting of exclusion from forms of retributive justice, particularly prosecutions, is significant in that amnesty still provides the state a path forward and out of conflict. However, due to the restrictions amnesty places on holding perpetrators of the conflict accountable, the related literature contains tensions regarding its relative merits and drawbacks.

Amnesties play the role of a bargaining tool, an incentive to bring conflicting sides to a peaceful settlement. While it “seems reasonable to believe that some sort of accountability process is necessary, however, in negotiating peace settlements, leaders might choose to forgo traditional conceptions of justice to secure an end to the violence” (Binningsbo et al 2012 735). In this manner, amnesties are “a transitional justice mechanism used not in the context of a transition from authoritarian rule to democracy, or from violence to peace, but to effect a transition in the first place” (Jeffrey 2014 105). This tool provides protection to those who might face repercussions at the end of the conflict for their role in the conflict. Most often, amnesty blocks the ability to prosecute perpetrators later in the transition out of conflict. (Jeffrey 2014; Lie, Binningsbo and Gates 2007). While amnesty, in

this capacity, provides an incentive for conflict to end, it also initiates a debate about the deterrence of conflict in the future.

In recent decades, there has been a transition away from “blanket amnesties” or offers for unconditional amnesty. Pressure from the international community has largely generated this shift (Duggard 1999; Jefferson 2014). While it used to be a predictable and consistent mechanism for states that were moving away from repression and towards democracy, the arrival of the International Criminal Court and truth commissions have made amnesty’s presence less definitive and predictable in the eyes of scholars (Dugard 1999). Additionally, the stance of the United Nations has evolved over time, aiding in this shift of form and implementation (Jeffrey 2014). Jeffrey expresses the perceived lack of accountability, which may account for this shift, stating:

[A]n inherent danger lies in holding out the prospect of an amnesty to warring parties: namely, doing so holds the state or party issuing the amnesty, as well as the victims of wrongs, hostage to a sort of blackmail that demands impunity for human rights violations. (Jeffrey 2014)

Greenwalt (2002) illustrates the danger described by Jeffrey in that “amnesties for those who have committed murder and torture for oppressive governments are unjust” (203). This injustice is related to the graveness of the violence and thus brings about the ability of amnesty to address certain forms of violence.

A portion of the literature emphasizes the constraint amnesty puts on the ability for states to carry out justice. The restrictions that amnesty upholds when implemented are debated, as they highlight a tension about the necessity of holding perpetrators accountable for particular crimes or scenarios (Greenwalt 2000).

Amnesties, according to de Greiff, are concerning since “putting some people above

the law, a culture of impunity can become entrenched” (Prosecutions of Massive Violations). This “culture of impunity” reinforces a sense of injustice that existed during the conflict, failing to provide a sense of change, security and trust in the new society. There is a fear that amnesty cannot adequately provide deterrence for future conflict, as it sets a precedent for pardoning of violence.

ii. Exiles

The placement of exiles under the category of immunity measures illustrates its specific, and often debated, role in bringing about post-conflict justice. Exiles are understood as the “removal of perpetrators” in order “to identify, stigmatize and even physically remove certain individuals from a region of conflict” (Kerr and Mobekk 2007 7). This mechanism can be mandated or it can be self-initiated by the perpetrators. In the second case, it is likely that the perpetrator may be fleeing from the state to avoid being held accountable (Binningsbo et al 2012; Lie, Binningsbo and Gates 2007).

Exiles act as incentives to prevent extended or future violence (Lie, Binningsbo and Gates 2007). Within the category of immunity measures, exiles are believed to aid in the transition out of conflict by allowing other processes towards peace and stability to continue. With this shift perpetrators cannot “partake in the peace processes or continue unduly to influence a fragile transitional society, nor can they continue to elicit fear in victims and their families” (Kerr and Mobekk 2007 7). However, exiles constrain the ability of the victims to see perpetrators held responsible, and thus there is no clearly established accountability or punishment

(Lie, Binningsbo and Gates 2007). The road out of conflict is not clear for a state, and exiles offer both advantages and disadvantages as a post-conflict justice mechanism,. These characteristics can make appealing arguments as to why states may or may not initiate exiles.

III. Influencing Factors

The literature is filled with off-handed references to potential influencing factors, but few scholars carry out a careful and intentional study of the factors influencing the implementation of post-conflict justice, never mind the specific type or category of post-conflict justice. Within the previous section, which conceptualizes post-conflict justice mechanisms, there are references to possible influencing factors. This section reviews the literature, answering the question: Are there specific influencing factors that can be tied to post-conflict justice mechanism implementation?

The literature certainly postulates potential influencing factors. Bassiouni's "Appropriate Accountability Mechanism" guidelines are the starting point for this section of the chapter. His list encompasses a portion of the factors mentioned across the literature and thus provides a place to begin exploring possibilities. Bassiouni's guidelines are designed to aid the decision process of undertaking post-conflict justice and are therefore limited in their scope. Given that Bassiouni's list was originally created to guide decision-making, the factors capture characteristics about the conflict itself and the capacity of the state emerging out of the conflict.

Beyond his guidelines the literature highlights the influence of external actors, financial aid and the interconnected relationship of the mechanisms to each other.

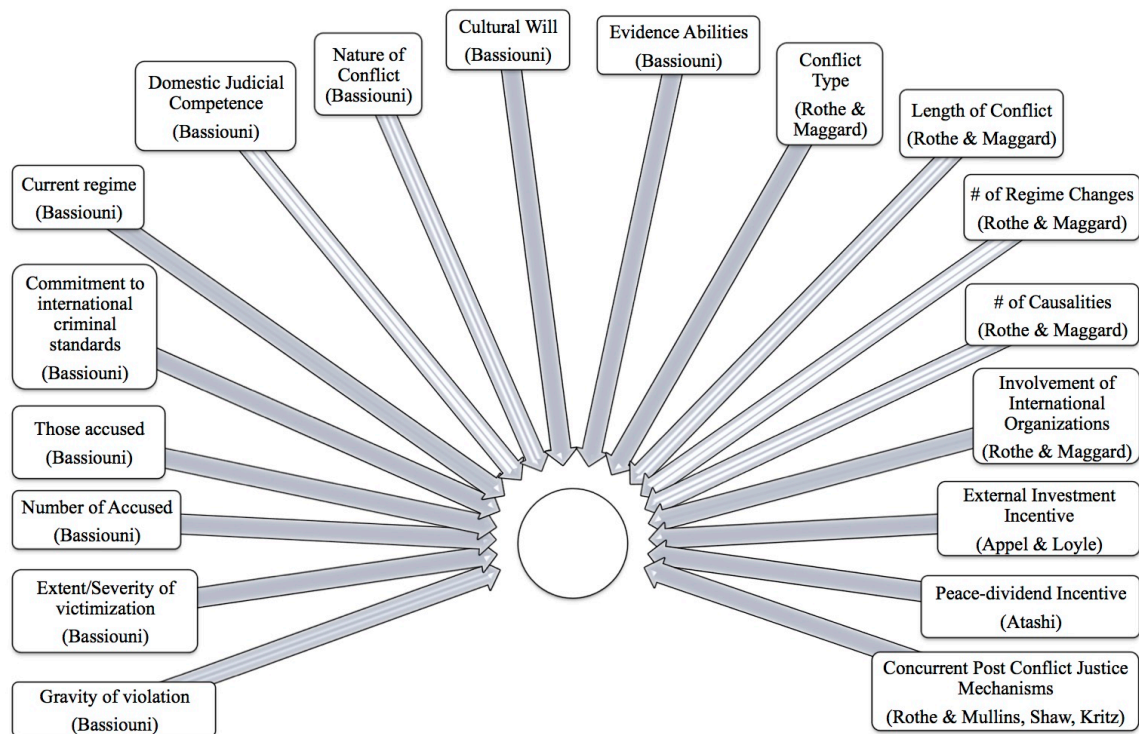


Figure 2: Potential Influencing Factors Referenced in Literature

The “Appropriate Accountability Mechanism” guidelines set forth by Bassiouni are intended to assist in the decision making process of choosing which post-conflict justice mechanism(s) to implement. Given that the guidelines would ideally be used by states emerging from conflict, the factors listed provide vital insight into the influences of the implementation of post-conflict justice mechanisms. Bassiouni’s intention with these guidelines is that each factor is evaluated individually and collectively. Bassiouni emphasizes that the decision must be made in good faith. The eleven factors specified are:

- (a) The gravity of violation: for example, is it a jus cogens violation? (Genocide, crimes against humanity, war crimes);
- (b) The extent and severity of the victimization;
- (c) The number of accused;
- (d) Those who are accused (e.g., the senior architect, low-level executor, bureaucrat);
- (e) The extent to which both sides are equally committed to international criminal standards;
- (f) The current government: is the violator regime still in power either *de jure* or *de facto*?
- (g) The competence and independence of the domestic judiciary;
- (h) The evidentiary issues;
- (i) The extent to which the conflict or violations have subsided;
- (j) Cultural concerns or 'the will' of the community;
- (k) Nature of the conflict: international or internal armed conflict, or repressive regime. (Bassiouni 2002 42)

From these factors, Bassiouni insinuates that the presence of different factors should lead to different mechanisms. For example, he strongly advocates that if the gravity of the violence includes a jus cogens violation then there must be a prosecution. However, Bassiouni also believes that beyond the mere presence of a factor, the scale, or extent, of a factor can create a different path forward. As such, he argues that large-scale victimization over an extended period of time requires a truth commission with a prosecution. His decision-making process demonstrates that the implementation of post-conflict justice mechanisms is multi-causal. The eleven factors do not work in isolation, but rather need to be considered alongside each other. Furthermore, the eventual post-conflict justice mechanism will also be a reflection of various features of the conflict itself.

Arising from Bassiouni's work, Rothe and Maggard (2012) completed a research project answering a similar question as this study. Their research focus, however, was solely on African states. In their literature review, they assert that

“previous studies have primarily concentrated on using a case-study approach to evaluate a specific case, a specific [post-conflict justice mechanism], crimes committed or conflict resolution by type or duration of peace after completion of a [post-conflict justice mechanism]” (Rothe and Maggard 2012 195). As such, Rothe and Maggard employ an empirical, quantitative study that employs bivariate and multivariate components. The independent variables were types of conflict, length of conflict, number of previous regime changes, number of casualties and the role of international organizations. Post-conflict justice mechanism served as a broad dependent variable, but it was also further coded into specific mechanisms.

Rothe and Maggard found that the predication of post-conflict justice was significant in relation to the involvement of international organizations. Specifically, the research finds “most importantly, that action by the [United Nations] *during* a conflict is very important for post-conflict justice to materialize” (Rothe and Maggard 2012 215). The other key finding identified by the authors is the significance of non-governmental organizations involvement. The logistic regression models aimed to predict post-conflict justice mechanisms, given the length of conflict, number of casualties and the involvement of international organizations, found that the number of casualties were predictors of the presence of prosecutions and truth commissions and that length of conflict was a predictor of the presence of amnesty (Rothe and Maggard 2012).

Adding to Rothe and Maggard’s findings, the literature supports the importance of international organizations, but also suggests the importance of external investment as an influence of the implementation of post-conflict justice

mechanisms. When a state emerges from conflict, leaders have high-stakes in convincing multi-national corporations that their state is stable and a safe place to invest, and thus post-conflict justice efforts can be used to prove their stability (Appel and Loyle 2012). Post-conflict justice is costly, but the desire to indicate to investors that the state is committed to remain free of conflict can outweigh the price. A post-conflict state has a higher level of risk associated to it, in the eyes of investors, but it also holds great potential growth and profit:

Post conflict justice offers a signal of stability by providing a process of acknowledgement and reconciliation and through strengthening the political legitimacy of the host government. Secondly, due to both the costly nature of implementing post conflict justice domestically and the international reputational effects for reneging on post conflict justice commitments, potential investors are able to recognize the credibility of this signal. (Appel and Loyle 2012 686)

Elham Atashi labels this desire for a state to build its credibility for external aid and investment as the “peace dividend.” Backing Appel and Loyle’s argument, Atashi provides a broader view on the incentive to implement post-conflict justice mechanisms, as he links it back to the investment by local actors:

The term ‘peace dividend’ has been broadly defined as social, political and psychological benefits that accrue as an outcome of a peace process. From this view, external aid is channeled into peace dividends to transform a conflict by social and economic development and therefore a significant component of peacebuilding. It is also hoped that economic growth and prosperity can create incentives on the ground by convincing people that they are stakeholders in the peace process, thereby increasing public support. (Atashi 2011 209)

Both of these articles see the role of external aid and investment as an incentive for implementing post-conflict justice mechanisms. The role of these mechanisms in legitimizing the state’s commitment to progress signals to actors, particularly those

with investment abilities, that the state is stable and reliable. However, neither article specifies the form of post-conflict justice mechanism that would be implemented.

A more complicated influencing factor is vaguely touched upon in the literature. Most of the literature addresses the mechanisms as singular modalities, isolating a particular mechanism and discussing it as a singular tool. The mechanisms do not act in isolation, but are complementary (Rothe and Mullins 2008). There is no single formula, yet the international community often forgets the implication of utilizing multiple tools within the toolbox of justice (Kritz 2002) The crossover between the mechanisms is mentioned in the literature when it comes to the interactions of truth commissions, reparations and amnesty, but there is not a clear link identified between the presence of one mechanism and the presence (or absence) of another mechanism.

Rothe and Mullins (2008) address this interconnected influence through two case studies that highlighted the integrated, multiple mechanisms at play at the same time with a concentrated focus on evaluating the impact of post-conflict justice mechanisms as a holistic system. Rothe and Mullins (2008) focus on how “the strengths of each mechanism generally counter the weakness of the others” (92). While their research provides little insight into the identification of influencing factors, it does highlight the symbiotic relationship between the different post-conflict justice mechanisms. Another example of the influence of the use of another post-conflict justice mechanism is briefly highlighted in Shaw’s (2005) study that looks at truth commissions in Sierra Leone. In the paper, three potential difficulties

in implementing truth commissions are “fear of retaliation by perpetrators; fear of government reprisals; and concerns arising from the concurrent operation of different transitional justice mechanisms” (Shaw 2005). While the last point is not further explained within Shaw’s article, the concurrent or symbiotic relationship between post-conflict justice methods could reveal a different way in which to understand why some states are using a particular type, or potentially a set of, post-conflict justice mechanisms.

IV. Conclusion

Reaching across the literature to generate an understanding of the post-conflict justice mechanisms and the information related to factors that influence their implementation builds knowledge relative to answering the research question. The construction of the theoretically derived categories frames the means through which justice is obtained by the mechanisms. The literature related to post-conflict justice is more developed than that of the influencing factors. Literature and research on influencing factors is considerably limited, with few studies testing to see what pressures the implementation of a particular post-conflict justice mechanism. However, the array of potential influencing factors demonstrates that many possibilities exist in testing these relationships.

Chapter Three: Methodology

While the previous chapter outlined literature discussing post-conflict justice mechanisms and potential influencing factors of implementation, only a few studies have attempted to test factors that impact the form of post-conflict justice mechanisms in states. Given this gap, this research identifies the relationship between potential influencing factors and post-conflict justice mechanisms. The selection of the independent variables from the array of influencing factors presented in the literature review begins the chapter. This process of choosing the influencing factors leads to three independent variables: magnitude of violence, external military funding and conflict termination type. Operationalizing the independent variables requires careful defining of the terms. Post-conflict justice mechanisms, the dependent variable, are also characterized and operationalized.

With the variables defined, the study's hypotheses are presented, highlighting potential causal mechanisms between the influencing factors and the post-conflict justice mechanisms. These hypotheses are constructed utilizing the theoretically derived categories utilized in the literature review. Lastly, the actual methodology to test the hypotheses is explained. The methods are quantitative in nature and employ bivariate and multivariate regressions.

I. Influencing Factors: Independent Variables

In order to answer the research question, *what factors impact the form of post-conflict justice mechanisms in states*, it is vital to clearly establish and define the variables used. The independent variables in this study are the influencing factors.

As demonstrated in the literature review chapter, there are a vast number of suggested influencing factors. For this research, the three independent variable categories will be magnitude of violence, external military funding and conflict termination. Each of these three independent variables have been drawn out of the literature and will be captured in this study through indicators, which serve to operationalize the factors.

A. Selecting the Influencing Factors to Test

Given the wide range of suggested influencing factors and the limited amount of previous research testing these relationships, there were many possible paths for this study. Therefore, the choice of particular independent variables arose from findings of previous research. The selection of *magnitude of violence* as an independent variable provides the ability to capture the impact of the conflict on the state. Its inclusion comes out of Bassiouni's guidelines, where he outlines the importance of the gravity of violation, the extent and severity of victimization, the number of accused and the society's resolve (Bassiouni 2002). Some of the items in his guidelines are extremely hard to capture, such as "will of community." However, the extent of the violence and the severity of its impact on society are an important aspect, especially when considered alongside the goals of post-conflict justice mechanisms. These factors point to the importance the nature of the conflict itself and its effect on society as impacting post-conflict justice mechanisms. Magnitude of violence is an attempt at addressing this cross-section of the literature. It does not

directly capture points specifically covered by Bassiouni, but it does begin to capture the impact of a conflict on society.

The literature review demonstrated the importance of external actors, particularly international organizations and their action during conflict (Rothe and Mullins). *External military funding* builds upon their research by expanding the research on the relationship between external actors and post-conflict justice. Specifically, this study looks at external actors providing military support during conflict. The Rothe and Maggard 2012 study found that the timing of the involvement of international organizations was important in subsequent implementation of post-conflict justice mechanisms. As a result, the variable external military funding was measured in a way that captured external actors involvement during the conflict. Lastly, the inclusion of conflict termination type arises from references in the literature review. Scholars widely hypothesize about the role of conflict termination in post-conflict justice. The consensus is that the type of conflict termination would be indicative of the type of post-conflict justice mechanism (Binningsbo et al 2012; Lie, Binningsbo and Gates 2007; Bassiouni 2002).

B. Operationalization of the Influencing Factors

In this research, *magnitude of violence* is defined as the impact of the conflict across society. The variable, in this study, follows the lead of the Major Episode of Political Violence database from the Integrated Network for Societal Conflict Research

(INSCR).¹ The dataset ranks states on a scale from 1 to 10 based on the “magnitude of systemic impact,” (referencing the state system). Specifically, states are assessed based on the “comprehensive effects on the state or states directly affected by the warfare, including numbers of combatants and casualties, affected area, dislocated population and extent of infrastructure damage” (Marshall 2015 2). These effects translate into the 10-point scale ranging from Category 01, Sporadic or Expressive Political Violence to Category 10, Extermination and Annihilation. This study only utilizes the score labeled “CIVTOTAL” in the database. “CIVTOTAL” refers to a score that includes civil violence, civil warfare, ethnic violence and ethnic warfare. Interstate scores and regional scores are not included in this research, in order to maintain focus on internal magnitude of conflict.

The INSCR’s Major Episodes of Political Violence database is coded as country-conflict-year, meaning that for every year that a state is in conflict the state received a score (Marshall 2015). In order to utilize this database in this study, the scores were re-calculated to match a base unit analysis of country-conflict-period, or one score for every period in which a state was in conflict.² This study accounted for this adjustment by calculating six different indicators of the variable. The first

¹ The Major Episodes of Political Violence database assesses the repercussions of the conflict through the state system, which provides one way to quantify and test parts of Bassiouni’s guidelines. Furthermore, it is part of the Integrated Network for Societal Conflict Research (INSCR), which is produced by the Center for Systemic Peace. This United States based non-profit also produces the State Fragility Index and the Polity Project. The dataset’s Excel file, SPSS file and codebook can be accessed at <http://www.systemicpeace.org/inscrdata.html>.

² To create a useable dataset for this research, the data must be in the same base unit of analysis. When the data is drawn from different datasets, these datasets utilize different units of analysis. This research uses the unit of analysis “country-conflict-episode.”

indicator of the variable was a mean, or average, of the CIVTOTAL scores for the entire length of the state's period of conflict. The standard deviation of the mean was recorded as the second coding of the variable. The minimum CIVTOTAL score, the maximum CIVTOTAL score and the last year's CIVTOTAL score within the state's period of conflict was documented. Lastly, the average of the last three years of conflict was calculated. Creating six variations of the variable, magnitude of violence, allows for the ability to account for the variations within the variable. This methodological choice arises from the need to change the base unit of analysis, which causes different ways to record the variable. Creating multiple variations allows for the data from the INSCR dataset to be cultivated in a manner that is most usable for this research, and thus allows the hypothesis to be tested in multiple ways.

External military funding as an influencing factor specifically refers to the financial funding of military support by actors outside of the conflict. In this research, there is a distinction made between who is receiving the funding, so as to distinguish between a state actor receiving support or the opposing side. The Uppsala Conflict Data Program has a project titled External Support Data, which aligns with the independent variable "external military funding." Beginning in 1970 the Uppsala Conflict Data Program has collected data on violence and has thus set the standard for gathering this type of information. Their definition of armed conflict has become widely regarded as the accepted standard (Högbladh, Pettersson and Themner 2011). This study utilizes a particular subset of the External Support Data called "External Support: Primary Warring Party Dataset,"

which disaggregates the type of external support provided to warring actors.³ The dataset covers information from 1975 to 2010 (Högbladh, Pettersson and Themner 2011). This study's variable external military funding pulls only from the External Support Project's variable "External_\$." The variable, external military funding:

covers any form of economic aid that was extended by an external supporter in order to be used to fund the waging of the armed conflict or is given to the warring party. This includes military loans, military grants, and military/defense to be used towards improving the capabilities of the military. This also includes intercession or support in front of multilateral financial institutions (such as the [World Bank] or the [International Monetary Fund]) or other lenders. Note that this type of support typically does not include humanitarian, development or balance of payments aid/loans. (Högbladh, Pettersson and Themner 2011 19)

The inclusion of this particular variable provides an expansion of the study conducted by Rothe and Maggard found that the involvement of international organizations to be important. Specifically, Rothe and Maggard found the involvement of international organizations, particularly the United Nations, *during* the conflict to be an indicator of post-conflict justice (Rothe and Maggard 2012). The way in which the external military funding is defined by the UCDP's database means that the support was provided *during* the conflict, which remains consistent with Rothe and Maggard's finding. External military funding, therefore, is an expansion in testing a specific type of support.

Like the magnitude of violence variable, the external military funding was recoded. The External Support Project database is country-conflict-year-side

³ The choice to use the External Support: Primary Warring Party Dataset arose from the need to see which actor received support during the conflict. The External Support: Primary Warring Party Dataset was selected as it "is best suited for analysis from the perspective of the receiver of support" (Uppsala website). The codebook and dataset can be accessed at http://www.pcr.uu.se/research/ucdp/datasets/ucdp_external_support_data/.

(Högbladh, Pettersson and Themner 2011). To make the variable functional, four indicators were coded. "StateExternalReceived" is a dichotomous variable, with a "1" indicating that the state actor in the conflict period received external military funding support. "YrsStateReceived" is a total of all the years within the conflict period that the state actor received support. Conversely, "SideBReceived" is a dichotomous variable, with "1" indicating that the opposing side in the given conflict received support, while "YrsSideBReceived" is a total of all the years within the conflict period that the opposing side received support. The decision to include four variations of this independent variable provides the ability to test the variable slightly differently. The indicators "StateExternalReceived" and "SideBReceived" have a bounded range, between 0 and 1. Outcomes from this analysis model will reveal if support given to the actor changes the likelihood of post-conflict justice mechanisms. Alternatively, the indicators "YrsStateReceived" and "YrsSideBReceived" could, hypothetically, have a score equivalent to the number of years the conflict endures (i.e. if the conflict lasts for fifteen years, the state actor could receive external military funding for 15 years, thus receiving a score of 15). This coding creates a much larger range and the outcome from the analysis can reveal if continued support increases the likelihood of post-conflict justice.

A third independent variable highlights *conflict termination* as an influencing factor. This variable is defined by how the conflict ends. It is included as a variable in the Post-Conflict Justice Dataset, which is the dataset that this research utilizes to

also operationalize the dependent variables.⁴ It captures information for “all extrasystemic, internationalized internal, and internal armed conflicts from 1946 to 2006, with at least 25 annual battle-related deaths as coded by the UCDP/ PRIO Armed Conflict Dataset” (Binningsbo et al 2012 731). In the Post Conflict Justice Dataset, the unit of analysis is country-conflict-episode, which does not require any adjustments for this research.

For conflict termination type, the Post Conflict Justice Dataset codes to reflect three possible outcomes from a conflict: bargained solution, victory or other (Binningsbo, Loyle, Gates and Elster 2012). A bargained solution is coded as a “1,” victory is a “2” and the category other is a “3.” A bargained solution denotes an outcome where opposing actors cooperated to end the conflict, like for a peace agreement or ceasefire. Victory indicates that one side defeats the other side. For this research, the variable “other” was removed from the research due to the vagueness of the term. As a result, the variable, conflict termination, was recoded to include only bargained solution as “0” and victory as “1.”

II. Post-Conflict Justice Mechanisms: Dependent Variable

The dependent variable is the post-conflict justice mechanisms. There are two layers of definitional and coding complexity that create the dependent variable: (1) post-conflict justice and (2) specific mechanisms of post-conflict justice. The format outlined in the literature review, which utilizes three broad theoretically derived categories, retributive justice, restorative justice and immunity measures, is

⁴ Access to the Post Conflict Justice Dataset codebook and dataset can be found at <http://www.justice-data.com/pcj-dataset/>.

continued into the research to create hypotheses. These three categories, as they did in the literature review, are disaggregated into two specific forms of post-conflict justice mechanisms. In this research, retributive justice covers prosecutions and purges, restorative justice covers truth commissions and reparations, and immunity measures covers amnesty and exiles.

To best understand the variables, it is important to explain the Post Conflict Justice Dataset, as these mechanisms are all captured under this dataset, before defining the specific dependent variables. This comprehensive record provides data on post-conflict justice efforts that include trials, truth commissions, reparations, amnesties, purges and exiles. Across all the dependent variables, the “dataset codes justice processes which were implemented within the post-conflict period, up to 5 years after the termination of a given conflict” (Binningsbo, Loyle, Gates and Elster 2012 4). This research has chosen to follow this coding as it best represents mechanisms that had sway in the post-conflict period. The database codes the mechanisms as dichotomous variables. Given the approach undertaken in the Post Conflict justice Database, it is logical and methodologically sound for this research to mirror the same definitions and operations of the post-conflict justice mechanisms.

The coding is dichotomous. Methodologically, the first dependent variable is a simplified, aggregated category labeled *pcj_dummy*. It is dichotomous in nature, with a code of “1” representing that a post-conflict justice mechanism was implemented following conflict and a code of “0” indicating that no post-conflict justice mechanism was implemented following conflict. This methodological choice

follows the methods utilized by Rothe and Maggard's (2012) study and is consistently continued through the remaining post-conflict justice mechanisms.

Retributive justice, in this study, is defined as post-conflict justice mechanisms that are retaliatory in nature and produce direct forms of accountability. It is measured through two forms of retributive justice, prosecutions and purges. *Prosecutions* are also referred to as trials and are the "examination of alleged wrongdoing through judicial proceedings within a legal structure" (Binningsbo et al 2012 734). A trial, arrest, charges or sentences are all included as trial under the Post Conflict Justice Codebook as they indicate intention for a trial. *Purges* are "the act of removing politicians, armed forces members, judiciary or other members of society for their (alleged) collaboration with or participation in a conflict and limiting their influence accordingly" (Binningsbo et al 2012 735). Both prosecutions and purges utilize retributive recourse.

Restorative justice is the path to justice that seeks to be reparative, upholding accountability without being punitive in nature. Truth commissions and reparations are the post-conflict mechanisms indicators of restorative justice. *Truth commissions*, according to the Post Conflict Justice database, are "officially-sanctioned, temporary investigative bodies that focus on a pattern of abuse over a particular period of time" that occur within five year of the end of the conflict and *reparations* are "compensation given by the state to an individual or group who was harmed in some way during the conflict" (Binningsbo et al 2012 734).

Immunity measure is the third dependent variable. It approaches post-conflict justice through alternative avenues that avoid accountability in order to

allow for society to move forward and find justice through progress. It is encapsulated through the coding of amnesty and exile. *Amnesty* is the “promise (or in some cases formal legislation) on the part of the ruling party to not prosecute or punish past violators” (Binningsbo et al 2012 735). *Exile* is one’s absence in the state, either forced or voluntary, for a period of time (Binningsbo et al 2012 736).

Table 1: Hypotheses Matrix			
	Retributive Justice: Trials & Purges (Y₁)	Restorative Justice: Truth Commis. & Reparations (Y₂)	Immunity Measures: Amnesty & Exile (Y₃)
Magnitude of Violence (X₁)	The greater the magnitude of violence will decrease the likelihood of retributive justice.	The greater magnitude of violence will increase the likelihood of restorative justice.	The greater magnitude of violence will increase the likelihood of immunity measures.
External Military Funding (X₂)	Higher levels of external military funding will increase the likelihood of retributive justice.	Higher levels of external military support will decrease the likelihood of restorative justice.	Higher levels of external military funding will increase the likelihood of immunity measures.
Conflict Termin- ation (X₃)	When the outcome is a victory, the likelihood of retributive justice increases . When the outcome is a bargained solution, the likelihood of retributive justice decreases .	When the outcome is a victory, the likelihood of restorative justice decreases . When the outcome is a bargained solution, the likelihood of restorative justice increases .	When the outcome is a victory, the likelihood of immunity measures decreases . When the outcome is a bargained solution, the likelihood of immunity measures increases .

III. Hypotheses

These hypotheses are testable and falsifiable, and they have been chosen from the scope of literature explored. Furthermore, the hypothesized statements remain valid when conversely stated. The table provides a visual of the collective hypotheses, but these hypotheses are broken down by independent variable to provide an account of the causal mechanism thought to be at play in the relationship. These hypotheses are primarily developed out of the literature. However, given the limitations of the influencing factors literature, the production of the hypotheses often relied on the benefits and drawbacks of the post-conflict justice mechanisms. Each grouping of hypotheses is presented with a null hypothesis related to post-conflict justice as a whole and a hypothesis for each category of post-conflict justice.

a. *Magnitude of Conflict*

H_{A0}: The magnitude of a conflict has no impact on post-conflict justice mechanisms.
H_{A1}: The greater the magnitude of conflict, than the likelihood of retributive justice will decrease.
H_{A2}: The greater the magnitude of conflict, than the likelihood of restorative justice will increase.
H_{A3}: If greater the magnitude of conflict, than the likelihood of immunity measures will increase.

An absence of relationship between the magnitude of conflict and post-conflict justice mechanisms is indicated in the null hypothesis (H_{A0}). H_{A1} predicts that if the magnitude of violence is great then the likelihood of retributive justice will decrease. This relationship is theorized for primarily two reasons, which relate to the hypothesized relationships displayed in H_{A2} and H_{A3}. First, with greater magnitude of conflict, more of society is impacted. The literature suggests that a

strength of restorative justice is its ability to operate in broader, farther-reaching conflict. Truth commissions, for example, aim to create a common narrative of the past, which brings a sense of justice to a larger portion of society (Kritz 2006; Lie 2007). The emphasis on generating a common history that comes with restorative justice would seem to be more necessary due to the greater magnitude of conflict. On the contrary, a drawback of retributive justice is its emphasis of accountability of a few individuals, with a narrower scope of focus (King 2013). If magnitude of the conflict is great, reaching across a large portion of society, then the logic is that retributive justice becomes less applicable. However, restorative justice (H_{A2}) is more valued following a conflict of great magnitude due to its reparative measures and its ability to be far-reaching within society.

Second, the emphasis on retributive justice is less as the magnitude of conflict increases, conceivably, due to the potential for retributive justice to prolong conflict. The literature relayed that a drawback to prosecutions and purges is that insistence on these justice mechanisms can intensify or draw out conflict, as warring parties battle more intensely to avoid losing and facing retributive measures (Bass 2004, King 2013). If the magnitude of violence is high, then adding the pressure of retributive justice would likely only increase tensions and intensify the conflict, which is why H_{A1} hypothesis that retributive justice becomes less likely. With the knowledge of being held accountable, either judicially or otherwise, the stakes of losing the conflict increases, and therefore retributive justice is less likely in states with a greater magnitude of conflict, where violence is intensely present.

The ability of justice mechanisms to adjust based on the variable of magnitude of violence connects to H_{A3} , which indicates that a greater magnitude of conflict will increase the likelihood of immunity measures. The granting of amnesty or exile to perpetrators has historically been utilized to encourage violence to end, acting as a bargaining tool (Binningsbo 2012). Therefore, H_{A3} hypothesize that with greater magnitude of violence the likelihood of immunity measures increases. Immunity measures is comprised of amnesty and exiles, and while a state cannot exile mass violators, it can grant amnesty to larger groups, especially if paired with a restorative justice measure.

b. External Military Funding

H_{C0} : External military funding has no impact on post-conflict justice mechanisms.

H_{C1} : High levels of external military funding will increase the likelihood of retributive justice.

H_{C2} : High levels of external military funding will decrease the likelihood of restorative justice.

H_{C3} : High levels of external military funding will increase the likelihood of immunity measures.

H_{C0} stands for the null hypothesis between levels of external military funding and post-conflict justice mechanisms, where the independent variable does not impact the dependent variable. The other three hypotheses operate on the premise that there is a relationship between level of external military funding and the categories of post-conflict justice. H_{C1} and H_{C3} predict that high levels of external military funding will increase retributive justice and immunity measures. H_{C2} states that high levels of support decrease the likelihood of restorative justice being implemented.

The prediction that external military funding will increase both retributive justice and immunity measures is contradictory, to an extent. The literature only limitedly discusses the role of external support in conflicts (Rothe and Maggard 2012) and does not specifically discuss external military funding. The literature does not directly postulate relationships between the categories of post-conflict justice mechanisms and levels of external support, so the hypotheses have been generated based on knowledge of the three categories.

H_{C1} predicts that high levels of external military funding will increase retributive justice. This hypothesis was developed out of several potential causal reasons. Retributive justice is composed of post-conflict justice mechanisms that are resource intensive. For a state to implement this mechanism, it must have the ability to cover the costs, either from internal structures or with the help from external supporters. Higher levels of external military funding indicate that actors outside of the state have some level of investment in the conflict. Although these actors are likely invested in the conflict to create a particular outcome, their expectations or requirements may remain in place during the transitional justice stage, when post-conflict justice mechanisms are implemented. The international community, as a whole, promotes justice mechanisms that demonstrate a clear form of accountability.

H_{C3} the immunity measures category represents amnesty and exiles, two forms of post-conflict justice mechanisms that the international community associates with avoiding accountability for perpetrators. Despite this association, the hypothesis that higher levels of external military funding will increase immunity

measures arises from the postulation that the actors funding the military components of a conflict will push for immunity measures so as to maintain their own immunity in fueling the conflict. Given the lack of literature on the topic, this hypothesis is self-postulated.

Restorative justice, which has a prediction that external military funding will decrease its implementation, is seen as the holistic and reparative drawer of transitional justice (Santa Barbara 2007). Military funding represents actors invested in the conflict who have chosen to forgo reparative measures and to pursue militarized violence. Therefore, this study believes that the investment of these actors will not give great consideration to restorative justice following the end of the conflict.

c. Conflict Termination

H_{D0}: Conflict termination has no impact on post-conflict justice mechanisms.

H_{D1}: When the outcome is a victory, the likelihood of retributive justice **increases**. When the outcome is a bargained solution, the likelihood of retributive justice **decreases**.

H_{D2}: When the outcome is a victory, the likelihood of restorative justice **decreases**. When the outcome is a bargained solution, the likelihood of restorative justice **increases**.

H_{D3}: When the outcome is a victory, the likelihood of immunity measures **decreases**. When the outcome is a bargained solution, the likelihood of immunity measures **increases**.

As with the three hypotheses sets above, H_{D0} is the null hypothesis indicating the absence of relationship between conflict termination and post-conflict justice.

The hypotheses for the three categories of post-conflict justice indicate theorized relationships between two possible conflict termination outcomes: victory and bargained solution. The hypotheses are conversely related to the outcomes for each

of the justice categories. For example, retributive justice increases in likelihood with victory but decreases with bargained solution.

Retributive justice increases in likelihood following a conflict termination of a victory. The characteristics of retributive justice are punitive in nature and allow for retaliatory measures to take place through structured proceedings (Santa Barbara 2007). King (2013) argues that prosecutions, one of the mechanisms under retributive justice, signal a clean break from the previous leaders and act as a declaration of a new period within the state. With a conflict terminating through victory, a clear winner appears and is given control of the state. This change provides the winners the responsibility and the ability to exert their dominance and leadership style.

H_{D2} and H_{D3} state that bargained solutions increase the likelihood of restorative justice or immunity measures. These relationships are hypothesized because the conflict terminates in a manner that brings different sides together to negotiate. All sides are likely seeking immunity, in the hope to avoid accountability for their associated people. Both amnesty and exiles can act as an incentive to help end conflict, as it provides warring parties security in stepping back from conflict without receiving punitive penalties later (Jeffrey 2014, Binningsbo 2012).

IV. Conducting the Research

In answering the research question, this study utilizes a large-N quantitative method. This method was selected because the question seeks to identify the relationship of influencing factors to the implementation of different post-conflict

justice mechanisms. A large-N allows a large number of cases to be included. It is able to test many different cases, resulting in empirical numerical data, to reveal the relationship between influencing factors and different post-conflict justice mechanisms. Furthermore, it lowers the amount of researcher bias in interpreting results. The process of collecting data must be conducted with minimal amounts of bias, which this study minimizes through combining previously collected datasets. Limitations of utilizing a large-N include results that are too general or abstract, which means that they cannot explain specific conditions. Furthermore, a large-N overlooks other explanations, as it is limited to the variables included in the study.

This study utilized the program STATA to conduct regression-based analysis. STATA was selected due to its acceptance in the field of political science and its ability to run bivariate and multivariate regression and predicted probability. Both bivariate and multivariate regression are used, as the results reveal different findings. A bivariate regression indicates the correlation between the independent variable and the dependent variable. A multivariate regression includes multiple independent variables and the dependent variable. With a multivariate regression the results reveal the weight of a given independent variable, holding the other variables constant. Working with this study's dataset required several adjustments due to nuances in the data and this portion of the methodology explains the specific steps taken during the analysis.

Before running any regression, the variables included in that specific regression are tested for correlation. Each independent variable is paired with every

dependent variable in bivariate regressions using the syntax “logit.”⁵ To be considered statistically significant, z must be greater than 1.95, with a $p > |z|$ no more than .05. If these conditions are met, the relationship is considered statistically significant and further information can be extracted. The sign of the coefficient dictates the direction of the relationship. Immediately following the regression, the predicated probability is run. This step provides more interpretable information, specifically the percentage of likelihood that the relationship will occur.

The multivariate regressions are then run, one for each dependent variable.⁶ Immediately following the multivariate regressions, the predicted probability is run. For magnitude of violence, the indicator for the maximum score of violence is utilized as it ranked most consistently in the bivariate analysis. Similarly, external military funding is represented only by the presence or absence of support to the state actor and Side B, not the total number of years that support was received for each side. For conflict termination type the indicator used is the dichotomous variable where 0 represents bargained outcome and 1 represents victory.

Due to limitations in the data, there are slight adjustments to this procedure. Three of the mechanisms, purges, truth commission and reparation, had a small frequency. For these three mechanisms, the number of occurrences was under 40, which is considered the minimal amount for running regressions. As a result, this

⁵ In the analysis, the dependent variable does not refer to the theoretical-derived categories, but rather each individual post-conflict justice mechanism.

⁶ Differences exist between the bivariate and multivariate regression results. A relationship is more likely to have a statistically relationship when tested in a bivariate regression. This occurrence is due to the fact that the multivariate regression takes into account the other independent variables included.

study utilized Gary King's Rare Events software, which is able to take into account the low N and run a more accurate regression.⁷ However, due to some limitations in the software, the regressions run using Rare Events software cannot calculate the predicated probability. The results for these specific dependent variables are still usable, but they are limited in that they cannot produce the percentage likelihood of that relationship.

The variables' definitions contain details that aid in the interpretation of the regressions, revealing a narrative about the relationship between influencing factors and post-conflict justice mechanisms. Adjustments in the methodology, such as the dependent variables using the Rare Events software, shifts the level of analysis that can be conducted, while also disclosing valuable information for research. The information covered in this chapter becomes the base from which to understand the following analysis, which provides guidance to answering the research question, revealing the relationships between the influencing factors and the post-conflict justice mechanisms.

⁷ Accessible at <http://gking.harvard.edu/relogit>.

Chapter Four: Analyzing the Relationship between Influencing Factors and Post-Conflict Justice Mechanisms

Testing the connection between the influencing factors and the post-conflict justice mechanisms provided a variety of results arising from both the statistically significant relationships and the absence of relationships. An overview of the descriptive statistics provides insight to the data. This examination is also vital in establishing some of the limitations of the dataset, particularly where post-conflict justice mechanisms have a small frequency of occurrence.

Employing the theoretically derived hypotheses to analyze the regression results exposes that only one of the nine hypotheses can be evaluated. The sole result was the relationship between magnitude of violence and immunity measures. This outcome shows that increased magnitude of violence decreases the likelihood of implementing immunity measures, which does not match the predicted relationship. Since this relationship is the single occurrence that can be evaluated using the theoretically derived hypotheses, this study adjusts the approach to examine the hypotheses at the individual mechanism-level. Following the account of this alteration, specific results from the bivariate and multivariate regressions are arranged according to the three influencing factors, beginning with magnitude of violence, then external military funding and ending with conflict termination.

I. Exploring the Descriptive Statistics

The descriptive statistics help in familiarizing the data and understanding the various nuances that exist. Depending on the variable being examined, different measures become critical. For example, the frequency, or number of occurrences, of

a specific post-conflict justice mechanism is important relative to that specific variable, while the mean or range of scores for the magnitude of violence can provide more insight for that particular variable. This section will begin with the independent variables and then will look at the dependent variables.

Table 2: Descriptive Statistics of Magnitude of Violence						
	Maximum Score Received		Minimum Score Received		Score of the Final Year	
Magnitude of Violence Score	Frequency	Percent	Frequency	Percent	Frequency	Percent
0	82	24.48	110	32.84	94	28.06
1	51	15.22	50	14.93	48	14.33
2	31	9.25	32	9.55	31	9.25
3	33	9.85	26	7.76	32	9.55
4	45	13.43	48	14.33	45	13.43
5	22	6.57	22	6.57	24	7.16
6	21	6.27	14	4.18	21	6.27
7	21	6.27	23	6.87	25	7.46
8	8	2.39	3	0.90	4	1.19
9	11	3.28	5	1.49	6	1.79
10	10	2.99	2	0.60	5	1.49
Total	335	100	335	100	335	100

Within the data related to the variable *magnitude of violence*, there are 335 total observations. Each state could receive a score ranging between “0” to “10.”⁸

The maximum score across a state’s entire period of conflict was recorded as an indicator with the score of “10.” This highest possible score occurred 10 times, or 2.99% of the time. A score of 0 as the maximum score incurred by a state occurred

⁸ Reference Table 2 for descriptive statistics of magnitude of violence.

82 times, or 24.48% of the time. Conversely, the minimum score across a state's entire period of conflict was recorded as "0" 110 times or 32.84% of the time and as a score of "10" just 2 times, which is 0.60% of the time. The top three most frequent scores for the indicator representing the score of the final year of conflict within a period were "0" with 94 occurrences (28.06%), "1" with 48 cases (14.33%) and "4" with 45 incidents (13.43%).

Table 3: Descriptive Statistics of External Military Funding				
	State Actor Received Support		Side B Received Support	
	Frequency	Percentage	Frequency	Percentage
0 = No support received	163	75.12	163	75.12
1 = Support Received	54	24.88	54	24.88
Total	217	100	217	100

The number of observations for *external military funding* is 217 compared to the 335 observations for magnitude of conflict.⁹ This difference is the result of the database cross-comparison and is important to recognize as it lowers the observances that can be utilized in the regressions, since only cases where all independent variables have data recorded are included. For external military funding, two pieces of information were gathered for both the state actor and the other side of the conflict, "Side B." The first indicator demonstrates if the particular side received any external military funding during any year of the conflict, while the second indicator shows the number of total years the particular side received support.

⁹ Reference Table 3 for descriptive statistics of external military funding.

For the first set of indicators, the state actor received external military funding 54 times and did not receive any support 163 times. The numbers are exactly the same for “Side B,” although this similarity in occurrences in indicators is not due to the same results for each conflict, but rather seems to be an odd coincidence. As a result, the variables do not correlate at a level that is unusable and do not create a case of multicollinearity. More information can be garnered from the second set of indicators, particularly from the range of accumulative years a given side received external military funding. For the state actor, the highest number of years that support was received was 20. The outcome was slightly higher for “Side B” at a total of 22 years. In both indicators, the lowest number of years that support was received was 0, which also happened to be the most frequently occurring result.

Table 4: Descriptive Statistics of Conflict Termination Type					
	Original Data			Revised Data	
	Frequency	Percent		Frequency	Percent
Bargained Outcome	76	23.24		Bargained Outcome	40.86
Victory	110	33.64		Victory	59.14
Other	146	43.12		Total	100
Total	327	100			

With 327 *terminated conflicts* in the Post Conflict Justice database, 76 ended through a bargained outcome and 110 ended with a victory for one side.¹⁰ The remaining 141 cases were marked as “other.” To create a more accurate measure in

¹⁰ Reference Table 4 for descriptive statistics for conflict termination type.

the data, the category “other” was dropped, creating 186 total occurrences of data. The number of bargained outcomes and victories remained static, although the percent distribution shifted. With 186 occurrences, 40.86% were bargained outcomes and 59.14% were victory.

In the Post Conflict Justice database, there exists 174 cases where conflict led to at least one, or more, form of post-conflict justice mechanism. This number does not reflect the sum of all the occurrences of post-conflict justice mechanisms in the dataset, which is a total of 275. The difference in these numbers reveal that there are occasions where a conflict occurred and more than one post-conflict justice mechanism was implemented.

Table 5: Descriptive Statistics of Post-Conflict Justice Mechanisms						
	Trial	Purges	Truth Commis.	Repara- tions	Amnesty	Exile
Frequency	79	15	9	20	93	59%
Percentage	24.16%	4.59%	2.75%	6.12%	28.44%	18.04%

With the help of the descriptive statistics it becomes apparent that the frequencies are not evenly dispersed across the post-conflict justice mechanisms.¹¹ Amnesty has the highest number of episodes at 93, followed by trials, which were implemented 79 times. Exiles had a frequency of 59. The remaining post-conflict justice mechanisms have occurrences below 40, which puts them at risk for being statistically insignificant. As a result, all three classify as “Rare Events” and were

¹¹ Reference Table 5 for descriptive statistics for post-conflict justice mechanisms (trial, purge, truth commissions, reparations, amnesty and exile).

analyzed using the Rare Events logit. The rare events are partially reflective of how the post-conflict justice mechanisms were defined. In order for a mechanism to be counted in the data, it had to occur within five years of the end of the conflict (Binningsbo, Loyle, Gates and Elster 2012 4). The smallest frequency occurred with truth commissions at only 9 episodes. Purges occurred 15 times and reparations had 20 cases recorded. This information, which is extrapolated through the descriptive statistics, provides a framework to interpret the results. Furthermore, it is the nuances of the data that explain particular occurrences and, at times, place limitations on the regressions.

II. Evaluating the Hypotheses

The results of the analysis severely restrict the ability to evaluate the theoretically derived categories. Table 6 illustrates the collapse of the theoretically derived categories, as only one of the nine hypotheses can be evaluated (the relationship between magnitude of violence and immunity measures). The remaining eight relationships cannot be evaluated, which is indicated with the diagonal line through the box. In order for a hypothesis to be evaluated, both of the post-conflict justice mechanisms under the theoretically derived categories had to return statistically significant results. Boxes with the diagonal line indicate that either one or both of the post-conflict justice mechanisms in the theoretically derived categories did not have statistically significant relationships with the independent variable. Only one box has results, where magnitude of violence demonstrated a statistically significant

relationship with amnesty and exile, the two mechanisms under immunity measures.

Table 6: Theoretically Derived Categories Hypotheses Matrix¹²			
	Retributive Justice: Trials & Purges (Y₁)	Restorative Justice: Truth Commis. & Reparations (Y₂)	Immunity Measures: Amnesty & Exile (Y₃)
Magnitude of Violence (X₁)			- / X
External Military Funding (X₂)			
Conflict Termination (X₃)			

The results of these two mechanisms are important, as the findings are consistent in both: when the maximum score of magnitude of violence increases, the likelihood of amnesty and exile decreases. This occurrence is the only time that the hypotheses can be evaluated at the categorical-level (Table 6). These findings do not support the hypothesis for immunity measures, as indicated by the “X,” which predicted that a greater magnitude of violence would increase the likelihood of immunity measures. Given that both mechanisms are categorized as immunity measures, the consistent results leave room for the possibility that there is an analytical link as well as a theoretical link between the categories and the

¹² (\) indicates that the relationship was not statistically significant; (-) indicates a negative sign for the coefficient; (X) indicates that the null hypothesis could not be rejected

mechanism-specific analysis. However, the positive connection cannot be taken as an affirmative, as this parallel is just one example.

Table 7: Mechanism-Level Hypotheses Evaluation¹³						
	Retributive Justice:		Restorative Justice:		Immunity Measures:	
	Trials	Purges	Truth Commis.	Repara-tions	Amnesty	Exile
Magnitude of Violence	- / ✓				- / ✗	- / ✗
External Military Funding	- / ✗			+ / ✗		
Conflict Termination	+ / ✓		- / ✓		+ / ✗

III. Adjusting the Evaluation of the Hypotheses

While this study believes that the use of the three theoretically derived categories, (retributive justice, restorative justice, and immunity measures) to establish the hypotheses remains a methodologically sound concept, the analysis in this chapter proves the need to evaluate each mechanism individually against the given hypothesis. The conceptualization of the three theoretical derived categories arose

¹³ (\) indicates that the relationship was not statistically significant; (-) indicates a negative sign for the coefficient; (+) indicates a positive sign for the coefficient; (✓) indicates that the hypothesis was validated; (✗) indicates that the null hypothesis could not be rejected

from a literature review that revealed patterns in the post-conflict justice mechanisms. Similarities in the patterns, based on the means of reaching these goals, were used to create the three theoretically derived categories.

Given the severe limitations in assessing the hypotheses as originally discussed, the analysis slightly alters the method of evaluating them. Undertaking an adjustment in evaluating the hypotheses provides a greater number of statistically significant relationships to analyze and exposes notable results. The same hypotheses presented in Table 1 hold, but are evaluated at the post-conflict justice mechanism level. This approach keeps the dependent variables disaggregated during the hypothesis evaluation. For example, the hypothesis presented for the relationship of magnitude of violence and retributive justice is now utilized to separately evaluate the two post-conflict justice mechanisms listed under retributive justice (trial and purges). With this adjustment in the hypothesis approach, there are eight relationships that can be evaluated against the hypotheses.

A. Magnitude of Violence

Magnitude of violence was found to be statistically significant in relation to the variable *pcj_dummy* and to three specific post-conflict justice mechanisms: trial, amnesty and exiles. While the independent variable, magnitude of violence, had 6 different indicators, the most consistently significant indicator was the maximum

Table 8: Bivariate Regression Coefficient Results Numbers bolded represent statistically significant relationships							
	PCJ Dummy	Trial	Purges	Truth Commis.	Repara- -tions	Amnesty	Exile
Magnitude of Violence	-.178	-.311	-.046	.121	.033	-.106	-.123
State Actor Support	.418	-2.009	-.085	-.234	1.144	.529	.320
Side B Support	-.096	-1.684	-.209	.775	1.607	-.070	-.527
Conflict Termination Type	.441	1.564	1.210	...	-2.034	-.427	2.748

Table 9: Multivariate Regression Coefficient Results Numbers bolded represent statistically significant relationships							
	PCJ Dummy	Trial	Purges	Truth Commis.	Repara- -tions	Amnesty	Exile
Magnitude of Violence	-.316	-.445	.011	.077	-.074	-.243	.074
State Actor Support	.349	-2.440	.110	-.453	.671	.762	.238
Side B Support	.058	-2.031	.069	.285	1.595	-.313	-1.916
Conflict Termination Type	.335	2.093	.971	-1.816	-.555	3.402

score of violence recorded in a period of conflict.¹⁴ Consistency in the different indicators was demonstrated because when a given dependent variable was tested, the different magnitude of violence indicators could replace one another and receive the same coefficient sign.

For the *pcj_dummy*, all variations of the variable magnitude of violence found that the odds of *pcj_dummy* decrease as the magnitude of violence score increases. In the multivariate equation for *pcj_dummy*, where all other variables were held constant, a one-unit increase in the maximum score of violence decreased .316 in the log odds of *pcj_dummy* (Table 9). The interpretation of this result is that as the magnitude of violence increases, the likelihood of any post-conflict justice mechanisms being implemented decreases. The analysis of specific post-conflict justice mechanisms reiterates this finding.

Across all five measures of magnitude of violence, the likelihood of trial decreases as the magnitude of violence score increases. A one-unit increase in the maximum score of magnitude of violence decreases -.445 in the log odds of trial, holding all else constant in the multivariate equation (Table 9). This finding means that as the level of magnitude of violence increases, the likelihood that a trial is implemented decreases. The finding for trial aligns with my hypothesis for retributive justice, which predicted that higher magnitudes of violence would decrease the likelihood of trials.

¹⁴ The indicators of magnitude of violence are (1) mean score of conflict period (2) standard deviation of mean (3) minimum score in conflict period (4) maximum score in conflict period (5) the last score recorded in conflict period (6) mean score of last three years in the conflict period.

After this first presentation of a statistically significant relationship between the influencing factor and the post-conflict justice mechanisms, the decision to rework the hypothesis evaluation methodology is modeled. Trial is categorized as a retributive justice mechanism, as are purges. However, purges did not show a statistically significant relationship with magnitude of violence (Table 8 and 11). As a result, the category of retributive justice cannot be evaluated for its hypothesized relationship to magnitude of violence (Table 6), which originally predicted that as magnitude of violence increased, the likelihood of retributive justice would decrease (Table 1). With the adjustment discussed at the beginning of this chapter, which concludes that the analytical level of the hypotheses must be disaggregated to the mechanism level, trials can still be evaluated against the hypothesis (Table 7). This description serves to further explain the decision to reevaluate the method of evaluating the hypotheses at the mechanism level.

Both forms of immunity measures, amnesty and exile, had statistically significant relationships with magnitude of violence (Table 8 and 11). For amnesty, the only indicator that showed a statistical relationship was the maximum score recorded during the duration of the conflict. The multivariate regression revealed that a one-unit increase in maximum score of magnitude of violence decreases -.243 in the log odds of amnesty. Essentially, as the maximum score increases, the likelihood of amnesty decreases. As Table 7 demonstrates, the relationship provided by the multivariate regression matches the prediction of the hypothesis.

Exile has a distinct relationship with magnitude of violence. In the multivariate regression, the results found that exile did not have a statistically

significant relationship (Table 9). However, when exile was tested in a bivariate regression, the relationship was found to be statistically significant (Table 8). In the bivariate equation, the results revealed that a one-unit increase in maximum score of magnitude of violence decreases -.123 in the log odds of amnesty. This statement means that as the magnitude of violence increases, the likelihood of exile decreases. The hypothesis forecasted that the greater the magnitude of violence, the likelihood of immunity measures would increase (Table 1). These two statements correspond, which means that the hypothesis is supported (Table 7).

The results of these two mechanisms are important, as the findings are consistent in both: when the maximum score of magnitude of violence increases, the likelihood of amnesty and exile decreases. As discussed earlier, this occurrence is the only time that the hypotheses can be evaluated at the categorical-level (Table 6). These findings do not support the hypothesis for immunity measures, as indicated by the “X,” which predicted that a greater magnitude of violence would increase the likelihood of immunity measures. With both mechanisms categorized as immunity measures, the consistent results leave room for the possibility that there is an analytical link as well as a theoretical link between the theoretically derived categories and the mechanism-specific analysis. However, the positive connection cannot be taken as an affirmative, as this parallel is just one example.

The remaining three post-conflict justice mechanisms (purges, truth commissions and reparations) did not demonstrate a statistically significant relationship with magnitude of violence. Therefore, the hypotheses cannot be evaluated (Table 7). All three of these mechanisms are classified as rare events.

While the Rare Event software aids in correcting for the low N, it is possible that the low frequency of these mechanisms skewed the results.

B. External Military Funding

The variable external military funding did not return many statistically significant relationships to the dependent variable. Only trial and reparations returned statistically significant relationships. For both of these mechanisms, the results differed slightly depending on whether the regression was a bivariate or a multivariate. *Pcj_dummy*, purges, truth commissions, amnesty and exiles did not have a significant predictor in any category.

The relationship between trials and the support received by both the state and Side B is statistically significant. In the multivariate regression, support received by the state actor is statistically significant, while support received by Side B is not (Table 9). As external military funding to the state actor increases, the likelihood of a trial decreases. Specifically, if state actors receive external military funding, the likelihood that a trial is implemented is 10.44%, while if support is not received, the likelihood of a trial is 37.83%. These results reveal that when external military funding to the state actor is absent, a trial is more likely to occur, which does not support the hypothesis presented for retributive justice, which stated that higher levels of external military funding would increase the likelihood of a retributive justice mechanism (Table 7).

A similar result occurs during the bivariate regression that finds external military funding to Side B to have a statistically significant relationship to trials

(Table 8). In this scenario, when Side B receives funding, the likelihood of a trial decreases. The likelihood of a trial when there is no external military funding to Side B is 28.27%. With support given to Side B, the likelihood of a trial is 6.81%. Again, this finding does not support the hypothesis for retributive justice (Table 7).

Reparations also had a statistically significant relationship to external military funding. With the multivariate regression, when Side B received external military support, the likelihood of reparations increased (Table 9). In the multivariate regression, the relationship between reparation and state actors receiving support was not statistically significant, yet the bivariate regression did reveal a statistically significant relationship (Table 8). In the case of the bivariate regression, the likelihood of reparations increases when state actors receive aid. The hypothesis for restorative justice was not supported, as it predicted that higher levels of military support would decrease the likelihood of restorative justice (Table 7).

C. Conflict Termination

The independent variable, conflict termination, specifically refers to termination types as either victory or bargained outcome. The multivariate regressions for trial and exile indicate a statistically significant relationship with conflict termination, while a bivariate regression finds a statistically relationship between reparations and conflict termination. Purges and amnesty did not have a statistically significant relationship with conflict termination, and truth commission returned an ambiguous result.

With a relationship identified between conflict termination and trial, further information can be extracted. A multivariate regression between the two variables found that a one-unit increase in conflict termination type increases 2.093 in the log odds of trial (Table 9). Specifically, a trial is 18.68% more likely to occur after a bargained outcome compared to a 49.06% likelihood following a victory. These results translate to mean that if the conflict termination is a victory, then a trial is more likely to be implemented compared to conflict termination as a bargained outcome. The hypothesis set forth for the retributive justice category matches this result (Table 7).

The relationship between the conflict termination type and exiles was statistically significant as well. For exiles, the results from the multivariate regression reveal that a one-unit increase in the conflict termination type increases 3.402 in the log odds of exile (Table 9). Essentially, this statement means that as conflict termination type increases, meaning that it is a victory, the likelihood of exiles increases. The predicted probability confirms this result as it demonstrates that a bargained outcome has a 1.85% likelihood of exiles being implemented, while exiles have a likelihood of 33.64% following victory. The difference between these two percentages is significant, revealing a far greater likelihood of exiles being implemented if a victory occurs. This result contradicts the hypothesis put forth for immunity measures, which predicted that external military funding would increase the likelihood of immunity measures (Table 1 and 7).

Reparations also have a statistically significant relationship to conflict termination type, but only in the bivariate regression. In this case, a one-unit

increase in the conflict termination type decreases 2.034 in the log odds of reparations (Table 8). This outcome means that reparations are more likely to occur following a bargained outcome than after a victory. Due to the low number N of reparations, the predicted probability could not be completed and thus a specific percentage of likelihood cannot be assigned. However, this outcome can still be used to evaluate the hypothesis, and it supports the hypothesis proposed (Table 7).

Purge and amnesty revealed that a statistically significant relationship did not exist in relation to conflict termination (Table 8 and Table 9). With this information, given the specifics used in this study, the null hypothesis cannot be rejected in these two cases (Table 7). For purges, the few number of observations could be a factor. Another possibility is that the termination type that most correlates with purges or amnesty is “other.” This latter option is the likely explanation for the results of truth commissions. The bivariate regression for truth commissions and termination type could not be completed (Table 8 and Table 9). While it is plausible that the few number of truth commission occurrences skews the data, further investigation into the data reveals that every occurrence of truth commission correlates with a termination type of “other.” This study chooses to include only termination types that were bargained outcomes or victory, which explains the inability to complete the analysis of truth commissions. However, this finding is still important and telling.

IV. Discussion

With this articulation of the regression results, the research question still stands to be answered: *what factors impact the form of post-conflict justice mechanisms in states?* The material above reveals major gaps in the regression results, but there is still a great deal of information that can be extracted in helping to answer, at least partially, the research question. Adjustments in the hypothesis evaluation are reviewed, as the disaggregation provides key findings about the relationship between influencing factors and post-conflict justice mechanisms.

Unfortunately, this study did not return enough results to be able to conclude if the theoretically derived categories hold when tested. Table 6 demonstrates this limitation. The only occurrence that could be used to evaluate the soundness of utilizing theoretically derived categories is when amnesty and exiles are tested for their relationship to magnitude of violence. In these relationships, both amnesty and exiles returned negative coefficient signs. This result does not support the hypothesis put forth for immunity measures, which predicted that greater magnitude of violence would increase the likelihood of its implementation (Table 1). The consistency in both mechanisms upholds the theoretically derived categories; it does not nullify the possibility that these three overarching categories could hold analytically. However, one instance of success, where both of the mechanisms under the theoretically derived category are in harmony, cannot be taken as confirmation of the analytical validity.

While the hypotheses, when evaluated at the mechanism-level, held up fewer times than they did not, the divergence in predictions and results reveals interesting

phenomena. As magnitude of violence increased, it consistently decreased the likelihood of trials, amnesty and exiles, the three mechanisms that had statistically significant relationships. Essentially, the more impact a conflict has on society, it is less likely that trials, amnesty and exiles are implemented. These outcomes validate the hypothesis related to trials, but do not match the predictions connected to amnesty and exiles.

External military funding was an influencing factor for the implementation of trials and reparations. The direction to these relationships were different as higher external military funding decreased the likelihood of trials being implemented and increased the likelihood of reparations occurring. Neither of these results matched the hypotheses set forth for this influencing factor.

Conflict termination was found to have a relationship to the implementation of trials, reparations and exiles. Again, trials and exiles had similar relationships, in that when conflict termination was a victory, their likelihood of implementation increased. Trials confirm the hypothesized relationship from Table 1, whereas exiles contradict the corresponding hypothesis, which had predicted that exiles' implementation was less likely following a victory. Reparations, on the other hand, were more likely when conflict termination type was a bargained outcome, matching the corresponding hypothesis. Truth commissions were found to occur when the conflict termination type was neither victory nor bargained outcome, but when it was "other."

Do these results clearly dictate influencing factors in the implementation of post-conflict justice mechanisms? The answer is far subtler. It exposes the necessity

of mechanism-level analysis, regardless of the causal mechanism being tested. The three categories, while acting as a theoretical framework, disintegrate when applied analytically. Adjusting the hypotheses evaluation to the mechanism level demonstrates that notable findings exist within the data, but the evaluation must occur with the mechanisms disaggregated.

Chapter Five: Conclusion

This research set out to discover what might influence the implementation of post-conflict justice mechanisms; the study's conception was driven by a gap in the transitional justice literature about why different states utilize different post-conflict justice mechanisms. Specifically, the study sought to answer the question: *what factors impact the form of post-conflict justice mechanisms in states?* A review of the literature revealed that the majority of attention is focused on the merits and demerits of the mechanisms and their means in reaching the goal of justice.

This research's methodology was influenced by the Rothe and Maggard 2012 study, which is the primary endeavor in identifying relationships between influencing factors and post-conflict justice mechanisms. Given the wide range of suggested influencing factors and the limited amount of previous research exploring these relationships, there were many possible paths for this study. This research added to the literature by testing to see if magnitude of violence, external military funding and conflict termination type influenced the type of post-conflict justice mechanisms implemented. Theoretically derived categories structured the literature review and were utilized to create hypotheses. However, the regressions demonstrated that the theoretically derived categories did not, for the most part, return statistically significant results. The theoretically derived categories may hold up with more testing, but it is essential to ensure the mechanisms can still be evaluated at the individual level.

Due to the fact that both exiles and amnesty, jointly categorized as immunity measures, returned statistically significant relationships, the consistent results leave

room for the possibility that there is an analytical link as well as a theoretical link between the theoretically derived categories and the mechanism-specific analysis. However, the categories, while helpful in establishing knowledge about the mechanisms, should not overshadow the specific details about the different tools. Therefore, this study also conducted a mechanism-level analysis, in order to observe more results that are statistically significant and notable.

The answer to the research question was illuminated by the mechanism-level examination. Purges had no statistically significant relationships to the three influencing factors, and neither did truth commissions (although conflict termination type uncovered that truth commissions occurred only after a termination of “other”). Trials had a statistically significant relationship with all three influencing factors. The regressions revealed that higher scores of magnitude of violence and the presence of external military funding decreased the likelihood of trials’ implementation, while a victory increased the likelihood. Reparations did not have a relationship with magnitude of violence, but external military funding increased the likelihood of its implementation, as did a bargained outcome. Higher levels of magnitude of violence decreased the likelihood of amnesty and exiles, the two mechanisms under immunity measures. Exiles also had a relationship to conflict termination type, where victory increased its likelihood.

In reviewing this study and its results, there are important implications to the surrounding literature on post-conflict justice mechanisms and influencing factors. The three theoretically derived categories structured the post-conflict justice mechanisms in a way that highlighted the mechanisms’ means of achieving

justice. Crafting the literature in such a way highlighted a theoretical framework. However, using these theoretically derived categories to evaluate the hypotheses proved to be a faulty decision. The lack of ability to appraise the hypotheses may demonstrate that the categories, while theoretically sound, do not hold up analytically. This study believes that the use of the three theoretically derived categories to establish the hypotheses remains a valid concept, but that the implications of such a finding should shape the methodology of future research. Future research can test and see if the hypotheses at the categorical level hold; however, the value of mechanism-level analysis is more informative and applicable.

Selecting three influencing factors out of the literature required extensive investigation and organization of potential factors. Testing three specific influencing factors has implications for the literature, as they arose out of references from scholars. Increasing magnitude of violence decreased the likelihood of trials, amnesty and exiles. This finding validates Bass (2004) and King (2013) who hint that prosecutions would prolong conflict. This study's results do not support Binningsbo's (2012) belief that, due to exiles' and amnesty's historical role as a bargaining tool to encourage the end of violence, they are more likely to be implemented following intense conflict. The presence of external military funding decreased the likelihood of trials and increased the likelihood of reparations. This result contradicted the proposed outcomes both times and demonstrated that external military funding may lead away from legal courses of action. Conflict termination type showed that victory increased the likelihood of trials and exiles, while bargained outcomes increased the likelihood of reparations. These results fall

in line with the predicted outcomes for trials (Santa Barbara 2007; King 2013) and reparations (Jeffrey 2014; Binningsbo 2012). The implications of testing three specific influencing factors help to support claims by the literature, aiding to close the gap between potential causal relationships and tested relationships.

One of the strengths of this study was to collect various potential influencing factors from the literature. Much of the surrounding scholarship only references these potential influences; rarely are they discussed in detail or the research's focus. This study adds to the literature by providing a concentrated overview of these factors and by testing three factors and their relationship to post-conflict justice mechanisms. Additionally, an important strength of this study is its demonstration that, regardless of the causal mechanism explored, it is necessary to work with the mechanisms as disaggregated as possible. While the theoretically derived categories and their corresponding hypotheses had limited analytical value, the further mechanism-level analysis allowed the research to progress and have noteworthy findings.

Adjusting the method of evaluating the hypotheses kept the post-conflict justice mechanisms disaggregated. This modification allowed for more relationships between the influencing factors and the post-conflict justice mechanisms to be explored. However, the need to keep the mechanisms disaggregated has implications about the theoretical and analytical approach. The need to evaluate each post-conflict justice mechanism independently speaks to the importance of recognizing the specific details of each mechanism.

An additional drawback to this research was that the study's dataset was constrained by the three post-conflict justice mechanisms that had low frequencies. As a result, the Rare Events software was utilized to help aid the regressions. These low frequencies may be connected to how the variables were defined and operationalized, as the clause "post-conflict" required that mechanisms be implemented within five years of the end of the conflict (Binningsbo, Loyle, Gates and Elster 2012). Redefining the period "post-conflict" is a potential way to expand the number of occurrences of these mechanisms within the dataset. However, these post-conflict mechanisms are based on real events and the number recorded is restricted to the number of occurrences that have actually happened.

The larger force is the actual methodology employed. Large-N studies are constrained by their need for a high number of occurrences, but also by their inability to consider other explanations, outside of the variables included in the study. This research does not include many of the potential influencing factors referenced by scholars, and the type of methodology employed by this study does not allow for them to be considered at any point. A different analytical approach, particularly a comparative case study, would allow for the researcher to assess a broader array of influencing factors in the context of each case.

The literature review demonstrated the array of possibilities in Figure 2. It would be futile to attempt to test every suggested influencing factor; however there are areas that should be drawn on by future researchers. One recommendation is to explore the role of decision-making following conflict. This suggestion comes from Bassiouni's overarching guidelines, which speak to those in power. As such, future

research should look to identify the major actors following conflict and identify their role in implementing post-conflict justice mechanisms.

Another factor of influence that came up throughout the literature, but was not included in this study, is the interactive component of the mechanisms (Rothe and Mullins 2008; Shaw 2005; Kritz 2002). This study's data revealed that in a given conflict, more than one post-conflict justice mechanism can be implemented. The interactive nature of the mechanisms makes it is incredibly difficult to trace which mechanism causes the other mechanism to be implemented. A different methodological approach, such as a case study, would be beneficial in studying this phenomenon, as this approach would not be limited in its ability to consider the context of the situation. This alternate procedure is an important consideration for future research.

Answering the question has important normative implications, continued research should continue to probe this matter. If there are ways to predict the type of post-conflict justice mechanisms that will be implemented, actors in the conflict can be better prepared to mobilize forces and initiate these justice mechanisms smoothly and efficiently. So much of the attention in the post-conflict justice literature focuses on evaluating these tools. More knowledge about factors of influence would provide the ability to guide efforts towards more appropriate mechanism given the situation. Better implementation of these mechanisms has the capacity to relieve states of the difficulties of transition and change that accompany the post-conflict period.

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