Criminal Justice Reform in Post-Conflict Environments:
A Case Study of Corrections Reform in Kosovo

by

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Abstract

Liberal peacebuilding, external intervention that is designed to establish peace and stability by conducting development and reform activities to establish liberal democratic institutions and increase respect for human rights abroad, has been touted as the solution to intra-state conflict in the post-Cold War era. Many believe that liberal democratic states are less likely to engage in conflict and are more likely to respect human rights. Security sector reform (SSR) is critical in peacebuilding, as poor security creates obstacles for establishing peace and fostering political, economic and social development. Criminal justice reform, a component of SSR, is designed to establish respect for human rights, democracy, and the rule of law in post-conflict environments (PCEs).

This dissertation explores post-conflict criminal justice reform activities through a case study of corrections reform in Kosovo. Fourteen retired, current, and former Correctional Service of Canada (CSC) employees who participated in corrections reform activities in Kosovo from 1999 to 2006 participated in in-person or telephone interviews for this study. Participants described the dynamics and challenges they experienced while conducting corrections reform activities abroad. Participants' perceptions about the appropriateness of using UN and Western-developed frameworks in Kosovo and other PCEs were also captured. Building on previous international literature exploring PCEs and peacebuilding activities, this project contributes to the post-conflict corrections reform literature.

Many of the findings reflect extant literature documenting the dynamics involved in conducting criminal justice reform in PCEs. These include the importance of tailoring corrections reform activities to the local context, and the need to address corruption and promote gender mainstreaming. Most of the challenges – e.g. a lack of resources, and difficulties in providing safe and secure confinement – are consistent with practitioner-based literature about corrections reform activities in PCEs. The findings also reveal interpersonal dynamics and challenges: most and least rewarding experiences, personal insecurities that arise as a consequence of the work, and "job shrink" that occurs upon returning from mission. Overall, participants support liberal peacebuilding activities as

long as the local context, objectives, and timing of the activities are carefully considered at each stage of the process.

I dedicate this work to my friends and family for their love and support, and to the love of my life, Michael.

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I would like to thank my dissertation committee in the School of Criminology for their advice, support, and mentorship. I am blessed to have been able to work with each and every one of you. Thank you to Dr. Curt Griffiths, my Senior Supervisor, for sharing your knowledge and expertise with me. You are a phenomenal mentor; you set the bar high, and I know the lessons you have taught me will continue to serve me well in life and academia. I will always be grateful for your support, laughter, and friendship. Your determination and enthusiasm are infectious; you will always inspire. Thank you to Dr. Brian Burtch for your support, and for sharing your positivity as I traversed the final stages of my degree. Thank you to Dr. Margaret Jackson for your kindness, guidance, and constant encouragement over the years. You have been part of this adventure since the beginning, so I am grateful to have been able to work with you in the final stages of my degree. Thank you to Dr. Robert Gordon for sharing your knowledge and insight with me. Your assistance has been invaluable. I would also like to extend thanks to my external examiners, Dr. Margaret Beare of York University, and Dr. Galib Bhayani of Kwantlen Polytechnic University.

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List of Acronyms

9/11	11 September 2011
ACHPR	African Commission on Human and Peoples' Rights
ACTAfrica	Aids Campaign Team for Africa
CIA	Central Intelligence Agency
CIDA	Canadian International Development Agency
CIVPOL	International Civilian Police
CJAT	Criminal Justice Assessment Toolkit
CRC	Convention on the Rights of the Child
CSC	Correctional Service of Canada
CSP	Comprehensive Proposal for the Kosovo Status Settlement
DCI	Defence for Children International
DDR	Disarmament, demobilization, and reintegration
DFAIT	Department of Foreign Affairs and International Trade Canada
DPED	Department of Police Education and Development
DPKO	Department of Peacekeeping Operations
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
FRY	Federal Republic of the Yugoslavia
HIV/AIDS	Human immunodeficiency virus/acquired immunodeficiency syndrome
HRW	Human Rights Watch
IBL	Institutionalization Before Liberalization
ICHR	Irish Centre for Human Rights
ICO	International Civilian Office
ICPA	International Corrections and Prisons Association
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDP	Internally Displaced Persons
IICK	Independent International Commission on Kosovo
IJP	International Judge and Prosecutor
IMF	International Monetary Fund
IPU	Integrated Programming Unit
ISSR	Internal Security Sector Review
KCPSED	Kosovo Centre of Public Safety Education and Development
KCS	Kosovo Correctional Service
KIPRED	Kosovar Institute for Policy Research and Development
KFOR	NATO-led Kosovo Force
KLA/UÇK	Kosovo Liberation Army/Ushtria Clirimtare e Kosoves

KPC/TMK	Kosovo Protection Corps/Trupat e Mbrojtjes së Kosovës
KPS	Kosovo Police Service
KPSS	Kosovo Police Service School
LDK	Democratic League of Kosovo/Lidhja Demokratike te Kosovës
LGBT	Lesbian, gay, bisexual and transgender
MTA	Military Technical Agreement
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
ODA	Official Development Assistance
OECD	Organization for Economic Co-operation and Development
OECD-DAC	Organization for Economic Co-operation and Development's Development Assistance Committee
OHCHR	Office of the United Nations High Commissioner for Human Rights
ONUSAL	United Nations Observer Mission in El Salvador
OROLSI	Office of Rule of Law and Security Institutions
OSCE	Organization for Security and Co-operation in Europe
OSCE-KVM	OSCE-Kosovo Verification Mission
PBSO	United Nations Peacebuilding Support Office
PCE	Post-conflict environment
PISG	Provisional Institutions of Self-Government
PMD	Penal Management Division
PNG	Papua New Guinea
PTSD	Post-Traumatic Stress Disorder
PRI	Penal Reform International
QDA	Qualitative Data Analysis
RCMP	Royal Canadian Mounted Police
REB	Research Ethics Board
SFRY	Socialist Federal Republic of Yugoslavia
SRSG	Special Representative of the UN Secretary-General
SSR	Security Sector Reform
UN	United Nations
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNMIK	United Nations Interim Administration Mission in Kosovo
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
UN SCR	United Nations Security Council Resolution
UNTAET	United Nations Transitional Administration in East Timor
US	United States

USIP   United States Institute of Peace

CHAPTER ONE: INTRODUCTION

Throughout the late 1980s and 1990s, globalization contributed to increasing cooperation and political, cultural, and economic integration among nation states. It was also during this time however that cultural, political, ethnic, religious, and economic-fuelled intra-state conflict and instability resulted in an increase in the number of external interventions into the affairs of sovereign states. Since the establishment of the United Nations (UN) in 1945, the organization has been involved in 68 peacekeeping missions; 55 of these missions have been created since 1988 alone (Department of Peacekeeping Operations (DPKO), 2013, pp. 1-2).[1] In addition to a substantial increase in the number of peace operations undertaken by the international community since 1988, there has been an accompanying increase in the complexity of mission mandates (Murphy, 2007, p. 3).[2]

External intervention in the affairs of sovereign states increased for two reasons. First, the international community recognized that intra-state conflicts have repercussions for global security given the interconnected global society we live in (Hameiri, 2009, p. 55). State failure contributes to civil war and there is grave concern that both failed states and post-conflict environments (PCEs) are ripe environments for terrorist organizations to conduct their operations, and for organized crime groups to engage in drugs and arms trade (Barakat, 2009, p. 108; Brinkerhoff, 2007, p. 1; Hameiri, 2009, p. 73; Rotberg, 2007, pp. 84-85). Second, external interventions have increased due to the international community's increasing concerns about human rights violations that occur during times of conflict. These concerns have led to the increased use of UN Charter Chapter VII. Charter Chapter VII contains the provisions that allow nations to intervene – subject to United Nations Security Council (UNSC) veto privilege – and infringe upon national sovereignty on the premise that external intervention is carried out

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[1] The discussion in Chapter 2 will reveal the overlap between peacekeeping, peacemaking, peace enforcement, and peacebuilding activities.
[2] Ottaway (2002) defines international community as the "conglomerate of industrialized democracies and the multilateral agencies over which they have preponderant influence" (p. 1001).

to promote international peace and security, or address mass human rights violations (genocide, war crimes, ethnic cleansing, and crimes against humanity) within another nation's borders (Holohan, 2005, p. 20).[3] Intervening to prevent and address human rights violations in conflict-afflicted environments is necessary to alleviate human suffering, and because if crimes against humanity and war crimes go unpunished, there is a risk that displacement will occur, and armed conflict may spread to neighbouring countries (Merriam, 2001, pp. 117-118). Of further concern is that state failure and intra-state violence may contribute to disease, famine, and crime transmission beyond the borders of the state (Paris, 2004, p. 236). Given the potential impact of terrorist and criminal activities, and conflict displacement on people residing outside of, and often far from, PCEs (Brinkerhoff, 2007, p. 1), it has been argued, "increasing development in conflict zones is akin to increased security at home" (Hrychuk, 2009, p. 828). Based on the aforementioned realities, the UN has reconsidered its approach to intervention in the post-Cold War era (Santiso, 2002, p. 556).[4]

The post-Westphalian approach to UN peace operations, the perspective that peace operations have a place in global politics in settling intra-state conflicts, has gained prominence in the post-Cold War period (Bellamy & Williams, 2010, p. 36).[5] Advocates of this perspective believe illiberal governance and conflict within the borders of states threatens international peace and security (Bellamy & Williams, 2010, p. 4). Extensive engagement is characteristic of post-Westphalian peace operations because external intervention is designed to promote or impose policies and strategies to establish market democracies (Bellamy & Williams, 2010, p. 36). Following the terrorist attacks against the U.S. on 11 September 2001 (9/11) in particular, "the international

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[3] The UN Charter (1945) supports peacebuilding, as the purpose of the UN is "to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace" (Article 1(1)). UN interventions and subsequent peacebuilding activities are tailored to achieve the UN's Charter (1945) preamble goal "to save succeeding generations from the scourge of war."

[4] The post-Cold War era refers to the period of time from 1991 to the present day.

[5] The signing of a collection of treaties – known as the Peace of Westphalia – in 1648 established the sovereignty of nation states and non-intervention of the international community in the internal affairs of other states.

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community's commitment to democratic liberalism as the cure for various international concerns has been promoted with aggressive determination" (Bell & Campbell, 2004, p. 301). Promoting policies to create market democracies is an integral component of external intervention, as liberal democratic states are believed to engage in less inter- and intra-state conflict, resulting in increased global stability and respect for human rights (Lappin, 2010, p. 178-179; Newman, Paris, & Richmond, 2009, p. 11; Owen, 1994, p. 90). Democratic governance is also promoted because it contributes to socioeconomic development (Lappin, 2010, p. 179).

One of the main activities undertaken during liberal peacebuilding is security sector reform (SSR) because an absence of security creates obstacles for achieving peace, and political, economic, physical infrastructure, and social development (Bernabéu, 2005, p. 88; Hrychuk, 2009, p. 828; Krause & Jütersonke, 2005, pp. 455-456; Ryan, 2009, p. 312). SSR contributes to sustainable peace, promotes human security and good governance, addresses corruption and repression among security sector actors, facilitates sustainability of economic liberalization and democratization activities, and encourages partnerships between traditional and non-traditional actors to bridge development and security agendas (Bernabéu, 2005, p. 88; Donais, 2004, p. 946; Hänggi, 2009, pp. 337-339). SSR also helps restore citizen confidence, trust, and legitimacy in the State, which may prevent relapses to conflict (DPKO, 2013d, para. 4). Failure to conduct effective SSR can thus undermine political, social, and economic reform activities and undermine the stability and strength of the emerging PCE government (Jones, Wilson, Rathmell, & Riley, 2005, p. 9).

Criminal justice reform occurs within the larger framework of SSR. The goal of criminal justice reform is to establish respect for human rights, democracy, and the rule of law. The criminal justice system encompasses three primary institutions – the courts, the police, and the prison administration (Office of the United Nations High Commission for Human Rights (OHCHR), 2006, p. 6). The focus of this dissertation case study is corrections reform in post-conflict Kosovo. One of the critical components in establishing the rule of law in PCEs is building a transparent, accountable, and ethical prison system (DPKO, 2012, p. 1) that is capable of providing safe, secure, and humane conditions for prisoners, and "which is built on principles of fundamental human rights, equality before the law, and the dignity of individuals" (DPKO, 2006, p. 1). Despite being a key

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component in establishing the rule of law in PCEs, corrections systems and their reform are rarely identified as high priority in SSR activities, and if they are identified, they are usually poorly funded (OHCHR, 2006, p. 18). Similarly, although much scholarly attention has been given to legal, judicial, and police reform activities in PCEs, minimal scholarly attention has been given to corrections reform activities. In fact, it has been suggested that there is a relative paucity of literature exploring corrections reform activities conducted in PCEs in comparison to the literature on the other two criminal justice sectors in these environments (Aitchison, 2010, p. 78).[6] Despite the absence of attention given to corrections reform activities in PCEs in the academic literature, there is an abundance of literature in the form of practical handbooks and toolkits, which have been produced by a variety of organizations and are referenced throughout this dissertation.[7]

While the objectives of PCE peacebuilding activities – which include SSR and therefore, corrections reform – are well intentioned, the existing literature questions the success of these reform activities. And yet despite threats to sovereignty, accusations of imperialism, and evidence to suggest a lack of success in post-conflict peacebuilding, support for peacebuilding remains. If saving people from ethnic cleansing, starvation, and other human rights violations was not enough motivation for interventions to continue, the arguments pertaining to global security and safety that have arisen following 9/11 further supports the need for intervention (Boot, 2003, p. 364). The number, range, and complexity of international engagements and peace operations will thus, continue to grow, especially when one considers recent examples of intra-state conflict, such as the conflicts that are happening in Syria and Egypt, which started during

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[6] The preliminary findings from this case study were presented at a criminology conference in late 2012; the feedback the researcher received highlights the lack of interest in the field. Two senior researchers who investigate police reform in post-conflict and transitioning environments attended the presentation and afterwards informed the author that corrections reform activities and the associated research are, "Unsexy, underfunded, and not of interest to most governments and non-governmental organizations (NGOs), and despite the importance of corrections reform as part of an integrated approach to SSR, it would never receive the attention police and judicial reform receive."

[7] Bastik (2010, p. 18) also made this observation.

the Arab Spring of 2011. Learning more about peacebuilding, including the normative assumptions underlying the practice, and how to make peacebuilding more effective in the post-Cold War era, and in the context of globalization, is of utmost importance given the human and financial costs of failing to learn how to build sustainable peace and stability (Paris, 2004, p. 236).

Research Questions

The purpose of this case study was exploratory in nature, as I sought out to gain knowledge, understanding, and new insight through flexible data collection activities to ensure extensive coverage, as recommended by Palys and Atchison (2008, p. 41). I chose to conduct a case study – guided by the interpretive constructionist approach – about corrections reform in Kosovo to explore the dynamics and challenges of conducting corrections reform in a PCE, learning directly from people who participated in this process and accompanying activities. Furthermore, I sought to explore participants' perceptions about the appropriateness of using UN and Western-developed frameworks in Kosovo and other PCEs, which reflects my interest in exploring the ideological, normative assumptions underlying the practice of peacebuilding.

The overall goals of the study are to advance research in the area of corrections reform in PCEs by including the 'voice' of practitioners who have conducted corrections reform in a PCE, and, to promote research about the use and applicability of UN and international human rights standards and principles in PCEs. This dissertation project contributes to a scarce international body of academic literature investigating corrections reform in PCEs, and Kosovo in particular. The research provides understanding about the operational and interpersonal dynamics and challenges that were experienced by international corrections advisors while they conducted peacebuilding activities in Kosovo. The research also provides understanding about international corrections advisors' opinions on the use and applicability of UN and Western-developed frameworks in Kosovo and other PCEs, which is an under-researched area. The findings that emerged from the data may provide insight into why peacebuilding activities have produced questionable success in PCEs given the dynamics and challenges that characterize this work. The findings may also provide insight into potential dynamics and

challenges that *may* arise in conducting corrections reform activities in other PCEs. It is important to acknowledge that this project was not designed to identify dynamics and challenges that *will* arise during corrections reform activities in every PCE. As the discussion throughout the dissertation reveals, when designing and implementing peacebuilding activities, the local context must be considered at every stage of the process. Thus, the findings from this research simply identify potential dynamics and challenges that may arise in conducting corrections reform activities in PCEs, although each environment has its own needs, capacities, and contextual realities that will produce unique dynamics and challenges that require consideration.

Chapter Organization

In Chapter 2, the lexicon of the dissertation project is presented with a focus on PCEs and peacebuilding. The characteristics of PCEs are discussed, including identification of the conflict drivers that put PCEs at risk of relapsing back into conflict. Following identification and consideration of the term PCE, the history of UN peacebuilding is briefly explored, as are the general objectives and activities involved in peacebuilding missions. This discussion reveals the plethora of terms that are used to describe activities that are undertaken to reform social, political, and economic conditions in PCEs. The chapter also addresses the general challenges involved in post-conflict peacebuilding, and general criticisms of the practice. Discussion about the success of peacebuilding concludes the chapter, and highlights the fact that peacebuilding has been in the UN's official vocabulary of practices since 1992, and yet the success of this practice continues to be questioned.

Chapter 3 builds on the previous chapter by presenting perspectives on peacebuilding, specifically, the most prominent theory in peace operations: the liberal peace theory. The chapter begins by exploring the role that peace operations play in international politics by describing the Westphalian and post-Westphalian perspectives. The majority of the chapter is devoted to a critical discussion about liberal peacebuilding, which is external intervention that is designed to establish peace and stability in PCEs by conducting political, economic, and social capacity development and reform activities to establish democratic societies and polities, and liberal free-market economies (Bellamy

& Williams, 2010, p. 24; Le Billon, 2008, p. 345; Paris, 1997, p. 56; Richmond, 2004, p. 83). The challenges and criticisms of democratization and economic liberalization are presented, as are the criticisms of the liberal peacebuilding project.

Given the vast array of activities that are undertaken during peacebuilding missions, it is important to narrow the scope of discussion. In Chapter 4, criminal justice reform activities that take place in PCEs are explored beginning with an overview of SSR, as this is the framework within which criminal justice reform activities occur. The discussion focuses on why it is important to conduct reform activities in each of the three sectors of the criminal justice system (the police, the courts, and corrections systems), what the reform activities in each sector typically involve, the challenges that arise in conducting reform in each justice sector, and sector-specific lessons learned to date.

Chapter 5 identifies cross-sectional, impactful lessons that have been learned from conducting reform activities in all three criminal justice sectors. Criminal justice reform is a critical component of peacebuilding in PCEs, so it is important to identify and discuss impactful cross-sectional lessons that have been learned from criminal justice reform activities previously undertaken during peacebuilding missions. These cross-sectional lessons learned include developing the local capacity through reform activities, ensuring local ownership of reform activities, and developing a common strategy to ensure effective coordination and partnerships. Discussion in this chapter also highlights two key challenges that often arise while conducting criminal justice reform in PCEs. The chapter ends with a critical discussion about why lessons may be learned but not implemented in practice.

Chapter 6 presents illustrative examples of complex challenges that exist in PCE corrections systems, which create obstacles for those involved in corrections reform activities. The chapter begins with an explanation of how offender populations reflect the wider social situation in which they are situated, which necessitates designing reform activities with knowledge of the larger context, including the criminal justice and political environment in the country. The discussion about the challenges in PCE corrections systems is positioned within a human rights framework given that reform activities are designed to create prison systems that operate in accordance with international human rights standards and the rule of law (DPKO, 2006, p. 1). Illustrative examples of complex

challenges in PCE corrections systems are explored in this chapter: overcrowding, the imprisonment of vulnerable prisoners (children and women), and human resource challenges among correctional personnel. Discussion throughout the chapter reveals that while a solid framework of objectives and human rights standards exists for corrections systems in PCEs, less is known about *how* to effectively undertake reform activities in these environments to achieve these objectives and standards given the complex challenges that exist (Griffiths, 2003, p. 4).

Chapter 7 presents the history of Kosovo, a small landlocked nation in the Balkan Peninsula characterized by inter-ethnic violence and hostilities. Citizens in Kosovo spent most of the late 1990s experiencing a civil war, precipitated by ethnic differences between Kosovar Albanians and Kosovar Serbians. This period of civil war was followed by a 78-day North Atlantic Treaty Organization (NATO)-led air campaign against the President of Yugoslavia (Milošević) and his troops, which eventually led to their retreat from Kosovo. Following their retreat, the United Nations Interim Administration in Kosovo (UNMIK) and the NATO-led Kosovo Force (KFOR) were established in the internationalized territory, with UNMIK taking over as a transitional administration. The chapter addresses a variety of topics: why Kosovo was chosen as a case study, the historical factors that contributed to the Kosovo conflict, how the international community became involved and in what capacity, criticisms of the international community's decisions and activities, how Kosovo eventually declared independence, and the significance of the international community's intervention in Kosovo for future humanitarian engagement.

When the NATO-led aerial bombing campaign ended in Kosovo in June of 1999, the international community faced staggering challenges as they embarked on peacebuilding activities in the PCE. The events of the 1990s ethnic-fuelled civil war in Kosovo had severe consequences for the criminal justice system in the "war-torn corner of the former Yugoslavia" (Bhaumik, Gang & Yun, 2006, p. 1177). Chapter 8 describes the severe challenges UNMIK and KFOR faced in reforming the criminal justice system. When UNMIK and KFOR arrived, the police could not provide safety and security for their people, the judicial system had collapsed, and the prisons could not be used to detain accused or sentenced individuals (UNMIK, 2003, p. 2). Chapter 8 begins with a brief overview of UNMIK and KFOR's objectives and activities before continuing into a

discussion about the reform objectives, challenges, and results relevant to each component of the criminal justice system. The chapter ends with a discussion about the Correctional Service of Canada's (CSC) involvement in corrections reform activities in Kosovo. This discussion includes the foreign policies that influence the CSC's international engagements, and the CSC's responsibilities in Kosovo.

Chapter 9 outlines the methodology, research philosophy, research design, sample, and data collection, entry, coding, and analysis procedures that were used in conducting the dissertation project. Semi-standardized qualitative interviews were used to answer the research questions to capture in-depth data reflecting participants' constructed realities. Fourteen (14) former, current, and retired CSC personnel who participated in corrections reform activities in Kosovo as CSC gratis personnel, and/or as on-leave CSC personnel who were hired by UNMIK, were interviewed for the case study.[8] The data were analyzed using the qualitative computer program, *NVivo* 10. This chapter concludes with discussion about the trustworthiness and authenticity of the data.

Chapter 10 presents some of the qualitative themes that emerged from the data and situates the findings in existing literature. The findings are categorized based on two of the research questions, and identify themes with respect to the dynamics of conducting corrections reform activities in post-conflict Kosovo, and the challenges of conducting corrections reform activities in post-conflict Kosovo. The findings highlight operational and interpersonal level dynamics and challenges participants experienced while conducting corrections reform in Kosovo.

Chapter 11 presents the remaining qualitative themes that emerged from the data. The findings in this chapter express participants' perceptions about the appropriateness of using UN and international human rights standards and principles in Kosovo, and other PCEs. The findings in this chapter reveal participants' support for the use of UN and international human rights standards and principles in Kosovo, and other

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[8]   The opinions and conclusions presented in this dissertation do not necessarily represent those of the Correctional Service of Canada.

PCEs *only* when the local context is carefully considered at each stage of the process, as are the objectives, and timing of activities. The findings – similar to themes presented in Chapter 10 – capture participants' disillusionment with the UN's behaviour in Kosovo.

Chapter 12 presents the implications of the research and situates the findings in the existing literature. The chapter presents policy and practice recommendations for individuals and organizations involved in corrections reform activities as part of overall post-conflict peacebuilding efforts. The chapter concludes by identifying the strengths and limitations of the study, and making recommendations for future research endeavours to address the limitations in this study.

CHAPTER TWO: POST-CONFLICT ENVIRONMENTS AND PEACEBUILDING

Chapter Overview

As discussed in Chapter 1, there has been an increase in external interventions in the affairs of sovereign states to address cultural, political, ethnic, religious, and economic fuelled intra-state conflict (Murphy, 2007, p. 3). Peacebuilding activities will continue to increase as the international community seeks to end internal conflicts due to human security concerns (reflecting the link between security and human rights (Groves et al., 2009, p. 187)), and, concerns about international safety and security. The UN's continued engagement in, and commitment to, peacebuilding necessitates further exploration of peacebuilding practices.

The chapter begins with the introduction and description of two concepts that are referenced throughout this dissertation, which are post-conflict environments (PCEs) and peacebuilding. The challenges of conceptually and operationally defining peacebuilding and its associated lexicon, the evolution of peacebuilding, general challenges involved in conducting peacebuilding, general concerns with peacebuilding, and the importance of evaluating peacebuilding activities, are explored throughout the remainder of the chapter.

A Slippery Slope: Defining PCEs

PCEs are characterized by a variety of features, including:

- fragile peace;
- ethnic hostilities;
- insecurity;
- competition between formal and informal stakeholders;
- gender and/or ethnic-based inequality;
- human suffering;
- physical devastation;

- severe centralization of decision making;
- recently-formed or non-existent security, financial, judicial, regulatory, and administrative institutions;
- political uncertainty;
- citizen distrust;
- educational disruption;
- high rates of criminal activity;
- a lack of transparency among governance structures and security sector institutions; and,
- the perception of corruption and illegitimacy (Barakat, 2009, p. 108; Bigombe, Collier & Sambanis, 2000, pp. 325-330, p. 335; Galtung & Tisné, 2009, p. 93; Van Gennip, 2005, p. 57).

Also present in PCEs are individuals who profit from intra-state war and who have a vested interest in its continuation. These individuals "lurk in the shadows prepared to resurrect the very tensions that allowed them to flourish economically and politically at the expense of the society as a whole" (Van Gennip, 2005, p. 57). The term 'post-conflict environment' is used with caution as the international community has acknowledged how easily PCEs can slip back into a state of conflict given the above-mentioned characteristics. It is common that elements of the conflict, including violence, fail to end with the signing of a peace accord or the presence of international peacekeepers (Baglione, 2008, p. 123). As Doyle and Sambanis (1999) observed, "no peace is perfect. Public violence…never gets completely eliminated" (p. 1); however, the number of incidents of violent conflict often decreases in the post-conflict period (Brinkerhoff, 2005, p. 4).

Reflecting the ease with which PCEs can fall back into conflict, Crocker, Hampson and Aall (2007) acknowledge that "it is almost impossible to call off the dogs [of war] once they have been let slip or unleashed" (p. 3), as reaching peace is easier than trying to sustain it. Many PCEs experience high risk of relapse within the first decade after the conflict has ended (Bigombe et al., 2000, p. 323). Three findings highlight the fragility of PCEs. First, almost half of all intra-state conflicts are a consequence of post-conflict relapses into a state of civil war (Collier, Hoeffler, & Söderbom, 2008, p. 461). Second, the risk of PCEs relapsing into conflict in the first year post-peace-settlement is almost twice as high as their risk was on the eve of the initial

period of conflict (Collier, Elliott, Hegre, Hoeffler, Reynal-Querol & Sambanis, 2003, p. 83). Third, research evidence suggests that the risk of PCEs' relapsing into conflict after receiving international assistance is 40 percent within the first ten years following conflict (Collier et al., 2008, p. 474). The risk that a PCE will relapse back into conflict decreases as time passes; for example, after ten years of peace, the risk is half as much as the risk of relapse into conflict after five years of peace (Bigombe et al., 2000, p. 333).

Conflict Drivers: Why PCEs are at Risk to Relapse

Various explanations as to why PCEs have a high risk of relapsing back into conflict have been given. As in non-PCEs, PCEs have internal political issues, and in these states, politics may have contributed to violence. Spoilers may exist and actively resist negotiations and reform efforts, as they may be against peace for political, social, economic, or financial reasons. There may be leadership issues within PCEs; for example, leaders may display false support for change and actively participate in negotiations in the short-term, shortly thereafter failing to live in peace and failing to follow through with the negotiations over the long-term (Baglione, 2008, p. 123). This happened in Angola, where presidential candidate Jonas Savimbi promoted peace to achieve power in the lead-up to the presidential election; but as soon as he lost the election, he returned to supporting war (Stover, 2002, p. 511). Paris (2004) refers to these actors as "saboteurs" (p. 159), as they outwardly appear to support democracy but in reality, they actually want to undermine it.

Justice, security, and peace are linked to economic and social development (Dandurand, Griffiths, & Chin, 2008a, p. 53) and the weak and underdeveloped economies characteristic of most PCEs may contribute to their relapses into conflict (Flores & Nooruddin, 2009, p. 22). Economic reconstruction efforts have been found to substantially reduce the risk of a PCE relapsing into conflict (Collier et al., 2008, p. 474). Research findings demonstrate that PCEs that do not economically recover within the first year after a peace settlement are less likely to avoid further violent intra-state conflict (Flores & Nooruddin, 2009, p. 22). The existence of high income inequality, an absence of legitimate economic opportunities, weak financial regulations that encourage fraud, and state banking systems that encourage private wealth accumulation, can destabilize peace by entrenching economic and political marginalization in PCEs

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(Addison, Le Billon & Murshed, 2001; pp. 952-953; Bigombe et al., 2000, p. 326; Zahar, 2005, p. 724). Underdeveloped and weak economies may result in an environment that is unable to prevent "illicit activities [because] combatants are plentiful, fighters have few skills useful in 'normal' economies, guns are readily available, and a culture of violence has been inculcated over the years of conflict" (Baglione, 2008, p. 124). Relying on local companies (where they exist) during peacebuilding activities can boost the local economy by creating jobs and increasing local capacities (Van Gennip, 2005, p. 61). Development activities and economic reform policies that fail to address economic-related issues may result in a PCE relapsing back into conflict, demonstrating how "getting reform activities wrong imposes large costs on any society – but getting it wrong in a fragile 'post-conflict' society can be truly disastrous" (Addison et al., 2001, p. 957).

To move societies forward after conflict, the root causes of the conflict, and the aftermath of the conflict – including the harms that have been caused – must be addressed (Arbour & Costa, 2007, Foreword). One of the greatest obstacles in rebuilding PCEs is establishing society given that:

> Societies emerging from war face a range of urgent, inter-connected problems on all fronts ... However, it is the destruction of relationships, including the loss of trust, dignity, confidence and faith in others that proves the most far reaching, potent and destructive problem and the most difficult to address. It has the potential to undermine possible solutions to a wide range of other issues. (Barakat, 2005, p. 10)

Therefore, reconciliation between former adversaries is particularly important in achieving meaningful change at the cultural, political, social, and economic level (Bigombe et al., 2000; pp. 335-336; Stover, 2002, p. 513). Justice and reconciliation may include dialogue sessions between community leaders or between members of opposing community groups; bridge building, which involves developing trust and tolerance; and, truth and reconciliation activities or commissions to address and repair the harms that were caused before and during the conflict (Barnett, Kim, O'Donnell, & Sitea, 2007, p. 57).

State Failure

State failure is a major contributor to conflict, and relapse to conflict within state borders, which necessitates a brief review of failed states in the discussion about conflict drivers (Brinkerhoff, 2005, p. 3). States are categorized in four ways – strong, weak, failed, or collapsed – based "on their ability to deliver high qualities and quantities of essential political goods" (Rotberg, 2007, p. 83). The ten essential functions a state must exercise to be a fully functional, strong state are: rule of law, a monopoly on the legitimate means of violence, administrative control, sound management of public finances, investments in human capital, creation of citizenship rights through social policy, provision of infrastructure services, formation of a market, management of public assets, and effective public borrowing (Ghani & Lockhart, 2008, pp. 124-166).

When all ten of the essential functions occur simultaneously, a clustering effect occurs whereby "the synergy creates a virtuous circle in which decisions in the different domains reinforce enfranchisement and opportunity for the citizenry" (Ghani & Lockhart, 2008, p. 163). By simultaneously providing all ten of the essential functions, decision makers gain legitimacy and the trust of their citizenry resulting in a 'sovereignty dividend.' In stark contrast, in dysfunctional states, a vicious circle results when one or more of the ten functions are not performed effectively and "various centers of power vie for control, multiple decision-making processes confuse priorities, citizens lose trust in the government, institutions lose their legitimacy, and the populace is disenfranchised" (Ghani & Lockhart, 2008, p. 163) with the worst possible consequence being intra-state violence. This vicious circle, in contrast to the virtuous circle that creates a 'sovereignty dividend,' creates a 'sovereignty gap.' Ghani and Lockhart (2008) define sovereignty gap as:

> [T]he disjunction between the de jure assumption that all states are "sovereign" regardless of their performance in practice – and the de facto reality that many are malfunctioning or collapsed states, incapable of providing their citizens with even the most basic services, and where the reciprocal set of rights and obligations are not a reality. (p. 21)

Strong states consistently provide the ten essential functions for their citizenry while weak states may perform inconsistently and provide limited quantities and qualities (Rotberg, 2007, p. 83). Failed states are "deficient in these ways" (Rotberg, 2007, p.

83) in addition to being deeply insecure and characterized by constant violence (Rotberg, 2003, p. 5). Collapsed states are an extreme type of failed state; essential functions can only be obtained through ad hoc or private means (Rotberg, 2007, pp. 83-84).

Identification of all of the above-mentioned conflict drivers, including state failure, and exploration of how these risk factors may have changed during and after the conflict, may assist the international community and recipient country in formulating country-specific policies. Country-specific policies may decrease the likelihood that a PCE will relapse into conflict because the local realities, capacities of the state, and the conflict drivers unique to each PCE are addressed (Bigombe et al., 2000, p. 330).

Peacebuilding

What's in a Word?

Although post-conflict peacebuilding emerged as a fundamental term in the diplomatic lexicon in 1992, a precise definition of the concept and the practices captured by this term is not clearly stated. Even the UN Peacebuilding Support Office (PBSO, 2010a, p. 8) acknowledges that a precise definition of peacebuilding does not exist to distinguish it from other peace operations activities (e.g., peacemaking and peacekeeping). The PBSO (2010a, p. 8) suggests the absence of a specific definition is due to the extensive number of activities that occur as states transition from conflict to peace, and the overlapping nature of the objectives and strategies that may be required throughout the transition.[9] Those external to the UN suggest that the UN has not clearly defined certain concepts because UN member states have not reached a consensus about external interventionism in the affairs of other states (as will be explored in Chapter 3) (Bellamy & Williams, 2010, p. 14). Further, it has been argued that the UN

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[9] Without clear definitions and understandings of what peacebuilding is and is not, the language and practices associated with peacebuilding will continue to create ambiguity and could lead to false expectations for recipient countries (Chetail, 2009, p. 4, pp. 25-26).

has kept a broad understanding of peacebuilding to accommodate its "different entities' varying mandates, organisational interests and comparative advantages" (Bleiker & Krupanski, 2012, p. 11). Others have suggested that there are difficulties in defining peacekeeping, peacemaking, and peacebuilding, as well as identifying the differences between them, because agencies try to legitimize their actions through the use of whatever label they see fit, which results in multiple understandings about one concept (Bellamy & Williams, 2010, p. 14). In their survey and analysis of twenty-four governmental and intergovernmental organizations involved in peacebuilding activities, Barnett et al. (2007, p. 36) discovered that the mandate of an organization, their interests, and their networks of interaction, dictate the peacebuilding terminology the organization uses and how they choose to operationally define the activities the concept entails.

The Evolution of UN Peacebuilding

Traditional UN peacekeeping missions have evolved as UN mandates have become more complex; there has been a shift towards what people refer to as "peacebuilding," "nation building," or "peace enforcement," depending on the organizational considerations outlined above (Herrhausen, 2007, p. 1). In its first four decades of existence, the UN was traditionally involved in border and ceasefire-monitoring activities, and conducting and monitoring elections (Matheson, 2001, p. 76; Stover, 2002, p. 509). Traditional UN mandates involved deploying peacekeeping troops – with the consent of the parties – and using force only in self-defence (Herrhausen, 2007, p. 1). The objective of traditional peacekeeping missions was to help states reach consensus and peacefully resolve inter-state conflict, which contributed to international security and stability (Newman et al., 2009, p. 6). These traditional peacekeeping missions were generally not tasked with more complex activities designed to develop local capacities in PCEs, and address conflict drivers to prevent relapses into conflict (International Corrections and Prisons Association (ICPA), 2002, p. 19).

In contrast, peace enforcement by today's standards can involve troops entering a country after choosing a side in the conflict, using force to achieve military aim, and engaging in peacebuilding activities to develop effective state institutions by establishing market democracies (Bernabéu, 2005, p. 88; Herrhausen, 2007, p. 1).[10] Thus, prior to the Cold War, the UN's tasks and missions were less complicated, and insufficient attention was given to how social, political, and economic factors contribute to peace (De Brabandere, 2010, p. 122).[11] Post-Cold War peacebuilding operations are characterized by activities designed to promote liberal democracies and market economies (as will be explored in Chapter 3) (Newman et al., 2009, p. 7). Post-Cold war peacebuilding therefore involves further complexity than in previous UN missions, as the subsequent paragraphs and chapters will reveal.

Despite having been around since as early as the 16th century and having been the focus of many peace and conflict studies in the 1960s and 1970s,[12] the term peacebuilding only found its place in official diplomatic rhetoric in 1992 (Chetail, 2009, pp. 1-2). It was during this year that peacebuilding was articulated in An Agenda for Peace (UN Report of the Secretary General, 1992), appearing alongside preventative diplomacy, peacekeeping, and peacemaking as one of the key activities in conflict management. Peacebuilding became one of the primary activities to promote the UN's raison d'être: peace (Chetail, 2009, p. 2). Although identified as official UN rhetoric in An Agenda for Peace, the term was only generally defined in this document as "action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict" (UN Report of the Secretary General, 1992, para. 21). An Agenda for Peace also described peacebuilding as an extension of three other activities:

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[10] Rubinstein (2008, p. 19) explains how the most distinguishing feature of peacebuilding missions post-1992 is the authorization given to use force, which was not previously prevalent in missions.

[11] For examples of the various ways peace operations have been categorized, see Bellamy and Williams (2010) and Bures (2007). An extensive – and contradictory – literature exists about the best way to define and categorize peace operations. The distinction identified in this dissertation is commonly used although it has been criticized for being too simplistic. See the aforementioned sources for elaboration on more complex categorizations.

[12] See for example, Galtung's (1969; 1971) research investigating peace and conflict, and in particular, his distinction between positive and negative peace.

> Preventative diplomacy seeks to resolve disputes before violence breaks
> out; peacemaking and peacekeeping are required to halt conflicts and
> preserve peace once it is attained. If successful, they strengthen the
> opportunity for post-conflict peacebuilding, which can prevent the
> recurrence of violence among nations and peoples. (UN Report of the
> Secretary General, 1992, para. 21)

Figure 2.1 illustrates the overlap between peacemaking, peace enforcement, peacekeeping, and PCE peacebuilding activities, and demonstrates how these activities do not necessarily occur in a linear fashion (Department of Peacekeeping Operations (DPKO), 2008, p. 19).

Figure 2.1.   Overlap Between Peacemaking, Peace Enforcement, Peacekeeping, and PCE-Peacebuilding Activities

Note.   DPKO (2008; p. 19); used with permission.

Peacebuilding was further elaborated upon in the Supplement to An Agenda for Peace (UN Report of the Secretary General, 1995) where the goal of peacebuilding was defined as "the creation of structures for the institutionalization of peace" (para. 49). Throughout the mid-1990s, three UN documents – An Agenda for Development (UN Report of the Secretary General, 1994), United Nations Development Programme (UNDP; 1994) Human Development Report, and an Agenda for Democratization (UN, 1996) – further entrenched the importance of peacebuilding, advancing the notion of

connecting development, human rights, security, and democratization agendas during peacebuilding (PBSO, 2010a, p. 46). This is because the UN realized that security, justice, and peace facilitate democratization, economic development, cultural reconstruction, the advancement of human dignity, and respect for human rights (Baskin, 2003, pp. 168-169; Santiso, 2002, p. 559).

The definition of peacebuilding was revised once again in the Brahimi Report (UN, 2000); peacebuilding was more specifically defined as "activities undertaken on the far side of conflict to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war" (para. 13). The Brahimi Report (2000) said peacebuilding is to include a multitude of activities, including those to strengthen the rule of law, improve respect for human rights, and provide technical assistance for democratic development (UN, 2000, para. 13). The Brahimi Report (UN, 2000, para. 14) also identified a number of strategies that complement the aforementioned activities and address the realities and challenges unique to each PCE. These include corruption and demining initiatives, and education and control initiatives targeting human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) and other communicable diseases (UN, 2000, para. 14).

Peacebuilding was further institutionalized at the 2005 World Summit when the UN endorsed "UN Secretary General Kofi Annan's proposals to create a peacebuilding commission, corresponding support office, and fund" (Barnett et al., 2007, p. 36). The Peacebuilding Commission was created in December of 2005 to address the need for an integrated, comprehensive, and coordinated approach to post-conflict peacebuilding, and to counteract some of the associated challenges, misunderstandings, and criticisms (Chetail, 2009, pp. 13-14; Krause & Jütersonke, 2005, p. 448). The Peacebuilding Commission is an advisory body that plays a role in coordinating the international organizations and actors involved in peacebuilding, resources, and strategies for PCE

peacebuilding, which includes identifying conflict drivers that may undermine peace (UN Peacebuilding Commission, 2012, n.p).[13]

Over the years, the UN's definition of peacebuilding has continued to evolve; in 2007, the Secretary-General's Policy Committee (2007) defined peacebuilding as "a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundations for sustainable peace and development" (PBSO, 2010a, p. 5). This brief historical overview demonstrates how since 1992, the UN has moved from a linear view of the transition from war to peace, to an integrated approach whereby "conflict prevention and post-conflict peacebuilding agendas began to be seen as two sides of the same coin" (Tschirgi, 2004, p. 4).

So, What is Peacebuilding?

Despite differences in the choice of terminology and accompanying definitions organizations use, some common agreement and understanding about peacebuilding exists. Peacebuilding may accompany or succeed military operations and at the most general level refers to external interventions that are typically undertaken by non-military actors or civilian personnel. These activities are undertaken to address the root causes of armed conflict, prevent relapse to conflict, and promote sustainable peace and development (through developing local capacities) (Barnett et al., 2007, p. 36; Bleiker & Krupanski, 2012, p. 11; Tschirgi, 2004, p. 4). Human security is viewed as the connecting framework for peacemaking, peacekeeping, and peacebuilding, bringing together the agendas of peace, development, and security (Sarigiannidis, 2007, p. 523). UN Secretary-General Kofi Annan (2000) explained how human security is the link between peace, development and security:

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[13] For further information about the UN Peacebuilding Commission's work and to explore the conceptual basis that guides UN post-conflict peacebuilding activities, see: http://www.un.org/en/peacebuilding/pbso/pdf/peacebuilding_orientation.pdf last retrieved 17 January 2013.

Human security in its broadest sense embraces far more than the
absence of violent conflict. It encompasses human rights, good
governance, access to education and health care and ensuring that each
individual has opportunities and choices to fulfil his or her own potential.
Every step in this direction is also a step towards reducing poverty,
achieving economic growth and preventing conflict. Freedom from want,
freedom from fear and the freedom of future generations to inherit a
healthy natural environment—these are the interrelated building blocks of
human, and therefore national, security. (as cited in Commission on
Human Security, 2003, p. 4)

How does Peacebuilding Begin and What does it Involve?

During the peace process, or after a peace accord is signed, the United Nations
Security Council (UNSC) can create a mission and approve the deployment of a
peacekeeping operation.[14] The objective during this time is to work with national security
actors to promote security and safety to facilitate initial peacebuilding activities (PBSO,
2010a, p. 9).[15] Ashraf Ghani refers to the immediate post-conflict period (the initial
weeks and months following the end of conflict) as the "open moment" where the future
of the PCE is set in motion (as cited in Galtung & Tisné, 2009, p. 93). This period of time
has also been referred to as the "golden hour," which is characterized by legitimacy and
support for the international community, and an absence of resistance from potential
spoilers (Jones et al., 2005, pp. xi-xii).[16] Shaw (2012) also refers to the period of time
when societies are transitioning from authoritarian leadership to democratic governance
as the "core period" (p. 7). The early months following the signing of the peace accord

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[14] Peace operations have four phases although at times they are not clearly distinguished from
   one another: "(1) initial development or standby phase – primarily a UN assessment phase;
   (2) pre-deployment phase – the planning phase that follows a UN decision to take action; (3)
   operations and sustainment phase – day-to-day operations related to bringing stability and
   sustainability to the mission area; and (4) re-deployment and withdrawal phase – the phase
   when the UN begins withdrawal from the mission area" (ICPA, 2002, pp. 24-25).

[15] Multi-dimensional peacekeeping operations have seen peacekeepers playing an increasing
   role in peacebuilding, as they are in PCEs in the immediate aftermath of conflict, and may thus
   engage as early peacebuilders. Although peacekeepers do not have the capabilities and
   resources to facilitate long-term development, they can identify and set initial priorities (UN
   Secretary General Ban Ki-Moon, 2010 as cited in PBSO, 2010b, p. 13).

[16] Jones et al. (2005) further define the "golden hour" as reflecting the "critical hour following a
   life trauma when intervention – or lack thereof – determines the fate of the victim" (p. xi).

are significant because citizens have high expectations and they are ready for positive changes to occur. In PCEs with the aforementioned characteristics, it is easy for citizens to revert back to conflict when their expectations and hopes are not realized (PBSO, 2010a, p. 6).

Peacebuilding is not as easy as reverting back to the previous system, as new patterns of development, institutions, and governance structures need to be put in place to move PCEs forward to a time of peace, as pre-existing structures contributed to the initial conflict (Brinkerhoff, 2005, p. 11). In the aftermath of conflict, the most pressing needs in PCEs are establishing peace, safety, and security, developing and strengthening national capacities, and promoting citizen confidence in the democratization process (PBSO, 2010a, p. 12). Other common needs include stimulating the economy (creating new employment opportunities) and developing local capacities to establish basic government functions (public finance) and services (water supply) (PBSO, 2010a, p. 12). The conflict drivers are prioritized; those that strengthen the peace process and decrease the risk of post-conflict relapse are targeted first (PBSO, 2010a, p. 13). Based on the identification and prioritization of these needs, the DPKO tackles four critical areas during peacebuilding:

1. Restoring the State's ability to provide security and maintain public order;
2. Strengthening the rule of law and respect for human rights;
3. Supporting the emergence of legitimate political institutions and participatory processes; and,
4. Promoting social and economic recovery and development, including the safe return or resettlement of internally displaced persons and refugees uprooted by conflict (verbatim, DPKO, 2008, p. 25).

These activities are designed to promote three transitions in PCEs: security, socio-economic, and democratic (Pouligny, 2006, p. 238).[17] Each of these transitions is

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[17] Barnett et al. (2007) refer to these same stages of post-conflict peacebuilding dimensions as: "stability creation, restoration of state institutions, and addressing the socioeconomic dimensions of conflict" (p. 49).

dependent on one another and may overlap with one another. The security transition entails a variety of security sector reform (SSR) activities to stabilize peace and reduce the likelihood of relapse to conflict (Barnett et al., 2007, p. 49; Chetail, 2009, p. 8). The socio-economic transition involves changes to eradicate citizen fear and provide for their needs, including infrastructure development and reform activities that support private sector growth, tackle corruption, support community dialogue and reconciliation, and encourage international investment (Barnett et al., 2007, pp. 49-50; Chetail, 2009, pp. 8-9). Democratic transition involves legislative and constitutional reforms that are designed to create governing bodies that respect human rights, are impartial and representative, transparent, accountable, and possess authority (Barnett et al., 2007, p. 49; Chetail, 2009, p. 9). Democratic governance is said to foster peace and sustainable development, which is why democratic reforms are part of peacebuilding.

There are three key features that are believed to increase the success of UN peacebuilding activities: fostering national ownership, supporting national capacity development, and adhering to a common strategy (PBSO, 2010a, pp. 5-6). National ownership is important because national governments and their citizenry are "responsible for laying the foundations of lasting peace" (PBSO, 2010a, p. 5). National capacity development begins early in the peacebuilding process, and refers to building the nation's capacity to support peacebuilding in the long-term to sustain peace within its borders (PBSO, 2010a, p. 6). National ownership and capacity development in PCE peacebuilding is key to developing state legitimacy (Barakat, 2009, p. 111). The most successful peacebuilding missions are those where a common strategy exists and has been developed by the international community and national actors. The strategy should be nationally owned, based on a country assessment, and developed through inclusive planning (PBSO, 2010a, p. 6). In addition to these three features, political decision-making, effective leadership, and human and financial resources impact the likelihood of success of peacebuilding activities undertaken within PCEs (PBSO, 2010a, p. 5). For example, UN peacekeeping expenditures have been found to reduce the risk of relapse into conflict; doubling expenditures results in risk reduction from 40 percent to 31 percent, which highlights the importance of resource availability in peacebuilding (Collier et al., 2008, p. 473).

General Challenges in Post-Conflict Peacebuilding

You can force your way in but you have to build your way out.

(Strohmeyer, 2001b, p. 108)

One of the most significant realizations in the history of peacebuilding activities was recognizing that "winning the peace is more difficult than winning the war" (Chetail, 2009, p. 28). As mentioned above, peacebuilding activities are challenging because they do not merely entail a restructuring of the society to the pre-conflict state (Brinkerhoff, 2005, p. 11). The underlying symptoms precipitating the conflict must be addressed and reconstructing the society to its pre-conflict levels, will not achieve this result (Albrecht & Buur, 2009, p. 398). Challenges for the UN include prioritizing PCE needs, writing project proposals, and securing immediate funding (PBSO, 2010a, p. 16). One of the greatest challenges in peacebuilding missions is facilitating the coordination of international organizations and actors who are engaged in overlapping peacebuilding tasks and activities (Barnett et al., 2007, p. 53). Coordination is a huge challenge for the UN at every level, as the organization experiences difficulties coordinating with national actors, international actors, and among UN agencies (PBSO, 2010a, pp. 16-17). The UN experiences intra-agency coordination problems as a consequence of multiple entities being engaged in peacebuilding activities at the same time. Each UN entity may have different governance structures, funding sources, human resource systems, administrative policies, operating procedures, and organizational cultures (Campbell & Kaspersen, 2008, pp. 478-479). Another challenge is managing citizens' expectations for change, as citizens have high expectations in the post-conflict period. It is important for the UN to have communication strategies in place to communicate effectively with the local population to ensure expectations match what can realistically occur (PBSO, 2010a, p. 22). A challenge specific to the UN is that the UN simply does not have adequate resources to fully respond to every crisis that arises; a proposed solution to this challenge is involving regional organizations (Bigombe et al., 2000, p. 342). There may however, be difficulties in the use of regional organizations, as they may be unable to act impartially because of their associations with a group involved in the conflict, and they may not have the technical expertise resources that the UN has (Bigombe et al., 2000, p. 342).

Various PCE realities may undermine peacebuilding activities. There is particular concern about the security vacuum that exists in the aftermath of conflict in PCEs, as it creates many challenges. PCEs are frequently characterized as "breeding grounds for violence and criminality" (United Nations Office on Drugs and Crime (UNODC) & United States Institute of Peace (USIP), 2011, p. 15) because individuals can often engage in serious criminal behaviour with impunity due to ineffective or nonexistent criminal justice systems. Activities such as rape, murder, kidnapping, revenge violence, sexual violence, smuggling, money laundering, and trafficking (e.g., weapons, drugs, and persons) may increase in the post-conflict period (O'Connor et al., 2007, p. 3). Many of these activities relate to an increase in organized crime in PCEs, which is typically a consequence of the state's weak capacity to address the problem. Organized crime can create instability and it undermines security, justice and development (Santiso, 2002, p. 582; Shaw & Kemp, 2012, p. 6). Organized crime groups can undermine political reform processes and create a culture that fosters corruption; for example, politicians may allow individuals to engage in organized crime without fear of recourse (Shaw & Kemp, 2012, p. 35). Organized crime groups can also undermine economic reform activities; for example, their violent behaviour may intimidate international investors and donors and reduce the likelihood that they will invest in the state (Shaw & Kemp, 2012, p. 6). Further, drug trafficking by organized crime groups can promote disease transmission across communities because of increased intravenous drug use (Shaw & Kemp, 2012, p. 6). The environment may also suffer the consequences of organized criminal behaviour in PCEs; for example, illegal logging may harm endangered species (Shaw & Kemp, 2012, p. 45). All of these criminal justice system issues can increase public dissatisfaction with the international community and interim government, which may decrease citizen trust and confidence in peacebuilding reform activities and institutions (Galtung & Tisné, 2009, p. 93).

General Concerns with Post-Conflict Peacebuilding

Concerns exist about how peacebuilding activities are undertaken in PCEs. For example, concern exists about how resources and funding tend to peak in the immediate aftermath of conflict despite the fact this is when PCE governments' are least able to effectively utilize donor funds, as they lack capable public administration to manage the assistance (Barakat, 2009, p. 110). In the aftermath of conflict, recipient countries have

the lowest needs and it is only when the government's capacity increases, that the need for assistance increases. For political and bureaucratic reasons, aid drops off after initial pledges have been fulfilled; this tapering effect usually corresponds with the fade of the newsworthiness of the event (Collier & Hoeffler, 2004, p. 1137).[18] PCE government capacities to absorb aid substantially increase after three years (Van Gennip, 2005, p. 60) and they have the greatest absorptive capacities between the fourth and seventh years after conflict (Collier & Hoeffler, 2004, p. 1136).[19] And yet, as previously stated, funding resources are at their peak in the first two years following the conflict, declining from that point onward (Collier & Hoeffler, 2004, p. 1136). This reflects a mismatch between the recipient country's ability to absorb resources and the availability of donor funds. This mismatch often leads to failure in initial development activities, which donors frequently chalk up to the shortcomings of recipient country officials. Donors then shy away from local capacity-development activities in favour of direct execution with the false belief that recipient government officials are to blame for the lack of success (Barakat, 2009, p. 110).

There is concern that post-conflict peacebuilding activities may not reflect lessons learned and best practices from the field but rather simply the mandates, resources, and preferred activities of the organizations that engage in these activities (Barnett et al., 2007, p. 53). Peacebuilding activities may be delivered based on supply-driven factors, rather than demand-driven factors, which is problematic (Barnett et al., 2007, p. 48). As will be discussed further in subsequent chapters, peacebuilding activities should be dictated by local realities rather than the expectations of donor countries. Energy and resources may be wasted, and relapse to conflict may occur if

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[18] Research has shown that Organization for Economic Co-Operation and Development (OECD) donor countries are more likely to provide aid to regimes undergoing governance transition, those whom they have extensive economic ties with, and those who they view as most worthy of economic contributions (Kang & Meernik, 2004, p. 163).

[19] Van Gennip (2005) defines absorptive capacity as "a measurement of the increments of aid that triggers economically productive activity and demonstrates the point at which further aid will only trigger economically unproductive and even parasitic activity" (p. 60).

inadequate attention is given to the local realities during the design of peacebuilding activities (Krause & Jütersonke, 2005, p. 459).

Evaluating Peacebuilding

> *Experience has shown that the number of UN agencies flying their flags in a country is not proportionate to the overall success achieved.*
>
> *(Brahimi, 2002 as cited in Kreilkamp, 2003, pp. 665-666)*

There is an absence of evaluation about the overall effectiveness and efficiency of the UN during peace operations. UN evaluations typically focus on whether the UNSC mandate was achieved, and outputs rather than collective outcomes (Campbell & Kespersen, 2008, p. 480). Evaluation activities are necessary to determine whether the millions of dollars being spent on reform activities are successful in creating democratic, self-sustaining institutions, operating in line with international human rights standards.[20] In recent years, there has been great concern that UN peace operations have not produced self-sustaining institutions despite extensive and costly investment from UN donor countries. In particular, the World Bank has openly acknowledged, "numerous rule of law assistance programs in post-conflict or fragile countries have so far resulted in few lasting consequences" (Samuels, 2006, p. 15). Some have actually suggested, "the number of international peacebuilding interventions…stands in stark contrast to our limited knowledge of their impact on the ground" (Scherrer, 2012, p. 5). This is unacceptable as the number of peacebuilding missions continues to increase. It is important to understand more about peacebuilding and how to engage in successful peacebuilding activities given the human and financial costs of failing to do so. Given the economic realities the international community is facing, there is an even greater need to understand the impact of peacebuilding practices to ensure the greatest return on investment.

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[20] As of December 2012, the DPKO had $7.33 billion in approved resources to spend on peacekeeping missions from 1 July 2012 to 30 June 2013 (DPKO, 2013f, n.p.).

Research is also necessary to assess how the timing and sequencing of activities undertaken during peacebuilding missions impacts the overall success of the mission (PBSO, 2010a, p. 13). Impact assessments, which focus on how efforts "complement or contradict one another…can offer major benefits for the coherence, sequencing, and coordination of international support" (Scherrer, 2012, p. 6). Assessing the 'ripeness' of a PCE is also important, as reforms that are initiated too early may cause instability and relapse to conflict (which is explored in Chapter 3). For example, electoral reform is often a part of peacebuilding and although:

> [E]lectoral processes can contribute to more legitimate political authority, they may also be a source of tension and renewed conflict if they are rushed, if quality is sacrificed to speed, and if the political environment is not conducive to a credible and accepted result. (PBSO, 2010a, p. 13)

There are two primary reasons why impact assessments are not common in peacebuilding. First, some people believe the true impact of peacebuilding practices will not materialize immediately. In fact, such efforts can take years to reach fruition. Thus, they do not see value in conducting costly impact assessments in the short-term, especially because the results cannot be used to inform policy and program development in the current operating environment. Second, other people have been resistant to impact assessments simply because they are costly to conduct (Scherrer, 2012, p. 6).

The lack of conceptual clarity and the expansive number of tasks that peacebuilding involves complicates evaluation (Bures, 2007, p. 432). Evaluation is also challenging because there is little consensus on what the objectives of peace operations are, what the follow-up time period should be, and what the baseline measure to evaluate the success of the mission should be (Bures, 2007, p. 431). Furthermore, there is little consensus on what constitutes success. Do small, positive changes constitute success? Should success be evaluated using performance indicators (creating effective governance structures), or, should it be evaluated based on how well the mission promoted democracy (looking at participation-based measures) (Schwarz, 2005, p. 436, 443)? Or, does stability and peace mean that a peacebuilding mission has been successful? Those critical of the peacebuilding enterprise suggest that if one focuses on the international community's attempt "to bring war shattered states into conformity with

the international system's prevailing standards of domestic governance" (Paris, 2002, p. 638); the international community has not been very successful in peacebuilding (Krause & Jütersonke, 2005, p. 449)

Conclusion

As discussed at the beginning of this chapter, intra-state conflicts have repercussions for global and human security, which spurs reaction and intervention from the international community. Concerns for human security connect peace, development and security agendas during peacebuilding missions; as this chapter has illustrated, these interventions are complex and involve a diversity of tasks. To address human and global security, UN interventions have become more multifaceted than they were in the past; there has been a shift from traditional peacekeeping missions to more complex peacebuilding missions that seek to establish market democracies. Although peacebuilding is defined and operationalized in different ways by the multitude of organizations engaged in these activities, the common, overarching goal is to promote positive peace, security, justice, and development (Chetail, 2009, p. 26). Given that peacebuilding will remain a high priority on the international community's agenda, it is important to understand the theory that informs peacebuilding practices. The liberal peace theory is introduced in Chapter 3, as are the criticisms of this theory and its associated practices.

CHAPTER THREE: PERSPECTIVES ON PEACEBUILDING

Chapter Overview

Chapter 2 introduced two important concepts: post-conflict environments (PCEs) and peacebuilding. The current chapter expands on that discussion by presenting perspectives on peacebuilding, exploring the theoretical work pertaining to the study of peace operations. It has been suggested that in times past, the importance of theory in the study of peace operations has been "written off or ignored: treated like a phantom being" (Pugh, 2003, p. 105). However, throughout the early twenty-first century, more theorizing about peace operations has occurred although an overall theory that explains all of the aspects of peace operations still does not exist (Bellamy & Williams, 2010, p. 20). Bellamy and Williams (2010, p. 21) argue that for such a theory to exist, it would have to address at least five units of analysis – the macro/structural, global, regional, national, and local – and explain the relationships between each level. Some suggest it is impossible to create a macro-level theory that is inclusive of all peace operations (e.g., peacekeeping, peacebuilding, and peacemaking) given the need to address the diversity of opinions about mission categorizations, conceptual definitions, the objectives of peace operations, why intervention occurs in some situations and not in others, the mission type that is selected, and measures of success (Bures, 2007, pp. 430-431).

The primary focus of theoretical work about peace operations has been at the micro-level; theories that identify lessons learned and provide policy advice and recommendations to improve the success of future peace operations (Paris, 2000, p. 27). Existing theoretical work also identifies and labels different types of peace operations based on the tasks that are undertaken and the mission characteristics, and describes the practices and policies that have been used and are applicable in different environments (Bellamy, 2004, p. 19). These examples reflect the problem-solving theoretical approach to peace operations, which does not involve the exploration of the underlying normative and ideological assumptions upon which peace operations are carried out (Bellamy, 2004, p. 23). The problem-solving approach is beneficial in identifying best practices for future peace operations (Paris, 2000, p. 27). However,

critical theories are more useful in that they challenge the normative, liberal assumptions underlying peace operations and how for example, international interests often dictate intervention rather than the human security needs of the host country's citizens (Bellamy, 2004, p. 23, p. 34). Critical theorists explore and seek to answer the following questions:

1. What theories, values, ideologies, interests and identities shape the way we understand peace operations, and whose theories, values, ideologies, interests and identities are best served through the current practice of peace operations?
2. What theories and practices of peace operations are most likely to advance human emancipation and how might such advances be achieved? (verbatim, Bellamy & Williams, 2010, p. 28)

Therefore, critical theorists seek to assess how normative, liberal assumptions about peace operations contribute to human security in states subject to external intervention (Bellamy, 2004, p. 34). Further, critical theorists situate peace operations in international relations, as they question how and why peace operations exist, rather than assuming their existence is normal and that they maintain a natural place in global politics and order (Newman, 2009, p. 38; Paris, 2000, p. 32). Critical theorists recognize that peacebuilding is inherently political, including the decision to intervene in some environments and not others, what goals will be pursued, and what type of mission is conducted. Furthermore, critical theorists recognize that peacebuilding involves the international community exerting control and coercion over the host country, as demonstrated by their imposition of governance models, rules and regulations for economic assistance, and monitoring of elections (Pugh, 1995, p. 327).

The decision was made to focus attention on the most dominant theory in peace operations, which has continued to grow in the post-Cold War era, and due to the impact of globalization (Bellamy & Williams, 2010, p. 23, pp. 38-39). Thus, the focus of discussion throughout this chapter is the liberal peace theory and its dominance at a time when the post-Westphalian conception of external intervention has also continued to dominate international relations (as discussed in the next section) (Bellamy & Williams, 2010, pp. 38-39). Critical theorists' work is extensively interwoven throughout this chapter to highlight concerns with the liberal peacebuilding project; for example, how the political and economic features of liberal peacebuilding may promote insecurity in

PCEs. Critical theorists' work is also included in this chapter given the research questions that were asked during the case study research, including participants' perceptions about the use and appropriateness of applying UN and Western-developed frameworks within Kosovo, and other PCEs.

Peace Operations in Global Politics

There are two primary, competing perspectives about the role that peace operations play in international politics: the Westphalian and post-Westphalian perspectives (Bellamy & Williams, 2010, p. 4). Seen from the Westphalian perspective, peace operations have a place in global politics in settling inter-state conflict through the provision of assistance, which is based on the consent of the involved parties, the minimum use of force, and impartiality. State sovereignty and non-interference in the affairs of other states are well-respected principles, so attention is not directed at the ideological organization of the states being assisted. Inter-state peace operations are more common within this perspective; typically, non-interference in intra-state conflict is the rule although exceptions are made upon the request of the state (Bellamy & Williams, 2010, p. 4, p. 36).[21] China, India, Russia, and Cuba are countries that advocate the Westphalian perspective (Bellamy & Williams, 2010, p. 5, p. 36).

In contrast, Western states (including the United States (US)), the UN Secretary-General, and humanitarian non-governmental organizations (NGOs) are key proponents of the post-Westphalian perspective on the role of peace operations within global politics (Bellamy & Williams, 2010, p. 5, p. 36). Viewed from this perspective, peace operations have a place in global politics in settling intra-state conflicts and less regularly, inter-state conflicts. Advocates of this perspective believe illiberal governance and conflict within

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[21] National sovereignty is enshrined in the UN Charter; Article 2(7) enshrines the principle of non-intervention in the domestic affairs of other nations, reflecting the importance of national sovereignty. Conversely, the UN Charter also has stipulations that allow for intervention in another nation to protect its citizens' fundamental human rights and freedoms (identified in Charter Articles 1(3) and 55) and/or address concerns about peace within the country's borders (Chetail, 2009, p. 10).

the borders of states threatens international peace and security (Bellamy & Williams, 2010, p. 4). Proponents of this viewpoint argue that states only maintain their sovereign rights "if they fulfill their responsibilities to their citizens, chief among them the protection of civilians from arbitrary killing" (Bellamy & Williams, 2010, p. 38). At the World Summit in 2005, the UN endorsed the idea of sovereignty as responsibility to protect (R2P), which means states possess the primary responsibility to protect their citizens, including protecting them from the four major international crimes (war crimes, genocide, ethnic cleansing and crimes against humanity). If a state is incapable or unwilling to take on this responsibility, the responsibility shifts to the international community (Warner & Giacca, 2009, p. 291, 295). The three components of R2P include preventing gross abuses of human rights, reacting to gross abuses of human rights when they occur, and rebuilding the state, which includes developing mechanisms "to address the causes of the harm that intervention sought to halt or avert" (Warner & Giacca, 2009, p. 291).

Peace operations undertaken within the post-Westphalian perspective include various activities to promote liberal democracy within the state to develop its capacities to fulfill its responsibilities to its citizens (Bellamy & Williams, 2010, p. 4). This is why, as was briefly discussed in Chapter 2, there has been a shift from the more traditional, enforcement-oriented peace operations of times past, to the more encompassing, complex mandates of peacebuilding activities undertaken in the post-Cold War era. Extensive engagement is characteristic of post-Westphalian peace operations because external intervention is designed to promote or impose democratization and economic liberalization in PCEs (Bellamy & Williams, 2010, p. 36). Promoting policies to create market democracies is an integral component of external intervention, as liberal democratic states are believed to engage in less inter- and intra-state conflict, resulting in increased global stability and respect for human rights (Lappin, 2010, p. 178-179; Owen, 1990, p. 90).[22] Democratic governance is also promoted because it is said to

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[22] Democratic peace theories describe why democracies are less inclined to engage in inter-state conflict. Structural theories describe how the structure of democracies prevents inter-state violence, as support for war has to come from various bodies (the legislature, judiciary, and electorate), which may be difficult to secure. Normative theories describe how

contribute to socioeconomic development, including for example, decreasing corruption and inefficient governance (Lappin, 2010, p. 179).

Liberal Peace Theory

The practice of peace operations is highly influenced by the liberal peace theory (Bellamy & Williams, 2010, p. 23; Paris, 1997, 2004). Liberal peacebuilding – or what Paris (1997) has referred to as "liberal internationalism" (p. 56) – is external intervention that is designed to establish peace and stability in PCEs by conducting political, economic, and social capacity development and reform activities to establish democratic societies and polities, and liberal free-market economies (Bellamy & Williams, 2010, p. 24; Le Billon, 2008, p. 345; Paris, 1997, p. 56; Richmond, 2004, p. 83). Therefore, peacebuilding activities are not value neutral as they contribute "to an ideology of world order that reflects and legitimizes neoliberal values, state-centrism and the economic structure of the international system" (Pugh, 2003, pp. 110-111).

Democratization: "Bullets to ballots"[23]

A culture of democracy is fundamentally a culture of peace.

(UN, 1996, para. 17)

Despite the importance of democracy in the peacebuilding process, when the UN was established in 1945, democracy was not mentioned in the Charter.[24] So, it was not until 1992, when, in An Agenda for Peace, the UN advanced their position that

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democracies are less likely to engage in inter-state conflict because of their democratic values and adherence to compromise that is characteristic of democratic states (Owen, 1994, p. 90).

[23] (Lappin, 2010, p. 181)

[24] See Cogen and De Brabandere (2007) for a brief overview of how democracy has entered the UN realm of documents and activities.

peacebuilding is linked to the establishment of democracy, as effective governance requires democratic governing institutions:

> There is an obvious connection between democratic practices – such as the rule of law and transparency in decision-making – and the achievement of true peace and security in any new and stable political order. These elements of good governance need to be promoted at all levels of international and national political communities. (UN Report of the Secretary General, 1992, para. 59)

As discussed in Chapter 2, the UN's role has shifted over the years. Rather than simply striving to preserve peace and security, the UN seeks to establish peace and security by insisting on democratic governance (De Brabandere, 2010, p. 125).[25] Democratization is hard to define although it typically refers to the process of societies becoming more open and participatory and less authoritarian (UN, 1996, p. 1). Through the process of democratization, citizens become "reasonably free to express … [their] political demands and to hold rulers to account" (Goldsmith, 2007, p. 31). Cogen and De Brabandere (2007) identify three key elements of democracy: free and fair elections, freedom of association, and freedom of expression (p. 671).

Elections

One of the most defining features of democratization in PCEs is holding democratic elections, as they represent a pivotal moment in the post-conflict transition to democracy (Bellamy & Williams, 2010, p. 259; Newman, 2009, p. 31). Transparent, inclusive, accountable and democratic political parties promote genuine democracy, state legitimacy, stability, and effective governance in PCEs (Bjornlund, Cowan & Gallery, 2007, p. 64; Galtung & Tisné, 2009, p. 93). Transferring power to a democratically elected political party fosters government legitimacy among citizens of the state, and the international community (Bjornlund et al., 2007, p. 65). Elections are however, insufficient in and of themselves to secure genuine democracy in PCEs

[25] The UN has engaged in democratic governance reforms in various territories emerging from conflict, including East Timor, Kosovo, and Afghanistan (Cogen & De Brabandere, 2007, p. 674).

(Santiso, 2002, p. 578). In times past, the international community has focused so much of their attention and effort on elections that other areas of democracy promotion have been neglected (Santiso, 2002, p. 577). For genuine democracy to take root in PCEs, other democratic principles must be promoted and supported. These include civil society development and participation (Call & Cook, 2003, p. 237); strengthening the judiciary, legislative framework, and rule of law (Santiso, 2002, p. 578); and, promoting "negotiation, mutual respect, conciliation, and conflict resolution" (Lappin, 2010, p. 182).

Elections have often been used as an exit-strategy for the international community despite the fact elections are part of a longer-term process of developing democratic institutions in PCEs (Cogen & De Brabandere, 2007, p. 678). Elections have not been always been found to decrease PCEs' risk of relapse into conflict; in fact, the risk of relapse increases following the year of elections, which means elections are not a good 'exit strategy' for the international community (Collier et al., 2008, p. 471). The international community may actually contribute to instability in PCEs by promoting elections too soon, or without regard for societal issues (Belloni, 2007, p. 101). For example, elections may exacerbate ethnic hostilities and instability in PCEs characterized by ethnic-conflict, as "leaders typically use political contests to rally constituents around "enemies" and choose aggressive policies to win votes" (Baglione, 2008, p. 124). Promoting democracy in PCEs characterized by ethnic hostilities and conflict may actually institutionalize ethnic divisions and conflict because establishing a representative government means that each ethnic group will be represented (Aitken, 2007, p. 255). So, holding early elections in insecure PCEs where ethnonationalist groups' still control power may result in ethnonationalist parties dominating the elections, further cementing social divisions (Paris, 2004, p. 235). This occurred in Bosnia-Herzegovina where ethnonationalist, armed parties received overwhelming support in the elections that were held within the year following the signing of the peace agreement. The consequence was that ethnic divisions were institutionalized and ethnonationalist parties were elected into government positions based on their previous involvement in negotiations during the peace agreement process (Aitken, 2007, p. 255).

Democratization: the Challenges

Liberal democratic principles cannot simply be transplanted to the recipient country with ease, and the expectation that they will be received well and implemented without issue. It has become obvious that although the international community knows what they want to achieve through peacebuilding (global liberal peace by constructing a network of market democracies), much less is known about *how* to achieve the desired result. There is considerable scepticism about whether international actors can promote democracy through external intervention in foreign lands, as democracy is often viewed as something that is home grown. The research literature suggests that peacebuilding efforts to transform PCEs into democratic societies are plagued with challenges. As will be discussed throughout this dissertation, PCEs have a variety of unique characteristics that make peacebuilding activities difficult to conduct, and success difficult to achieve. Lappin (2010) suggests there are five distinct categories of challenges that impede democratization during peacebuilding: "security, deep social divisions, limited democratic experience, lack of infrastructure, and external time pressures" (p. 179).

As discussed in Chapter 2, the PCE label is used with caution, as these environments continue to experience violence, increasing crime rates, and instability in the months and years following conflict. Thus, security is often the biggest obstacle to democratization in PCEs (Bjornlund et al., 2007, p. 66; Lappin, 2010, p. 179). Violence may mean that political party candidates cannot travel to meet their constituents, they may not run for office due to safety concerns for themselves and their families, and voters may not vote because they fear intimidation and threats at polling stations (Lappin, 2010, p. 180). Democratization practices may strengthen ethnic and social polarization because "political ideologies become anchored in exclusive identity-based interests rather than on universal, society-wide interests, hindering cooperation and trust across subcultures" (Lappin, 2010, p. 180). Political party development, campaigning, and elections may therefore increase polarization in fragile PCEs, which may rekindle ethnic, religious, and region-based conflict (Chetail, 2009, p. 7; Lappin, 2010, p. 180).

An absence of democratic traditions may create obstacles to democratization in PCEs, as countries with a history of democracy are more likely to sustain democracy in the long-term than those without a tradition of democracy (Call & Cook, 2003, pp. 240-

241; Lappin, 2010, p. 180). PCEs often have weak or nonexistent infrastructures, which may mean the PCE does not have the physical capacity (e.g., damaged bridges, which make transporting ballots and political candidates difficult) or internal capacity (e.g., an absence of qualified personnel) for democratization to take root (Lappin, 2010, p. 181). The final obstacle to fostering democratization in PCEs is donor timelines, which are often short-term, as the international community does not want to financially commit to lengthy peacebuilding missions. Furthermore, the international community wants to avoid accusations of imperialism, and they do not want the success of peacebuilding missions to be questioned on the basis that a legitimate and effective government was not quickly elected (Lappin, 2010, pp. 181-182).

Economic Liberalization

Economic transformations in PCEs are based on "market-democracy, that is, a liberal democratic polity and a market-based economy" (Paris, 1997, p. 56). As previously discussed, seeking to establish market democracies in PCEs reflects the belief that democracies are less likely to engage in inter- and intra-state conflict. Furthermore, market democracies are promoted based on the belief that capitalism ensures high levels of economic growth and wealth (Paris, 1997, pp. 73-74). Economic liberalization contributes to sustainable peace in PCEs because economic growth among the citizenry encourages political moderation (Bojicic-Dzelilovic, 2009, p. 202). Economic reform within the neoliberal model seeks to establish free markets in PCEs that are designed to promote growth and development, as led by the private sector (Barbara, 2008, p. 308). Economic liberalization also includes reforms aimed to reduce taxes, tariffs, small government involvement in the economy, and trade barriers; tighten government public spending; and, establish the right to make a profit, the freedom of capital, and the value of free trade and private property (Bellamy & Williams, 2010, p. 259; Peterson, 2010, p. 517).

Criticisms of Democratization and Economic Liberalization in PCEs

Paris' (2004) work challenges the normative ideological assumptions underpinning peace operations, as he argues that liberalization became:

[A]n uncontroversial solution for constructing war-torn societies. No great ideological debates were required to reach this consensus; it emerged almost automatically and without much questioning or comment, reflecting the newfound enthusiasm for liberal democracy and market oriented economics in the world's leading national organizations. (p. 33)

The liberal bias in peacebuilding has been subject to criticism given that evidence illustrates how the liberal peacebuilding project does not always promote peace (Barnett et al., 2007, p. 51). Critics of the liberal peacebuilding model have acknowledged that rapid democratization and economic liberalization in the early period following conflict may create instability in the PCE and hinder long-term growth and reform (Le Billon, 2008, p. 345; Newman et al., 2009, p. 12). Paris' (2004, p. 159, p. 235) case study analysis revealed that rapid democratization, economic liberalization, and the societal competition these processes encourage, could result in increased instability and violence in PCEs. Paris (1997, 2004) found that pursuing market-oriented economies and liberal democratic polities in Cambodia, Namibia, Mozambique, Angola, Rwanda, Bosnia, Nicaragua, and El Salvador did not contribute to stability and peace, and at times, resulted in further violence. For example, elections in Bosnia led to further polarization between factions, impeding efforts to promote reconciliation, and, in both Rwanda and Angola, democratization led to further violence and hostilities (Paris, 1997, p. 56). External intervention in Cambodia was fundamental in ending the civil war in the country; political liberalization processes however, created political hostility that destabilized peace in the country (Paris, 1997, pp. 65-66). Economic liberalization activities undertaken in El Salvador contributed to increased criminal behaviour and violence, poverty, greater social inequalities, and recession. In Nicaragua, economic liberalization that was designed to promote long-term economic success resulted in diminished short-term living conditions for vulnerable populations (Paris, 1997, pp. 67-69).

Given the high levels of corruption that are characteristic of PCEs (and the corruption that international aid may encourage), it is possible political parties may become obstacles to the development of liberal democratic polities (Bjornlund et al., 2007, p. 66). Democratization processes may in fact lead to increases in political corruption due to weak accountability structures; for example, there may be increases in vote buying, clientelism, and inappropriate party financing (Le Billon, 2008, pp. 350-351).

Corruption has multiple negative consequences, including increasing the risk of post-conflict relapse, further entrenching power imbalances, and, when criminal justice personnel are corrupt, increasing violence and criminal behaviour. These realities may undermine security, legitimacy, and economic growth in PCEs (Le Billon, 2008, pp. 353-354). Thus, there are valid concerns that post-conflict peacebuilding may lead to instability and hostility in fragile environments, rather than promoting peace (Paris, 1997, p. 56).

The existence of a democratically elected government should not be interpreted as meaning the nation has established the rule of law and respect for human rights (Goldstein, 2005, p. 390). Democratic elections can occur in societies where citizens are subject to basic human rights violations, where there may be discriminatory policies against minorities (both ethnic and religious), and where the government may operate without constitutional restraints on their decision-making authority (Bjornlund et al., 2007, p. 67). For example, Bolivia has been a democracy since 1982 and yet the country has continued to experience significant challenges implementing democratic legal and political reform. The economic and political changes that Bolivia has made to satisfy foreign demands for economic liberalization (including structural adjustment programs and the promotion of capitalism) have resulted in the violation of Bolivians' political, civil, social, and economic rights. In transitioning from authoritarian leadership to democratic leadership, economic insecurity (poverty and a lack of employment opportunities) and physical insecurity (crime and violence) has risen in Bolivia (Goldstein, 2005, pp. 390-391, p. 397). These insecurities are a consequence of the neoliberal reforms implemented by the Bolivian government (Goldstein, 2005, p. 404). Because the reforms emphasize responsibilization – "the transfer of state functions to citizens and informal or non-governmental associations" (Goldstein, 2005, p. 395) – flexibility, and privatization, citizens have had to take justice and economic opportunities into their own hands (Goldstein, 2005, p. 398). Another illustrative example is Afghanistan, where elections have created the appearance of democratic governance in the country, and yet genuine democracy has not been established (Nathan, 2007, p. 57). There is concern that due to the state's inability to provide public services to its citizens, elections have served to merely create a kleptocracy rather than a democracy (Rubin, 2006, pp. 25-26).

Some of the neoliberal principles characteristic of economic liberalization within PCEs may contribute to instability because for example, capitalism promotes competition (Belloni, 2007, p. 98; Paris, 1997, p. 74). Societal competition in an environment raw from recent conflict may lead to instability given that the environment is characterized by pre-existing social divisions and hostilities, insecurity, a lack of trust, an absence of effective mechanisms to peacefully address and resolve conflict and competition, and weak institutional government capacities to minimize the challenges that are characteristic of the liberal peacebuilding project (Barnett et al., 2007, p. 51; Paris, 2004, p. 168). The neo-liberal economic model has not always been found to foster economic development in PCEs, as private sector growth is not easily promoted and achieved in these volatile environments (Barbara, 2008, p. 308). Privatization may create problems in PCEs if the governing institutions do not have the capacity to legitimately regulate finances and ownership transfers (Bellamy & Williams, 2010, p. 260). Privatization may also contribute to social polarization, as powerful local elites (who oftentimes have gained their wealth through illicit activities) can increase their wealth and power by acquiring previously public assets and land (Le Billon, 2008, p. 351). Economic liberalization contributed to social polarization in Bosnia-Herzegovina because the neo-liberal economic policies that were pursued led to social inequality and poverty (Bojicic-Dzelilovic, 2009, p. 214). Polarization may also be further entrenched as a consequence of free market policies, as the cleavage deepens between those with the "professional skills or political clout to benefit from the market opportunities" (Guttal, 2005, p. 78) and those without. Economic inequality is concerning as it contributes to hostility and may lead to confrontation (Belloni, 2007, p. 101; Paris, 1997, p. 76). While Western, developed market democracies have the ability to offset this inequality by redistributing the wealth to poorer individuals; economic liberalization in developing, fragile democracies often deepens the cleavage because these provisions do not exist (Paris, 1997, p. 76).

Market liberalization principles may also contradict other post-conflict peacebuilding tasks; for example, they may not address the need to generate new employment opportunities for ex-combatants (Pearce, 2005, p. 44), which may result in the emigration of individuals who cannot find employment (Belloni, 2007, p. 105). Neo-liberal economic reforms may thus be unsuitable for PCEs, which often require

increased government expenditure to create new employment opportunities and address poverty (Bojicic-Dzelilovic, 2009, p. 202; Newman, 2009, p. 41). Liberal economic reform activities may also fail to address the agricultural needs of the populace (as they focus on the export of agriculture), and they may not be designed to ensure land distribution contributes to ethnic, gender, and social equality (Pearce, 2005, p. 44). Further, as Williams (2004) found during his analysis of Rwanda and Sierra Leone, the implementation of liberal economic policies in these countries meant these governments could not meet the needs of their citizens or the local warlords. The consequences for the citizenry included increased poverty, racism, inequality, unemployment, and exclusion, creating instability and the likelihood of further violence (Williams, 2004, p. 120). Implementing neo-liberal economic policies in PCEs may also negatively impact and distort a country's economic growth; for example, people in Afghanistan have been purchasing flour from neighbouring countries rather than farmers in their own country, as it is cheaper in Pakistan and elsewhere (Barakat & Zyck, 2009, p. 1083).

The international community's presence means a large amount of resources are put into fragile countries that are dealing with post-conflict realities (Bellamy and Williams, 2010, p. 278). This is risky, as it "is likely to have a distorting effect on the economies and become principal goals to be fought over by warring factions" (Pugh, 1995, p. 338). The massive injection of resources into PCEs creates perfect conditions for both economic and political corruption (e.g., discriminatory practices), which were problems following aid allocation to Sicily after World War II, and Kuwait after the Gulf War (Pugh, 1995, p. 339). The international community's presence may also increase inflation. In Kosovo, the demand for accommodation for internationals in Priština/Prishtinë[26] increased rents – three to five times the pre-intervention value – and resulted in local residents being displaced from the city. Further, the intervention resulted in "brain drain," as local residents took jobs with the UN (as cleaners, translators, and drivers) because the salaries were higher than for non-UN jobs (including the salaries

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[26] Both the Serbian and Albanian names of cities and organizations are provided throughout the dissertation.

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paid to local professors and doctors) (Rubinstein, 2008, pp.134-135). When economic growth occurs in PCEs, there is concern about how the international presence has contributed to the growth and whether economic growth will persist after the international community's activities decrease and they leave altogether (Law, 2006, p. 119; Pouligny, 2006, p. 247).

Criticisms of the Liberal Peacebuilding Model

> *Good intentions are not always sufficient to produce desirable results.*
>
> *(Bell & Carens, 2004, p. 302).*

There are four primary criticisms directed at the liberal peacebuilding project of promoting democratization and economic liberalization within PCEs. First, research evidence challenges the link between establishing market democracies and securing peace and socioeconomic development. The research suggests that in the process of transitioning to become democracies, states may be at an increased risk of conflict, particularly in low-income countries, and countries characterized by social, ethnic, cultural, or religious division (Newman, 2009, p. 39). Quasi-democracies are more at risk than modernized democracies of becoming involved in inter-state conflict (Goldsmith, 2007, p. 41). Flores and Nooruddin (2008, p. 22) utilized duration analysis techniques to test how democratization impacts economic recovery within PCEs and found that post-conflict political regime change from autocracy to democracy slows economic recovery. The researchers found that democratization and marketization slows economic recovery in PCEs by undermining investors' confidence in PCEs due to the difficulties of rapid democratization (Flores & Nooruddin, 2008, pp. 5-6). Although authoritarian leadership may be able to secure short-term stability in PCEs, long-term stability and sustainable development is secured by establishing legitimate, democratic governing institutions (Flores & Nooruddin, 2009, p. 24). Though evidence suggests democratic nations with high per capita income experience less conflict than non-democratic nations with low per capita income, these state characteristics do not ensure peace and an absence of conflict. Over the years, non-democratic and poor countries have also experienced success in securing peace (Barnett et al., 2007, p. 45).

The second criticism of the liberal peacebuilding project is that illiberal means are sometimes used to secure liberal peace, especially considering the international community can act as a foreign autocracy during peacebuilding missions. Sometimes a gap exists between the principles the peace operation seeks to achieve – such as accountability, transparency, the rule of law, democracy, and good governance – and the "democratic control mechanisms" in place (Heinemann-Grüder & Grebenschikov, 2006, p. 55). The UN and other external interveners are not "subject to principles of popular sovereignty, constitutionalism, electability and accountability in the territories where they act" (Brzoska, 2006, p. 7). For example, throughout the mission in Kosovo and other missions as well, there was concern that UN personnel were violating human rights standards. This is problematic given that behaviours such as these are contradictory to the objectives of the overarching mission (Heinemann-Grüder & Grebenschikov, 2006, p. 55). So although democracy and political autonomy are objectives of peacebuilding activities conducted in PCEs, these principles are not always promoted throughout the peacebuilding process (Chandler, 2006, p. 478). Thus, there appears to be a belief that international actors can model poor behaviour, and foster respect for the rule of law and democracy without political participation, consent, and, having local elected officials who can take on political responsibility (Chandler, 2006, p. 482). Common sense indicates that for democracy to potentially take root in PCEs, the process used to instil these values should be democratic and accountable to the host country's citizens.

Impinging on the sovereignty of PCEs brings up arguments likening peacebuilding to colonialism, and creates issues in terms of establishing legitimacy and local ownership of peace when the international community withdrawals their direct or indirect governance (Richmond, 2004, p. 97). Those critical of the liberal peacebuilding model have referred to it as liberal imperialism, which differs from traditional forms of imperialism that were more focused on resource acquisition rather than supporting or imposing liberal democracies abroad (Boot, 2003, p. 361). The UN may be particularly susceptible to accusations of colonialism – such as being referred to as a "benevolent coloniser" (Korhonen, 2001, p. 525) – when they act as transitional administrations. In this capacity, the UN can pass laws without consulting the local residents, and exercise final authority over local governance structures (examples are provided in Chapter 8 with

respect to the UN transitional administration in Kosovo). These criticisms conjure up various questions including, how do you foster the legitimacy of reform efforts among the populace if the international community is violating the democratic principles they are striving to achieve? Can democracy be forced through external intervention and the imposition of liberal values if external intervention to promote liberal peace is viewed as illegitimate by the local people (Schwarz, 2005, pp. 436-437)? Further, if local actors from the host country must create the conditions for democracy to take root ("democracy means rule by the people" (Sørensen, 2007, p. 371)), does the international community actually have a role in the liberal peacebuilding process? Those who support post-conflict peacebuilding argue that peacebuilding is far from imperialistic, as it involves resources flowing from Western nations to the host state (therefore, peacebuilding is dissimilar to colonialism as it is not about resource extraction from the host country). Peacebuilding typically involves the UN and many international and national organizations participating in a plethora of activities, which is different from colonialism, which was usually one state conducting activities for their own benefit. Although European states eventually realized their authority in their colonies was not permanent, peacebuilding activities are initiated on the premise that international actors are not in the host country on a permanent basis. Peacebuilding is also different from colonialism in that it is not rooted in "ideologies of racial superiority" (Paris, 2009, p. 102).

The third criticism of the liberal peacebuilding project reflects concerns with how peacebuilding has become mainstream, becoming increasingly professionalized and institutionalized, with various multilateral and bilateral organizations defining peacebuilding activities to suit their own organizational agendas (Pearce, 2005, pp. 41-42). As Barnett et al. (2007, p. 53) suggest, post-conflict peacebuilding activities often simply reflect the mandates, resources, and preferred activities of the organizations that engage in these activities, rather than what is known about best practices in the field. Peacebuilding activities have essentially created opportunities for individuals and organizations to maintain their relevance and importance in the post-Cold War period, as they have carved out a niche for themselves by identifying problematic environments, and areas where their expertise is 'required' (Guttal, 2005, p. 77; Jefferson, 2005; p. 498). Those critical of liberal peacebuilding suggest that Western countries, organizations, and individuals will continue to define themselves as 'heavenly' and PCEs

as collapsed, failed, and rogue (among other possible terms) because these labels suggest that PCEs are deviant and in need of rehabilitation to establish appropriate UN and Western-developed international standards and principles (Jefferson, 2005, p. 488). Therefore, it is highly likely the international community will continue to engage in liberal peacebuilding with fervour despite their poor record of success, simply because intervention and reconstruction in PCEs are a "massive cash cow for a growing international reconstruction industry" (Guttal, 2005, p. 76). With money, comes power, and there is grave concern that the international community will continue to dominate and make important decisions during peacebuilding, as their continual cash flow and authority guarantee "continued control by external powers over the affected country's resources and political direction" (Guttal, 2005, p. 74).

Because Western states are heavily involved in developing human rights standards by which nations are assessed, the UN has been accused of promoting Western values (Chesterman, 2009, p. 1513). The fourth and final criticism thus targets the ethnocentric nature of the liberal peacebuilding project where Western values and norms of governance are promoted with the West's experience being used as "a normative yardstick and an empirical expectation" (Call & Cook, 2003; p. 236). Paris (1997) suggests post-conflict peacebuilding is an "enormous experiment in social engineering – an experiment that involves transplanting Western models of social, political, and economic organization into war-shattered states in order to control civil conflict" (p. 56). Those critical of liberal democratic peacebuilding activities suggest:

> We are exhorted to believe that countries in Africa, Central America, and Asia have corrupt, unaccountable governments, lack the 'rule of law', do not provide for their citizens, and are susceptible to terrorist activities within their boundaries simply because they have not yet put in place the requisites of liberal democracies and market structures of the West. (Guttal, 2005, p. 75)

One must question the applicability and transferability of the West's democratic and economic principles, and human rights standards to states that do not have current or historical traditions of democracy; do human rights have the same meaning in different cultural contexts? For example, are standards that are applicable in Western prison systems applicable in countries with different cultural norms and local conditions?

To illustrate, consider Article 10 of the International Covenant on Civil and Political Rights (ICCPR; 1966), which says prisoners should not be subject to inhuman treatment. Twining (2005, pp. 9-10) discusses the issue of inhuman treatment in terms of prisoners being given clean water, which is possible in Western nations due to existing resources. However, is this standard applicable in PCEs, where civilians may not have access to clean water? Is it fair for prisoners to receive better living conditions than the general population, merely so the system is functioning in accordance with international human rights standards? Another challenge in conducting reform activities is that some of the "buzzwords" (Afghan official as cited in Stewart & Knaus, 2011, p. 11) the international community uses while conducting peacebuilding activities have no meaning and relevance in the host country's culture. As an Afghan official speaking to Stewart (Stewart & Knaus, 2011, p. 11) explained, the Afghan language and culture does not have concepts to translate "buzzwords" such as corruption, tribalism, gender-sensitive, rule of law, democracy, and market economy.

Another example of how Western human rights standards for criminal justice reform may not be applicable across all cultures and traditions relates to the cultural ethos of the organization they are being applied within. In examining training-the-trainer programs in Nigerian prisons, Jefferson (2005, p. 491) found that corrections officers did not understand the purpose of implementing human rights in their prison service because they saw them as being counterproductive to the rehabilitation and correction of prisoners. Jefferson's (2005, p. 490, p. 492) findings revealed that reform and rehabilitation are important to prison officers in Nigeria; however, in this corporal-based training environment, officers viewed physical violence as vital to correcting prisoners' behaviour rather than respecting human rights.

Another example is exposed in Piacentini's (2006) study investigating the importation of human rights standards into prison systems in Russia. Following the collapse of the Soviet Union, the international community learned about the dire conditions in Russian prisons, which included overcrowding with high rates of disease transmission, human rights violations, and torture (Piacentini, 2006, p. 104). In the early twenty-first century, Russia sought to reform its prison systems by adopting a human rights agenda of prison reform, which involved technical assistance activities, the development of new legislation and policies, the reform of prison officer roles, and

human rights for prisoners (Piacentini, 2006, p. 109). In 2003, Piacentini (2006, p. 111) engaged in fieldwork and interviewed prison officers to understand how they understood the human rights agenda in Russian prisons. The interviews revealed that prison officers viewed human rights as an imposition of Western standards, and they "were emotionally and intellectually cynical about the human rights rhetoric – many simply did not understand what it meant" (Piacentini, 2006, p. 113). Based on her findings, Piacentini (2006, p. 113, p. 117) questions whether penal reform can actually occur when those responsible for delivering human rights training to new cadets do not understand, or buy-in to, the importance of human rights standards, and simply view the human rights agenda as a Western enforcement mechanism.

Although Western nations support the development of liberal democratic governance as part of post-conflict peacebuilding in PCEs – with a focus on "human rights, humanitarianism, an agreement on what constitutes development, and a globally integrated economy" (Richmond, 2004, p. 95) – recipient countries who are the target of peacebuilding activities may not equally support the importation of Western values. The international community engages in liberal peacebuilding activities to establish market democracies without giving due attention to whether the host country is amenable to the proposed model, or whether the host country has their own customary modes of governance and economic models that are more appropriate (Bellamy & Williams, 2010, p. 277). Local actors have little voice in describing what peace should look like within their country (Richmond, 2004, p. 91). There is concern about the lack of local ownership of liberal peacebuilding activities, and the promotion of top-down policies rather than bottoms-up, grassroots initiatives, which may lead to poor sustainability of reform efforts (Newman et al., 2009, p. 4). Local actors are typically excluded from decision-making, which reflects over-centralisation and externalization of decision-making during post-conflict peacebuilding (Pugh, 1995, p. 338; Bendaña, 2005, pp. 14-15). A situation in East Timor provides an example of where there was an absence of understanding and agreement about liberal democratic principles between the international community and a local leader. At the end of 2000, East Timorese leader Xanana Gusmão gave a speech in Dili, where he told the audience he was concerned about the "critical acculturation to standards that hundreds of international experts try to convey to the East Timorese," suggesting that it was absurd that the East Timorese:

> [A]bsorb standards just to pretend we look like a democratic society and please our masters of independence. What concerns me is that non-critical absorption of (universal) standards [and] that the East Timorese may become detached from their reality and, above all, try to copy something which is not yet clearly understood by them. (as cited in Charlesworth & Wood, 2002, p. 335)

Addressing the Criticisms: "First Do No Harm"[27]

To address the criticisms associated with democratization and economic liberalization within PCEs, many researchers and practitioners advocate for a well-managed, gradual transition to democracy rather than a rapid democratization process (Call & Cook, 2003, p. 234; Flores & Nooruddin, 2008, p. 24; Paris, 2004, p. 179). Cook and Call (2003) suggest, "patience must be built into the fabric of postconflict governance processes" (p. 242) with timelines extended to five or six years rather than two years post-conflict. Elections may need to be delayed while democracy assistance efforts focus on the development of other components of successful democracies, including building civil organizations and a vigilant media (Flores & Nooruddin, 2008, p. 24). Prolonging the democratization process may allow democracy to be developed in a manner that reflects local values, is organic, and is locally owned (Barakat & Zyck, 2009, pp. 1080-1081).

Paris (2004) explains how to reduce the likelihood that liberal peacebuilding will lead to instability and conflict in PCEs. He suggests implementing a slower-paced peacebuilding approach that focuses on establishing security, stability and effective political and economic institutions before promoting economic liberalization and democratization (Paris, 2004, p. 179). Developing effective political and economic structures may minimize some of the conflict-promoting characteristics of economic liberalization and democratization, which reflects what classical liberal theorists knew was important in establishing domestic peace: effective state institutions (Paris, 2004, p.

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[27] Dictum derived from the Hippocratic Oath.

235). Paris (2004, pp. 187-207) proposed the Institutionalization Before Liberalization (IBL) peacebuilding strategy. The six elements of IBL are:

1. Wait until conditions are ripe for elections;

2. Design electoral systems that reward moderation;

3. Promote good civil society;

4. Control hate speech;

5. Adopt conflict-reducing economic policies; and,

6. The Common Denominator: rebuild effective state institutions (verbatim, Paris, 2004, p. 188).

Although strong in theory, Paris (2004, pp. 208-209) suggests IBL may result in greater accusations of neo-colonialism and promoting a "culture of dependency," as the IBL approach requires deeper levels of engagement than those that currently exist. Thus, delaying economic liberalization and democratization may be seen as being even more paternalistic and neo-colonialist than previous peace operations. However, rapid democratization and economic liberalization, and the early transfer of powers back to the recipient country, may result in instability and conflict, as illustrated with examples provided throughout this chapter. Therefore, there may be a need to consider delaying economic liberalization and democratization until effective state institutions are established. There is also concern that IBL peacebuilding missions will be more costly than previous peacebuilding missions that were characterized by "quick and dirty" (Paris, 2004, p. 210) democratization and economic liberalization. However, as Paris (2004, pp. 210-11) explains, human lives and money can be saved through the IBL strategy, as the negative impacts of rapid democratization and economic liberalization are minimized, and, avoiding relapse to conflict prevents the necessity of future external interventions. Essentially, Paris (1997, p. 58) argues that the goals of liberal internationalism are not inherently flawed; what is flawed is the process and speed with which the international community seeks to achieve their goals. Peacebuilding activities are designed to transition PCEs into democratic, free-market systems; the same liberal democratic systems that took centuries to develop in most Western states (Barakat & Zyck, 2009, p.

1083). Establishing market democracies in PCEs is a huge undertaking when you consider the duration of time it took Western states to develop these systems and principles, and as well, when you consider the inherent characteristics and conflict drivers in PCEs. Therefore, there may be room to consider prolonging the duration of time the international community engages in peacebuilding activities in PCEs.

Conclusion

Throughout the post-Cold War period, the international community has become involved in a large number of external interventions to promote global democratization and economic liberalization, although they have yet to establish effective ways of doing so (Sørensen, 2007, p. 371). Post-conflict peacebuilding is highly complex and challenging given the realities in PCEs, and because it involves external actors engaging in state formation tasks that transform the economic, political, and social landscapes of PCEs (Krause & Jütersonke, 2005, p. 449). There is an assumption that international actors can successfully democratize and reform state structures and yet, since the end of WWII, most peace operations have failed to promote democracy in recipient countries (Schmidt, 2008, p. 107). These results demand further analysis. Why is failure more common than success following external intervention? Is it the characteristics of the interventions themselves (e.g., an absence of sufficient resources devoted to external interventions) (Call & Cook, 2003, p. 234)? Is the liberal peacebuilding model itself flawed because there are limits as to what external interveners can do to promote democracy abroad? Is it because the liberal democratic model simply does not work in PCEs given their unique characteristics (Call & Cook, 2003, p. 234; Schmidt, 2008, p. 108)? (A lack of success in peacebuilding is typically attributed to the recipient country and local actors (Belloni, 2007, p. 107)). Or, does the international community simply have too high of expectations for change? Should the international community lower their expectations because they know democracies take years to develop (Call & Cook, 2003, p. 234)? If the Western liberal democratic model is inappropriate to apply in PCEs, what model should be used in its place (if any)? Cook and Call (2003) argue "abandonment of the Western democratic reconstruction model means substituting it with a different yardstick rooted in difficult choices" (p. 241). Certain dimensions of the Western model would have to be sacrificed, which could lead to further discrimination

and human rights violations (worse than those present pre-conflict), which is problematic (Call & Cook, 2003, p. 241). These questions will be revisited in later chapters, and in particular, in Chapters 10, 11, and 12, when the results and implications of the data analysis are presented.

Although this chapter has highlighted the criticisms of the liberal peace theory and the liberal peacebuilding model as a whole, the successes of these missions cannot be overlooked. Even if successful transitions to democracy have not occurred in most of the states where external intervention has been provided, at least the interventions themselves were able to end conflicts and mass brutality (Paris, 1997, p. 57; Schmidt, 2008, p. 120). For example, the international intervention in Kosovo put an end to the massive human rights violations that were being perpetuated against Kosovar Albanians (as discussed in Chapter 7), and furthermore, it has been suggested that the intervention prevented Kosovo from becoming "another Afghanistan, a refuge for terrorists and this one located near the heart of Europe" (Boot, 2003, p. 366). Although some are critical of imposing the Western liberal democratic model in PCEs, others argue the model takes states beyond what could have been achieved without the imposition of the model. For example, Cook and Call (2003, p. 242) argue the human rights movement in Cambodia would never have achieved progress in developing a freer press and opposition political parties had it not have been for UN's involvement and promotion of economic liberalization and democratization in the country. As Paris (2009, p. 99) reflects, failing to intervene and engage in peacebuilding activities may result in the conflict continuing for years, which means years of human rights abuses (such as ethnic cleansing), famine, and human and conflict displacement. Power (2002) further argues, "for all the talk of the futility of foreign involvement, in the rare instances that the United States and its allies took even small steps, they appear to have saved lives" (p. 90).

Discussion throughout this chapter was structured around the liberal peace theory, and its associated practices, which is the most dominant theory in the peace operations literature. This discussion was highly informed by the work of critical theorists given the focus of the case study research. The goal in introducing and discussing the liberal peace theory, and the criticisms directed at the inherent practices of liberal peacebuilding, is to set the context for the remaining chapters. In the remaining chapters, this theory and these criticisms will inform the discussion about criminal justice

reform activities conducted in PCEs, international intervention in Kosovo, what the international community sought to achieve with their efforts in Kosovo, and the challenges they faced in seeking to establish a market democracy in Kosovo. Further, discussion in Chapter 10 focuses on the challenges and dynamics of conducting corrections reform activities in Kosovo as part of the liberal peacebuilding project. Chapter 11 presents a critical discussion about the participants' perceptions about the use and applicability of Western-developed frameworks in Kosovo, and other PCEs, given their experiences in Kosovo.

The scope of the dissertation will be narrowed down in Chapter 4 to focus on criminal justice reform, and more specifically, corrections reform in PCEs. Cross-sectional impactful lessons that have emerged during criminal justice reform activities in PCEs are presented in Chapter 5, whereas illustrative examples of complex challenges that have to be addressed while conducting corrections reform activities in PCEs are presented in Chapter 6.

CHAPTER FOUR: CRIMINAL JUSTICE AND CORRECTIONS REFORM IN POST-CONFLICT ENVIRONMENTS

Chapter Overview

Peacebuilding involves a broad range of activities that are undertaken to promote sustainable peace, development, and security within post conflict environments (PCEs). Given the breadth of activities that peacebuilding entails – security, political, economic, human rights, and rule of law activities (Campbell & Kaspersen, 2008, p. 471) – it is important to narrow the scope of the current discussion. Criminal justice reform activities that take place in PCEs are explored in this chapter. The discussion focuses on why it is important to conduct reform activities in each of the three sectors of the criminal justice system (police and other law enforcement bodies,[28] the courts, and corrections systems), what the reform activities in each sector typically involve, the challenges that arise in conducting reform in each justice sector, and sector-specific lessons learned to date. Because corrections reform in PCEs is the case study explored during the dissertation research, more attention is given to this sector than the other two.

Criminal justice reform occurs within the larger framework of security sector reform (SSR), which is a fundamental component of peacebuilding given the link between security, peace, and development. Therefore, the chapter begins with an exploration of SSR, including the categories of activities that are undertaken, the actors that are involved, and the overall objectives of SSR, including establishing good governance and the rule of law.

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[28] Throughout Chapters 4 and 5, 'police' refers to all law enforcement agencies that exercise police powers (e.g., arrest).

Security Sector Reform (SSR)

Throughout the 1990s, the UN and many major aid donors came to focus on SSR as they recognized that an absence of security created obstacles for achieving peace, and political, economic, physical infrastructure, and social development (Bernabéu, 2005, p. 88; Hrychuk, 2009, p. 828; Krause & Jütersonke, 2005, pp. 455-456; Ryan, 2009, p. 312). SSR is essential for achieving success during post-conflict peacebuilding, as it contributes to sustainable peace, promotes human security and good governance, addresses corruption and repression among security sector actors, facilitates sustainability of economic liberalization and democratization processes, and encourages cooperation between traditional and non-traditional actors to bridge development and security agendas (Bernabéu, 2005, p. 88; Donais, 2004, p. 946; Hänggi, 2009, pp. 337-339). SSR also helps restore citizen confidence, trust, and legitimacy in the State, which may prevent relapses to conflict (Department of Peacekeeping Operations (DPKO), 2013d, para. 4). Failure to conduct effective SSR can thus undermine political, social, and economic reform activities and undermine the strength of the emerging PCE government (Jones et al., 2005, p. 9). Further, it is believed that a failure to effectively conduct SSR can undermine U.S. and international safety and security (Brinkerhoff, 2007, p. 1; Jones et al., 2005, p. 9).

Although SSR emerged as a concept in the 1990s, and despite its continued existence in the peacebuilding lexicon and repertoire of activities, a globally accepted definition of the concept has yet to emerge (UN SSR, 2009, para. 1). The Organization for Economic Co-operation and Development's Development Assistance Committee (OECD-DAC; 2007, p. 5) argues that what they refer to as "security system reform," is synonymous with activities that other organizations label as "SSR," "rule of law," and "justice and security reform," among other terms. This illustrates that similar to peacebuilding, there are multiple labels and definitions associated with SSR. The term SSR was chosen in this dissertation, as it is the most frequently used term in the field of peacebuilding efforts (Hänggi, 2009, p. 338). The DPKO uses SSR to refer to a variety of activities, including disarmament, demobilization, and reintegration (DDR), as well as transitional justice. When DPKO refers specifically to SSR activities targeting the police, judicial, and corrections systems, they use the term 'rule of law' (which is referenced throughout this dissertation) (Hänggi, 2009, p. 339).

The ultimate objective of SSR activities is to develop "effective and accountable security for the State and its peoples, without discrimination and with full respect of human rights and the rule of law" (UN SSR, 2009, para. 2). Therefore, SSR involves reforming and rebuilding justice and security institutions in PCEs so these institutions can meet their nation's security needs, and operate in line with democratic norms and principles of good governance (OECD-DAC 2005, p. 3). The democratizing nature of SSR reflects how peacebuilding activities are designed to promote democratic transitions in PCEs, as discussed throughout Chapters 2 and 3.

Figure 4.1 illustrates the sector-wide approach the SSR Unit within the Office of Rule of Law and Security Institutions (OROLSI, which is part of the DPKO), follows when conducting SSR initiatives.[29] As Figure 4.1 illustrates, multiple and diverse activities occur under the SSR label, although these can be grouped into five major categories of activities:

- "Overarching activities" (e.g., SSR needs assessments and strategic policy design);
- "Activities related to security- and justice-providing institutions" (e.g., reform activities targeting the police, judicial, and prison systems);
- "Activities related to civilian management and democratic oversight of security and justice institutions" (e.g., development of civilian oversight bodies and independent oversight bodies);
- "Activities related to SSR in PCEs" (e.g., DDR); and,
- "Activities related to cross-cutting concerns" (e.g., gender issues) (Schnabel & Born, 2011, p. 11).

As illustrated in Figure 4.1, SSR involves a broad range of security and justice institutions. OECD-DAC (2007, p. 22) guidelines categorize these components into four clusters of security and justice actors:[30]

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[29] The UN's approach to SSR is guided by ten basic principles which can be found at: http://www.un.org/ga/search/view_doc.asp?symbol=A/62/659 last retrieved 02 April 2013.

[30] The OECD-DAC Handbook of SSR is a commonly referenced document when discussing SSR activities and actors (Schnabel & Born, 2011, p. 10).

- Core security actors (including the police, coast guards, and border guards);

- Management and oversight bodies (including internal affairs, financial management bodies, and national security advisory bodies);

- Justice and the rule of law institutions (including prisons, justice and judiciary ministries, and human rights commissions); and,

- Non-statutory security forces (including private bodyguard units, liberation armies, and political party militias).
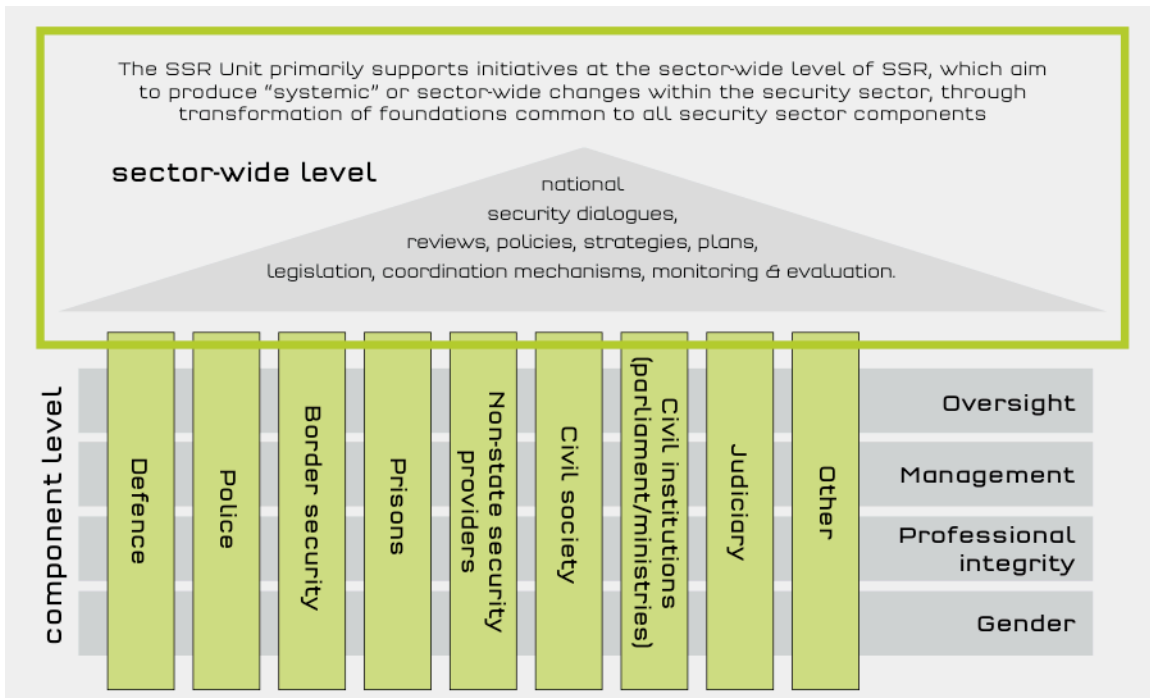
Figure 4.1. *Security Sector Reform Unit Sector-Wide SSR Approach*

Note. SSR Unit (2012, p. 17); used with permission.

A variety of factors make it difficult to ensure justice and security sectors are governed by democratic and effective governance structures in PCEs. PCEs rarely have a history of democratic traditions, state capacities in the executive, parliament and civil society may be weak or non-existent, and although formal and informal political and security actors may exist, they may be resistant to reform efforts (Nathan, 2007, p. 10). Other challenges include corruption; ongoing violence, conflict, and instability; the availability of weaponry; an absence of a culture of accountability and transparency among security sector institutions, which impacts legitimacy; and, challenges that arise due to poor donor coordination (Schnabel & Born, 2011, pp. 20-31). The PCE realities

discussed in Chapter 2 may also create obstacles for SSR activities, including inter-ethnic hostilities, increasing organized crime rates, poor socio-economic conditions, and insecurity (Hänggi, 2009, p. 343). These characteristics may make it difficult – but not impossible – to achieve democratic governance arrangements for justice and security sectors in PCEs. Given the unique challenges that arise while conducting SSR in PCEs, it is important to recognize that "SSR is a complex and context-sensitive process, for which no golden rule exists" (Schnabel & Born, 2011, p. 62).

Good Governance

Successful SSR is said to have occurred when the security sector is operating in accordance with "the key principles of the 'good governance' concept, including…rule of law" (Schnabel & Born, 2011, p. 14). Good governance reflects the existence of ethical, transparent, and accountable governance processes and institutions (Barnett et al., 2007, p. 57). The UN views good governance as being synonymous with democratic governance, indicating that:

> Good governance promotes equity, participation, pluralism, transparency, accountability and the rule of law, in a manner that is effective, efficient and enduring. In translating these principles into practice, we see the holding of free, fair and frequent elections, representative legislatures that make laws and provides oversight, and an independent judiciary to interpret those laws. (UN Global Issues, 2013, para. 2)

Good governance contributes to economic, political, and social development, and peace (Ball, 2007, p. 88; Brinkerhoff, 2005, p. 3). Building good governance in PCEs is challenging and complex and as Brinkerhoof (2005, p. 5) explains, structured around three primary areas: (1) reconstituting legitimacy, (2) re-establishing security, and (3) rebuilding effectiveness. Citizen perception of legitimacy is an important contributor to peace; an absence of legitimacy in the state can contribute to state failure (Brinkerhoff, 2005, p. 5). Legitimacy is cultivated in many ways; for example, by increasing opportunities for citizen participation, creating accountability and oversight structures, and establishing the rule of rule (Brinkerhoff, 2005, p. 5). Re-establishing security involves activities undertaken during SSR, and these activities are closely connected with reconstituting legitimacy (Brinkerhoff, 2005, p. 6). Citizen trust and legitimacy in justice institutions impacts their support for overall democratic transition (Wilson, 2006,

p. 175). Rebuilding effectiveness involves designing and implementing sound economic policies and providing effective basic services to the citizenry, including healthcare and education (Brinkerhoff, 2005, p. 6).

Rule of Law

As previously stated, the objective of SSR is to ensure justice institutions can effectively meet the security needs of their citizenry and operate "without discrimination and with full respect of human rights and the rule of law" (UN SSR, 2009, para. 2).[31] The rule of law has been broadly defined as a principle of good governance:

> In which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency. (UN Secretary General, 2004, 4, para 6)

Thus, the rule of law is both a legal and political framework that guides the work of individuals, institutions, and the State, holding them accountable for their behaviour and decisions (DPKO, 2013e, para. 1). Establishing the rule of law and confidence in its unbiased application in PCEs is an integral part of peacebuilding because it contributes to peace (DPKO, 2013e, para 1).[32] PCEs are often characterized by weak rule of law, which has negative consequences. These include increased levels of crime and corruption, decreased public security, lack of respect for human rights, lack of support for peacebuilding efforts, and increased susceptibility to relapse back into conflict

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[31] See Bleiker and Krupanski (2012) for a thorough discussion about the relationship between the rule of law and SSR.

[32] SSR activities in PCEs should be situated within a larger rule of law framework that aims to establish rule of law across state sectors, including for example, in economic management structures. Failure to conduct rule of law reform activities across state sectors in fragile PCEs has resulted in "widespread corruption and embezzlement of state assets" (Sannerholm, 2007, p. 92) in many countries, including Liberia, Burundi, and Sierra Leone (Sannerholm, 2007, pp. 92-93).

(Arbour & Costa, 2007, Foreword). Therefore, a key principle of SSR is upholding the rule of law, which involves strengthening citizen confidence in the courts, police, and prison administration by developing the capacities of these institutions and addressing their weaknesses (Donais, 2004, p. 946; DPKO, 2013d, para 1). Having gained an understanding of the larger framework within which criminal justice reform is situated, attention will now shift to criminal justice reform in PCEs.

Criminal Justice Reform

Criminal justice reform is conducted with the aim of establishing respect for human rights, democracy, and the rule of law. Building criminal justice systems that "are based on human rights is … indispensable for making and sustaining peace" (Arbour & Costa, 2007, Foreword). Unfortunately, as Jones et al. (2005, p. xii) reflect, establishing effective and efficient justice systems has proven difficult during past missions. Criminal justice systems are often weak in the aftermath of conflict, and both prior to, and during the conflict, state actors may have been corrupt, abusing their powers, perpetuating human rights violations, and discriminating against vulnerable populations of citizens. Further, the state may have failed to prosecute those responsible for human rights violations, which are all realities that undermine public confidence and trust in justice administrations (Office of the United Nations High Commission for Human Rights (OHCHR), 2006, p. 1). Therefore, a criminal justice system needs to be established to promote citizen safety and security, and, to address the culture of impunity that likely took root during the conflict (United Nations Office on Drugs and Crime (UNODC) & United States Institute of Peace (USIP), 2011, p. 83). It is also important to tackle criminal behaviour in PCEs because the failure to do so may negatively impact public confidence in the UN, and the peacebuilding mission as a whole (Strohmeyer, 2001a, p. 60).

The criminal justice system encompasses three key institutions – the courts, the police, and the prison administration (OHCHR, 2006, p. 6). An integrated and coherently operating justice system that can manage the security needs of its country in a transparent and democratic manner while respecting international human rights standards and the rule of law, can only be developed by conducting reform activities that

simultaneously strengthen the police, the courts, and corrections systems. As Baker (2006) argues, police reform will be ineffective if changes are not made to the rest of the criminal justice system because providing "internal security requires a system of interlocking agencies, police, prosecutors, defence lawyers, magistrates, judges, and prison guards" (p. 37). Although an integrated approach to criminal justice reform activities is encouraged in policy, research suggests that reform activities targeting security and rule of law institutions often take place "in a siloed fashion" (Scherrer, 2012, p. 6). For example, challenges arose in Haiti when the judicial and prison services were not strengthened like the police service was; the consequence was that the number of individuals the police arrested surpassed the prosecutorial capacity of the courts, and the capacity of the prison service to detain them (Jones et al., 2005, pp. 3-4). Australian efforts to promote police professionalism in Cambodia were ineffective in producing the intended results because they were undermined by weak accountability mechanisms over the executive, and a court system that could not adequately process cases (Broadhurst & Bouhours, 2009, p. 188). These two examples highlight the importance of conducting integrated and coordinated rule of law reform activities.

The OROLSI of the DPKO is the primary (and largest) UN assistance provider for strengthening police, justice, and corrections systems. DPKO works closely with the OHCHR, the United Nations Development Programme (UNDP), the UNODC, and the International Committee on the Red Cross (ICRC) while conducting criminal justice reform activities (DPKO, 2012, p. 1). In the fall of 2012, an attempt to streamline the efforts of UN agencies responsible for conducting criminal justice reform activities was initiated by UN Secretary General Ban-Ki Moon; he appointed the DPKO and the UNDP as the Global Focal Point for Police, Justice and Corrections Areas in the Rule of Law in Post-Conflict and other Crisis Situations (UNDP, 2013, para. 1). This new arrangement was scheduled to begin in early 2013 with a variety of objectives, including ensuring the UN plays a central role in rule of law activities in crisis-affected environments, coordinating UN country teams and missions to ensure a common rule of law strategy is in place, securing resources for large-scale programming initiatives, and strengthening

coordination and increasing partnerships with non-UN agencies (DPKO & UNDP, 2013, p. 1).[33]

Having reviewed SSR and provided a brief introduction to criminal justice reform, the discussion will now focus on each of the three sectors. This discussion addresses what the reform activities in each sector typically involve, the challenges that arise in conducting reform in each justice sector, and lessons learned to date.

Courts: Legal and Judicial Systems

Initiatives targeting the courts, prosecutors, and defence counsel are designed and implemented with the intention of developing impartial, representative, transparent, and independent justice systems (DPKO, 2013a, para. 6). The first step DPKO judicial affairs officers conduct in PCEs is an assessment of the host country's justice sector, asking the following questions:[34]

> What kind of legal and constitutional reforms may be necessary? Are there enough judges, prosecutors and other court officials? Do they need training? Are there enough court buildings? Can damaged or rundown facilities be quickly repaired? Who can help pay for this? (DPKO, 2013a, para. 11)

Legal Reform

Law reform activities are typically the starting point in reform efforts that are conducted in PCEs to promote the rule of law and establish respect for human rights. Identifying and reforming the existing legal framework is important so that criminal justice personnel have a legal basis to operate within (O'Connor, 2005, p. 235). However, as O'Connor (2006, p. 527) cautions, law reform activities are only the first step in promoting human rights and the rule of law in PCEs; attention must also be paid to how

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[33] For further information about this arrangement, see http://www.undp.org/content/dam/undp/library/crisis%20prevention/2012_12_07_The_Fact_Sheet_for_Global_Focal_Point_Dec_2012.pdf last retrieved 02 April 2013.

[34] As of 2012, DPKO had 315 judicial affairs officers in mission (DPKO, 2013e, para.11).

the reforms are implemented and enforced at all stages of the justice system. Therefore, attention must also be given to the justice sector agencies that will be responsible for implementing and enforcing the laws, including the police, the judiciary, and corrections systems.

The UN has experienced challenges determining the applicable and appropriate legal framework within PCEs, as the law may have been used to repress populations during conflict, the law may violate international standards, and the law may discriminate against a certain social group, such as women or ethnic minorities (O'Connor, 2005, pp. 235-236). The UN has also experienced challenges with regards to how legal reform has been managed. More often than not, failure can be attributed to the ad hoc and hurried approach taken during law reform efforts (UNODC & USIP, 2011, p. 57). Previous missions have witnessed failure in law reform activities. The following list highlights these mistakes and provides guidance for future legal reform activities:

- Failure of new laws to comply with international human rights norms and standards;
- Improper drafting of new laws, lack of consultation and participation;
- Overuse of foreign legal experts and the inappropriate transplantation of foreign laws;
- Ad hoc efforts and a lack of holistic vision of reform;
- Failure to coordinate with other law reform actors and sectors; and,
- Failure to prepare for implementation of new laws (verbatim, UNODC & USIP, 2011, pp. 61-63).

Best practices to consider in conducting legal reform in PCEs can be found in Table 4.1.

Table 4.1.   *Best Practices: Legal Reform in PCEs*

Identify the applicable law in the immediate aftermath of conflict	Rely on external experts only when it is appropriate to do so
Consider the timing, sequencing, and speed of law reform	Ensure new frameworks are in line with international norms and human rights standards
Conduct an assessment of existing laws prior to making suggestions for change	Consider the appropriateness of using foreign models and laws
Promote a nationally-owned strategy	View the re-designed legal codes as legal hybrids
Establish an appropriate timeline for reform activities	Recognize the potential to use non-State justice systems
Ensure law reform activities are inclusive and promote local participation	Develop a plan to implement the new legal codes
Consider the style utilized in drafting new frameworks	Address the types of security issues that are prevalent in PCEs (e.g., organized crime, human trafficking, and terrorism)

*   O'Connor et al. (2007, p. 4); UNODC & USIP (2011, pp. 66-68).

Judicial Reform

Establishing the administration of justice is a top priority in PCEs. To address past and ongoing human rights violations, initial assistance efforts should target the justice system to ensure "minimal judicial and prosecutorial functions, including arrests, detention, investigations, and fair trials" (Strohmeyer, 2001a, p. 48) can be conducted. Further, because criminal activity flourishes in the aftermath of conflict due to the availability of weapons, large numbers of ex-combatants, weak or non-existent criminal justice systems, the presence of spoilers, and the inherent nature of violence in PCEs (UNODC & USIP, 2011, p. 15), it is important to have a justice administration that can address criminality and prevent a legal vacuum from developing. Left unaddressed, these realities can undermine the success of other fundamental peacebuilding tasks, such as those related to political issues, humanitarian assistance, economic growth, peace, security, and rebuilding the physical infrastructure (Strohmeyer, 2001a, p. 60;

UNODC & USIP, 2011, p. 15). Establishing basic functioning components of the judicial sector is also important in providing confidence to refugees who want to return to the PCE, preventing vigilantism, holding people accountable for human rights violations, and increasing respect for the rule of law and the mission (Strohmeyer, 2001a, p. 60).

Victims of crime in PCEs report feeling unprotected after bringing a charge to the courts and further, they believe the courts are biased in their application of the law. Challenges specific to the courts also include unequal access to justice, inadequate sentencing, lengthy backlogs, an absence of legal aid, and an absence of judicial actors because most left during the conflict (those who remain are often viewed suspiciously – as being illegitimate and untrustworthy due to their actions during the conflict) (OHCHR, 2006, p. 5, pp. 7-8; UNODC & USIP, 2011, p. 83). Justice systems are often weak in the aftermath of conflict; they may lack the most basic physical, human, and financial resources to process cases (O'Connor, 2005, p. 231; UNODC & USIP, 2011, p. 83). For example, in Liberia, there were a variety of challenges including few trained lawyers, a lack of resources to pay existing lawyers, and no courtrooms (O'Connor, 2005, p. 231). The UN faced both physical and human resource challenges in building the judicial system in East Timor. The United Nations Transitional Administration in East Timor (UNTAET) recruited legally trained East Timorese by dropping pamphlets from airplanes; this was necessary as no judges, prosecutors or attorneys remained in the country (Strohmeyer, 2000, p. 263, 266). The court buildings were also in poor condition upon UNTAET's arrival; for example, some had their electric wiring removed (Strohmeyer, 2000, p. 266). In fact, it is very common for courthouses to be destroyed or severely damaged during or following conflict, for judiciaries to be weak, for judges' salaries to be low (if they are paid at all), and for legal documents to be missing (DPKO, 2013a, paras. 1-2).

To address the challenges and realities prevalent in judicial systems in PCEs, the UN and international donors engage in a variety of activities that are tailored to the unique circumstances of each environment. Table 4.2 summarizes judicial reform activities that have been found to be effective in past missions and are cost-effective measures that can lead to sustainable change.

Table 4.2.   *Reform Strategies: Judicial Reform in PCEs*

Conduct physical infrastructure repairs, provide new equipment	Develop strategies to address lengthy periods of pre-trial detention
Remove individuals guilty of human rights violations, recruit new personnel, identify dormant capacities, and develop new capacities	Ensure accused individuals have access to legal aid
Ensure justice is accessible (e.g., travelling courts)	Conduct overall institutional reform
Refer less serious cases elsewhere (e.g., to the customary law system)	Develop oversight mechanisms to increase transparency and accountability
Develop and implement diversion programs at each stage of the criminal justice system	Develop a strategy to open lines of communication with the public

*   UNODC & USIP (2011, pp. 84-89).

Police Reform

UN Police activities have changed under post-Cold War peacebuilding agendas; prior to this time, UN Police were responsible for monitoring, observing, and reporting functions. However, in the post-Cold War era, UN Police services have been tasked with additional responsibilities, as advising, mentoring, and training have been combined with the aforementioned activities (DPKO, 2013b, para. 2). These activities are designed to promote security in PCEs, assist and strengthen the domestic police service's capacity to operate according to human rights standards, and establish the rule of law (DPKO, 2013b, para 1). Failure to reform local police services may result in citizens securing justice on their own, without using formal services. As was experienced in the Western Balkans, citizen distrust of the police can result in increased gun ownership, which may create further violence in already unstable PCEs (Grillot, 2008, p. 321).

UN police officers assist the domestic police service within the PCE by sharing their expertise, completing assessments, conducting training activities to develop the local capacity, and providing technical guidance, support, and strategic planning services (DPKO, 2013b, para. 7). These activities may promote community policing initiatives and training in investigative techniques and conflict resolution (OHCHR, 2006,

p. 43). Call (2002) proposed a general framework for police reform activities undertaken by the international community based on his review of police reform activities conducted in various countries, including Kosovo, Guatemala, East Timor, Haiti, South Africa, and Bosnia. These activities are listed below; note, each activity may not occur in every PCE, as police reform activities are tailored to the local realities:

- A new police service is developed – the international advisors typically oversee training and staff development;
- International advisors create new recruitment selection processes;
- International advisors develop and establish oversight offices;
- International advisors promote ethnic, religious, and gender diversity in police services;
- International advisors design new doctrines that emphasize international human rights and democratic policing principles;
- Supervisory posts may be filled by individuals from previous security forces after they have been screened for human rights violations; and,
- International advisors create strategies to promote professionalism, non-partisanship, and technology use within the police service (Call, 2002, p. 101).

Reforming police services in PCEs is challenging because police personnel may have committed human rights violations during the conflict and exercised violence to maintain control, so it is possible that the citizenry fear the police and view them more as occupiers than as police officers (Mazurana, 2003, p. 65; OHCHR, 2006, p. 5, p. 15; UNODC & USIP, 2011, p. 69). Police reform may also be challenging if the local service feels as though they are being attacked. This negative perception may hinder information sharing and cooperation, lead to undesirable behaviours, or result in the local residents' outright refusal to participate in reform activities (UNODC & USIP, 2011, p. 72). Local and international reformers may face additional challenges in conducting police reform activities, which include:

- Securing citizen legitimacy and trust;
- Filling the void of those who left during the conflict;
- Reforming police behaviours, as many have a military background;
- Securing gender equality in force composition;
- Securing long-term national funding for the reformed force; and,

- Fostering a learning culture within the police service (OHCHR, 2006, pp. 15-17; UNODC & USIP, 2011, p. 69).

Table 4.3 highlights lessons that have been learned over the years by experts engaged in police reform activities in PCEs.

Table 4.3. ***Best Practices: Police Reform in PCEs***

Assess and develop an understanding of the local context	Take a "bottoms-up" approach – consulting with line-level officers is important
Strategize with actors from multiple disciplines	Balance crime control and human rights
Determine an appropriate timeframe for change to occur	Conduct overall institutional reform
Identify the problematic behaviour and its root causes, strategize with local actors to come up with a solution	Develop oversight mechanisms to increase transparency and accountability
Develop a strategic plan to manage the change	Establish unbiased incentive, recruitment, and promotion practices

*   UNODC & USIP (2011, pp. 70-80).

Corrections

It has been said that one can judge the state of civilization of any country by the way it treats its criminals. If prisons are a yardstick of civilization, it is fundamental that a respect for human rights be implicit in all prison rules and explicit in the way that prison staff go about their daily activities.

(Commonwealth Secretariat, Human Rights Division as cited in International Corrections and Prisons Association (ICPA), 2002, p. 16)

Corrections personnel did not have a role in the more traditional peacekeeping missions characteristic of UN interventions before the Cold War (ICPA, 2002, p. 19). Corrections officials were first asked to become involved in peacebuilding activities during the missions in Kosovo and East Timor (ICPA, 2002, p. 4). The UN realized that the rule of law and respect for human rights could only be established through "judicial,

penal, human rights and policing experts working together in a coordinated and collegial manner" (UN Brahimi Report, 2000, para. 40). Therefore, corrections personnel became involved in peacebuilding missions within the larger framework that promotes good governance and the rule of law within PCEs (ICPA, 2002, p. 18, p. 23).

One of the critical components in establishing the rule of law in PCEs is building a transparent, accountable, and ethical prison system (DPKO, 2012, p. 1). Corrections reform is conducted to develop a system that is capable of providing safe, secure, and humane conditions for prisoners, and "which is built on principles of fundamental human rights, equality before the law, and the dignity of individuals" (DPKO, 2006, p. 1).[35] Correctional reform has been defined as:

> [T]he process of changing a penal system to bring it into line with this rule of law and international human rights framework. It aims to ensure sanctions that are proportionate, non-discriminatory and rehabilitative. It aims to change prison institutions into places that respect individual human dignity, ensure that those imprisoned are afforded their legal rights, strengthen the appropriate use of alternatives to imprisonment and promote social reintegration of people who have offended. (Bastik, 2010, p. 7)[36]

As Bastik (2010, p. 7) adds, correctional reform in PCEs may involve extensive reform and reconstruction given the realities in these environments.

Unfortunately, corrections systems are rarely identified as high priority in SSR activities, and if they are identified, they are usually poorly funded (Bastik, 2010, p. 44; OHCHR, 2006, p. 18). The DPKO indicates that prison reform is often the lowest priority during rule of law reform activities conducted in PCEs, whereas police reform is often the

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[35] The DPKO currently has "45 international professional, 10 national professional, almost 350 government-provided corrections personnel (contributed by over 30 countries), UN Volunteers and administrative staff to deploy to 11 peace operations around the world" (DPKO, 2012, p. 1).

[36] Bastik (2010, p. 9) uses the term 'penal reform' throughout her report, although she acknowledges that the US and Canada use 'correctional reform' instead. Given that the participants in this study are Canadian, the Canadian term has been used throughout this dissertation project.

highest priority (DPKO, 2013c, para. 2). This occurs despite the fact that police activities are ineffective if detention facilities to detain arrested individuals do not exist (OECD-DAC, 2007, p. 206). Prison reform has often been overlooked in SSR planning due to the fact that it is not typically a national priority in many states – both developed and developing alike.[37] Greater concern exists for tackling pressing issues that affect the country's entire population, such as the economy, housing, education, and healthcare. Another potential reason donors lack interest in investing in corrections reform is because they do not want to be associated with inhuman practices should they continue to exist despite reform activities (Bastik, 2010, p. 44).

The absence of attention given to prisons and the underfunding is not indicative of the lack of importance of prisons within PCEs. Prison reform is a vital component of rule of law reform activities, as the ICPA (2001) explains:

> Ultimately, the legitimacy of any peace operation depends on its ability to create positive change in the lives of persons affected by violent conflict. Foremost in importance is the establishment of basic guarantees for human security ... Corrections is that component of the criminal justice system which has the greatest impact on the freedoms, liberties and rights of individuals ... [It] can play an essential role in re-establishing the basic conditions for human security as part of an overall rule-of-law strategy ... (p. 16, pp. 23-24 as cited in OHCHR, 2006, p. 19)

Corrections systems' contribute to sustainable peace and promote human security by incapacitating violent offenders, rehabilitating offenders, and facilitating their reintegration into the community upon release (DPKO, 2012, p. 1). "People deprived of their liberty are often overlooked, disregarded or denied their rights" (DPKO, 2013c, para. 1) and promoting the rights of prisoners increases citizen confidence and trust in the entire criminal justice system (DPKO, 2013c, para. 8). Further, successful prison reform can decrease the likelihood that a culture of impunity will develop in a PCE (Bastik, 2010, p. 48). Failure to engage in effective corrections reform in PCEs may

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[37] It is not uncommon for prison reform to only become a SSR priority following a breach of security. For example, correctional reform was only made a SSR priority in Guyana following a breach of prison security when five violent prisoners escaped (Dandurand et al., 2004, p. 46).

promote community instability, and lead to poor management and an abundance of corruption within the correctional service (Bastik, 2010, p. 71). Given the role corrections systems play in establishing the rule of law, promoting human security, and fostering citizen trust, UN missions need to equally prioritize prison reform with other criminal justice reform activities. Unfortunately, the UN's corrections reform capacity has lagged behind their capacity in other rule of law areas despite having multiple peacebuilding mandates requiring corrections expertise. Corrections components in peacebuilding missions are also smaller than police and judicial components (UN Executive Office of the Secretary General, 2006, p. 57).

When corrections reform activities are identified in UN mandates, the DPKO suggests the following principles should be followed:

- Model reforms on international norms and standards;
- Maintain respect for human rights and non-discrimination;
- Promote national leadership and engagement;
- Encourage a multilateral approach;
- Foster legitimacy;
- Ensure gender mainstreaming;
- Promote sensitivity to address the needs of vulnerable groups; and,
- Ensure transparency in processes and practices (DPKO, 2006, pp. 4-5).

International corrections advisors begin their reform efforts by assessing the current state of the corrections system. The Criminal Justice Assessment Toolkit (UNODC, 2006) is often utilized for this purpose and is used to determine:[38]

- The applicable legal framework;
- Current prison practices and procedures;

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[38] International corrections personnel include a variety of actors: "prison managers, engineers, trainers, health and safety specialists, and counsellors" (DPKO, 2013c, para. 7).

- The location and operation of existing prison facilities, which may include secret prisons;
- The capacity of the current corrections system;
- The state of prison facilities in terms of physical infrastructure and equipment;
- The profile and number of prisoners within the existing system;
- The organizational framework of the corrections system;
- The number and composition of corrections personnel;
- Staff development needs; and,
- The role of other international actors to promote coordination (UNODC & USIP, 2011, pp. 92-94).

Corrections systems in PCEs are typically "walking the thin line between maintaining public order and avoiding human rights violations" (ICPA, 2002, p. 9). Prisons in PCEs suffer from a variety of challenges, which are identified during the initial needs assessment:

- High rates of overcrowding;
- Inadequate ability to provide food and water;
- Inadequate ability to provide medical care;
- Poor sanitation practices;
- High rates of pre-trial detention;
- Poor management and security;
- An absence of unbiased oversight mechanisms;
- Political interference;
- Weak or non-existent physical infrastructure;
- Inadequate legislation (e.g., antiquated, in flux);
- Unskilled personnel, often too few staff members;
- Detainees are at risk of violence (retribution-based violence or victors' justice), torture, poor treatment, and disease transmission;
- Inadequate separation of detainees (both men from women and children from adults);
- An absence of coordination and coherence between corrections systems, the police and the courts; and,
- General distrust among the citizenry and a sense of illegitimacy because of perceptions of torture and punishment (Bastik, 2010, p. 36; DPKO, 2006, p. 1; DPKO 2013c, para. 2; OHCHR, 2006, p. 5, pp. 20-22).

Recent efforts in corrections reform activities conducted in PCEs demonstrate the challenges in providing this type of assistance. One of the largest challenges facing corrections systems in PCEs is ensuring resources are made available to target the above-mentioned multi-faceted realities (UNODC, 2010, p. 13). In the aftermath of conflict, PCEs rely heavily on outside donor assistance to achieve greater human rights protections (OHCHR, 2006, p. 20). Some international corrections personnel will spend more time trying to access funds for the construction of new facilities, the purchase of new equipment (such as locks for cell doors), and the provision of training, than they will spend on strategic planning, mentoring, training, and advising the local residents (OHCHR, 2006, p. 20). Corrections reform activities are extremely complex because oftentimes, these activities go beyond merely changing legislation to reflect UN and international human rights norms and standards. Reform recommendations may require changes be made outside of prison services; for example, by reforming sentencing practices and criminal law provisions, including the development of alternatives to imprisonment (Griffiths, 2003, p. 1). Failure to address the operational realities in PCE corrections systems may result in escapes, riots, abuse, and health-related consequences for detainees. These consequences may be far-reaching in environments characterized by instability (DPKO, 2013c, para. 4). Fostering genuine national ownership may be challenging for international justice advisors engaged in corrections reform activities. Lessons learned from previous missions highlight the challenges involved in securing national engagement from local residents working in the prison system (DPKO, 2006, p. 19). Despite this challenge, advisors should resist the urge to take over reform activities to obtain results, as this compromises both capacity development and national ownership (DPKO, 2006, p. 19).

After the initial assessment is complete, international corrections advisors engage in a variety of activities, including:

- Advising national prison authorities on institutional restructuring;
- Providing advisory and mentoring services;
- Training and building national capacity; and,
- Helping to build partnerships with governmental and non-governmental organizations (verbatim, DPKO, 2013c, para. 6).

Advisory support during corrections reform activities includes designing and implementing immediate operational objectives, as well as developing a long-term, sustainable strategic framework. Short-term corrections reform activities are often referred to as "quick impact projects" although they may also be used in long-term planning. Many institutions need to learn to "walk before they run" (Dandurand, 2005, p. 10). Because quick impact projects are designed to encourage confidence and trust among the local residents, they are beneficial in planting "the seeds for longer-term prison reform efforts" (UNODC & USIP, 2011, p. 95). Prison systems that are particularly amenable to change are those that have the potential to develop community-based alternatives to confinement to address prison overcrowding; an effective non-governmental organization (NGO) sector; and, government officials who have bought in to the reform efforts and are committed to change (Dandurand, Chin, Griffiths, Lalonde, & Tkachuk, 2004, p. 137). Box 4.4 lists the short- and long- term projects that may be undertaken to successfully reform corrections systems in PCEs.

Table 4.4.   *Short-term and Long-term Program Options: Corrections Reform in PCEs*

Short-term programming options	Long-term programming options
Rebuild the physical infrastructure to ensure facilities meet international human rights standards	Develop or revise assessment and classification procedures
Develop strategies to ensure prisoners' basic needs are met	Develop paralegal programs to ensure inmates have access to legal aid
Remove personnel who are unsuitable for corrections positions, and recruit individuals who are	Ensure inmates have access to the courts; this may include designing mobile courts
Develop staff training programs, provide mentoring	Create a prisoner database
Develop partnerships with other justice agencies	Conduct overall institutional reform
Address the needs of vulnerable prisoners	Conduct legal reform to revise prison legislation and rules to operate in accordance with international human rights standards
Develop alternatives to imprisonment	Develop strategies to tackle prison overcrowding
Conduct appropriately designed external study tours – involve people who are responsible for implementing change	Create strategies to promote prison self-sufficiency (e.g., growing food)
	Develop oversight mechanisms to increase transparency and accountability

*   UNODC & USIP (2011, pp. 95-101).

Conclusion

As acknowledged in Chapter 2, peacebuilding interventions in PCEs have become increasingly common in the post-Cold War era. Understanding what criminal justice reform activities entail, and developing the lessons learned literature around these practices, has thus become increasingly important given that SSR contributes to peace, sustainable development, economic liberalization, and democratization in PCEs (Bernabéu, 2005, p. 88; Hänggi, 2009, p. 337; Krause & Jütersonke, 2005, pp. 455-456). Many of the challenges and lessons that have emerged in the SSR field since the 1990s have been identified in this chapter. The discussion addressed the challenges that exist while conducting SSR in general (e.g., an absence of a tradition of democracy), as well as the specific challenges international actors may encounter while engaged in individual justice sector reform activities (e.g., a lack of available resources for corrections reform activities). Sector-specific lessons were also presented throughout the chapter, including significant principles and programming options that international actors can follow to increase the likelihood of designing and implementing successful reform efforts (e.g., conducting vetting and recruitment during police reform activities).

Cross-sectional, impactful lessons that have been learned from engaging in reform efforts in all three criminal justice institutions are presented in Chapter 5. Looking ahead to Chapter 6, illustrative examples of complex challenges that exist in PCE corrections systems will be explored given the focus of the dissertation case study.

CHAPTER FIVE: CROSS-SECTIONAL LESSONS LEARNED: CRIMINAL JUSTICE REFORM IN POST-CONFLICT ENVIRONMENTS

Chapter Overview

Criminal justice reform and the broader framework within which it sits – security sector reform (SSR) – were explored in Chapter 4. Connections were made between the need to establish security and good governance of security sector institutions to achieve overall development, peace, and economic liberalization and democratization, among other important outcomes (Bernabéu, 2005, p. 88; Donais, 2004, p. 946; Hänggi, 2009, p. 337; Hrychuk, 2009, p. 828; Krause & Jütersonke, 2005, pp. 455-456; Ryan, 2009, p. 312). Because criminal justice reform is a critical component of peacebuilding in post-conflict environments (PCEs), it is of the utmost importance to identify and discuss impactful lessons that have been learned from previous engagements in the field. When the international community intervenes in PCEs, they have a great deal of authority and should therefore take the opportunity to implement lessons learned to increase the likelihood that their efforts will be successful. Discussion in this chapter explores cross-sectional lessons that have been learned from criminal justice reform activities previously undertaken during peacebuilding missions in PCEs. Discussion also highlights two key challenges that often arise while conducting criminal justice reform in PCEs. The chapter ends with a critical discussion about why lessons may be learned but not implemented in practice.

Cross-Sectional Lessons Learned: Criminal Justice Reform

In 2008, the UN Secretary-General outlined eight principles that now guide the UN's work when they conduct rule of law activities in PCEs. These principles reflect best practices derived from previous efforts in rule of law activities conducted during peace operations. The eight guiding principles are:

1. Base assistance on international norms and standards;

2. Take account of the political context;

3. Base assistance on the unique country context;

4. Advance human rights and gender justice;

5. Ensure national ownership;

6. Support national reform constituencies;

7. Ensure a coherent and comprehensive strategic approach; and,

8. Engage in effective coordination and partnerships (verbatim, UN Secretary General, 2008, p. 1).

Given that overall criminal justice reform is not the focus of the current case study, the decision was made to focus on only a few of the principles for discussion. To speak in-depth about each was deemed to be beyond the purview of the dissertation, so the decision was made to provide in-depth attention to a subset of the principles. Recall from Chapter 2 that there are three primary features of UN peacebuilding: national capacity development, national ownership, and a common strategy (United Nations Peacebuilding Support Office (PBSO), 2010a, pp. 5-6). These principles are the focus of discussion in this chapter because they are overall features of UN peacebuilding, accurately reflect the above-mentioned best practices/guiding principles derived from previous rule of law activities, and because they are prominently discussed themes in academic and practitioner literature exploring criminal justice reform efforts in PCEs.

Note that although these lessons learned are important in designing peacebuilding activities, a "one-size-fits-all' model" (Chetail, 2009, p. 27) does not exist. SSR activities should always be "flexible, responsive to local actors and finely tuned to local conditions" (Nathan, 2007, p. 3). Policies, practices and deadlines should be informed by local conditions and capacities, and not merely by Western donor standards and calendars (Van Gennip, 2005, p. 61). To achieve success in reform efforts, international actors should have the ability to alter programs, policies, and timelines to match the realities of the recipient countries' local circumstances, culture, and social norms (Brinkerhoff, 2005, p. 9; Krasnokutski, 2001, p. 68).

Capacity Development: Fostering Local Capacity

Capacity development reflects the UN Secretary General's (2008) guiding principle that rule of law assistance should address the unique country context (p. 3).

The international community has recognized the importance of engaging in consultation with the local residents and assessing their capacity prior to developing assistance interventions. Speaking about the importance of obtaining local involvement in aid projects, a representative from the Canadian International Development Agency (CIDA), Stuart Salter, describes how "projects that do not have the engagement of a local entity fail, almost by definition … the successful projects begin with the engagement and support of local civil society" (Liebenthal, Feinstein and Ingram, 2004, p. xiv). This may have particular relevance in PCEs where the local residents have fought for their freedom and experienced significant hardship – and as such, want to have a say in the policies, programs and processes that are implemented in their society.

Capacity development "is a process used to enhance the human capacity of individuals and organizations … human capacity development is neither linear nor streamlined; it is a continuous process, with no real beginning or end" (United Nations Office on Drugs and Crime (UNODC) & United States Institute of Peace (USIP), 2011, p. 38). Capacity development activities demand various types of assistance (e.g., technical and material), the transfer of expertise and skills, strategic coordination, and require local participation, buy-in, ownership, and responsibility (Türk, 2009, p. 34). Further, capacity development in PCEs requires the use of existing resources through the promotion of dormant capacities (UNODC & USIP, 2011, p. 38). Capacity development is a critical part of criminal justice reform activities conducted in PCEs. Furthermore, capacity development is a vital task to complete in general, as Bigombe et al. (2000, p. 239) found that the likelihood of peacebuilding success increases as local capacities increase. Examples of capacity development in the criminal justice system include police reform, legal framework reform, and assistance to strengthen an independent judiciary.

The capacity development literature highlights the importance of taking an integrated approach to capacity development by addressing three levels of capacity within PCEs: the enabling environment, the organizational level, and the individual level (Organization for Economic Co-operation and Development (OECD), 2006, p. 9; United Nations Development Programme (UNDP), 2008, pp. 5-6). Individual level capacity refers to the experiences, knowledge, and technical skills that individuals possess and allow them to function in a variety of environments, including at home and at work (UNDP, 2008, p. 6). Organizations that deliver on their mandate and "enable the coming

together of individual capacities to work together and achieve goals" increase their ability to perform, as bringing together individual capacities produces a system that is "greater than that of the sum of its parts" (UNDP, 2008, p. 6). Individuals and organizations function within the larger, enabling environment, which "facilitates or hampers their existence and performance" (UNDP, 2008, p. 5). Individuals and organizations function in environments that may encourage positive change and capacity development (enabling environments), or in environments that may impede capacity development activities due to environmental constraints (OECD, 2011, pp. 6-7). These interdependent levels are illustrated in Figure 5.1 with accompanying examples.[39]
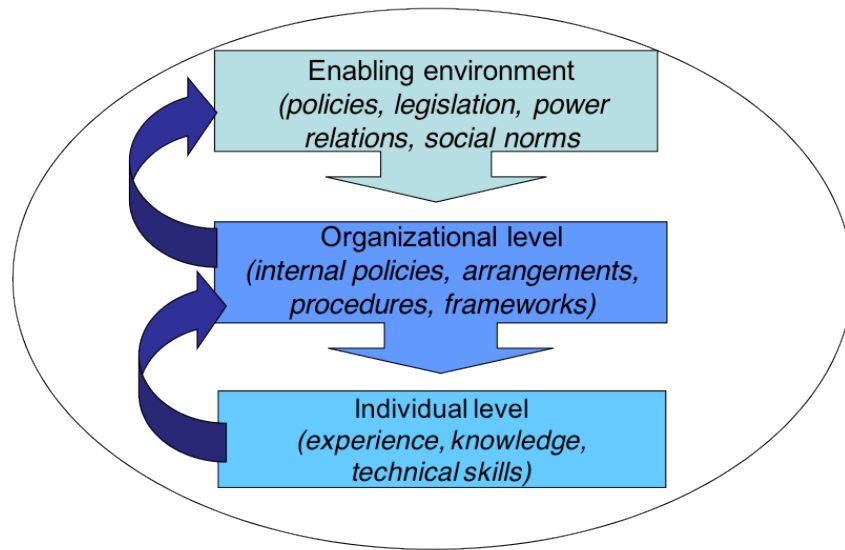
Figure 5.1. **The Three Levels of Capacity Development**

Note. UNDP (2008; p. 6); used with permission.

Capacity development activities have to go beyond the training of individuals to address institutional capacities and the environment within which activities occur because merely providing training to individuals will not change the organizational

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[39] The UNDP (2008, pp. 5-6) indicates that various organizations refer to these three levels although they may label the organizational level and enabling environment using different terms.

culture or capacity (Baker, 2006, p. 37). Jefferson's (2005) research investigating correctional officer training in Nigerian prisons demonstrated the importance of targeting capacity development activities at all three levels. The manuals that were used during 'training-the-trainer' initiatives placed responsibility solely on individual corrections officers without addressing the overall legitimacy of the correctional institutions, or the wider enabling environment (Jefferson, 2005, p. 494). As Jefferson (2005, p. 494) noted, when procedures and standards that are taught during the 'training-the-trainers' activities are not upheld and followed, blame is placed on corrections officers and supervisors. Focus is not directed at the organization and enabling environment, and how these may have impacted the implementation of the skills and knowledge individual officers learned during training.
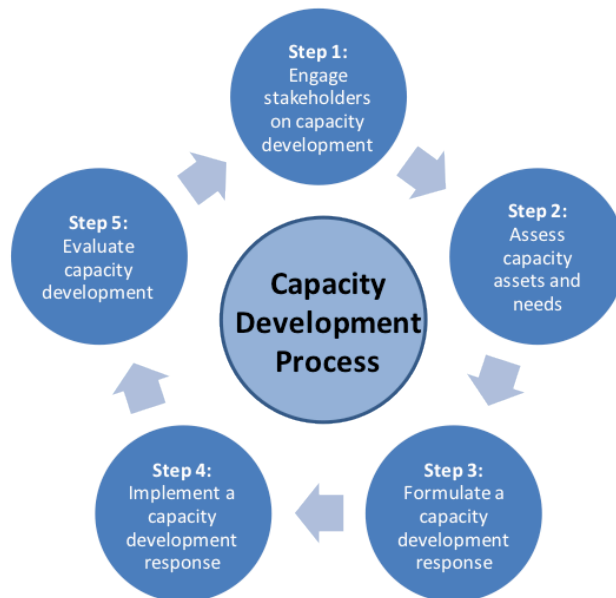
Figure 5.2.   UNDP's Capacity Development Process
Note.   UNDP (2008; p. 8); used with permission.

Figure 5.2 illustrates the UNDP's Capacity Development Process, which has five steps: engage, assess, respond, implement, and evaluate (UNDP, 2008, p. 8).[40] The first step involves identifying and engaging local residents for participation in the capacity development process; this stage is designed to cultivate political commitment to, local participation in, and local ownership of, reform activities (UNDP, 2008, p. 9). Engagement with local actors can increase the legitimacy of reform efforts and developing institutions. Furthermore, engagement reflects democratic principles, which are the very principles the international community is attempting to instil in PCE governing institutions (Barakat, 2009, p. 121). Recall from Chapter 3 that democratization processes have been criticized because international actors have failed to adhere to, and promote, democratic principles throughout the process of trying to establish democracy in PCEs. To promote democracy within PCEs, peacebuilding efforts should be democratically organized and accountable to the recipient population rather than donor governments and funding agencies (Pugh, 1995, pp. 337-338). Engagement also encourages the exchange of information that is mutually beneficial for local and international actors. Local residents benefit from international actors' expertise, skills, and knowledge of international norms; and, international personnel benefit from local actors' cultural and situational skills and expertise (Baskin, 2003, p. 170).

Local knowledge has also been said to be the missing link in figuring out how to address the unique challenges that arise in PCEs (Krause & Jütersonke, 2005, p. 460). Local input into the design and implementation of reform activities may assist international actors in identifying potential obstacles that could hinder the effectiveness of reform efforts. Local residents can increase international advisors' understanding of the political context, powerful actors, and local incentives and disincentives for change (Ball, 2007, pp. 100-103). For example, working with the local residents may help international personnel identify 'spoilers' who may be vying to undermine the peace

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[40] For a more detailed description of the Capacity Development Process, see UNDP (2008), *UNDP Practice Note: Capacity Development*.

process (Baskin, 2003, pp. 169-170).[41] Donors need to understand the motivations and power dynamics operating in PCEs, so they can develop initiatives with knowledge of how they will affect power dynamics among the local population (Krause & Jütersonke, 2005, p. 459). This is particularly important given that existing research findings suggest post-conflict peacebuilding activities may contribute to further ethnic and social polarization in fragile PCEs (as discussed in Chapter 3). Opening lines of communication between top, middle, and grassroots leaders thus strengthens peacebuilding activities by facilitating the accurate assessment of the local needs and operating environment, the appropriate allocation of resources, and the development and implementation of activities to address the local realities. Caution should however, be exercised in relying solely on feedback derived from public consultation obtained during group, participatory sessions given the challenges related to group dynamism. Group members may highly influence one another, as people may agree to suggestions put forth by others regardless of if they personally support them, and 'group think' may result in a lesser degree "of critical thinking and rational choice making" (Bowd, Özerdem, & Kassa, 2010, p. 8). Further, different members of a society produce different 'local knowledge;' powerful actors influence the production of 'local knowledge,' which may reflect personal interests rather than community interests. As such, it is important to recognize that local knowledge production is influenced by the power dynamics operating in the community (Bowd et al., 2010, p. 7).

The second step in the Capacity Development Process illustrated in Figure 5.2 is conducting an assessment, which involves identifying both existing and desired capacities within the environment. A variety of toolkits and guidance manuals have been developed to assist donor countries with the completion of comprehensive assessments, including the UNODC *Criminal Justice Assessment Toolkit* (CJAT; 2006). The CJAT (2006) allows international actors to assess recipient country criminal justice systems based on international standards and best practices. Donors may experience challenges

[41] For further information about spoilers, see Shaw and Kemp's (2012) "Spotting the Spoilers: A Guide to Analyzing Organized Crime in Fragile States" (http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?lng=en&id=144537 last retrieved 03 April 2013).

conducting comprehensive assessments, especially in PCEs. Research exploring

education systems in PCEs in Africa revealed the challenges of doing research in these

environments; PCEs have little capacity to design data collection systems, conduct

analysis, and manage large quantities of data (Jansen, 2004, p. 172).[42] This incapacity is

typically a reflection of low levels of literacy, which is a common problem in PCEs

(Dandurand, Lalonde, Nyapola, Shaw, Skinnider, & Waterhouse, 2008b, p. 11). There

may also be concerns with the data in terms of its quality; there may be issues with

reporting biases, political contamination, and data manipulation. All of these issues may

create obstacles for international personnel attempting to complete a comprehensive

assessment of the recipient country's criminal justice system.

During step three of the Capacity Development Process illustrated in Figure 5.2,

a capacity development response is developed, which may involve quick-impact projects

(one year or less) and short- to medium-term (one year or longer) programming

initiatives (UNDP, 2008, p. 13). One of the primary challenges in the immediate

aftermath of conflict is to ensure that decisions made early on in the peacebuilding

process do not compromise medium- and long-term peacebuilding objectives (PBSO,

2010a, pp. 13-14). Thus, quick impact projects should be used cautiously, as they may

not necessarily contribute to the long-term sustainability of reform activities despite initial

successes. There is some concern that quick-impact projects are little more than donor

countries "planting their flag" – rather than designing and implementing programs for

sustainable long-term change (Percival & Sondorp, 2010, p. 10). Another criticism of

quick-impact projects reflects concerns with capacity development, or lack thereof.

International actors – rather than local actors – are typically used to complete the

required tasks quickly and efficiently because local actors may complete the tasks more

slowly and require a large amount of assistance (Belloni, 2007, p. 106). Sustainability of

reform activities is a significant concern because as discussed in Chapter 2, PCEs are

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[42] These challenges are apparent when one reads UN reports documenting issues in African
countries; tables frequently cite "missing data," which is said to reflect the state's inability to
collect and manage data (Jansen, 2004, p. 172).

inherently fragile and susceptible to relapse back into a period of conflict, especially in the decade following the signing of a peace accord.

During step four, the capacity development response is implemented with national systems and processes managing the implementation phases (UNDP, 2008, p. 13). Local actors are responsible for the design, management, and implementation of capacity development activities. This reflects the UNDP's commitment to making "the concept of national ownership tangible … [which] is about the ability [of local actors] to make informed choices and decisions" (UNDP, 2008, p. 7) throughout the capacity development process. Local ownership is a key theme on its own, so further discussion on this topic occurs in the next section of this chapter.

Technical assistance activities may be implemented as part of step four of the Capacity Development Process. Technical assistance is different from capacity development in that it typically focuses on a specific area whereas capacity development involves the broader, organizational and enabling environments (Griffiths, Dandurand, & Chin, 2005, n.p.). Past criminal justice reform activities, including technical assistance activities, have been hindered because assistance providers have not implemented reform efforts with an integrated and multi-sectorial approach that:

- Addresses broader systemic and structural issues with sector-wide buy-in;
- Promotes local co-ordination and participation;
- Focuses on the three levels of capacity;
- Provides leadership development;
- Identifies potential resistance and obstacles to reform efforts;
- Fosters public support;
- Addresses issues of transferability and sustainability;
- Is sufficiently funded;
- Efficiently and effectively utilizes resources;
- Has a clear framework, including defined, measurable objectives; and,
- Follows effective training development models (Dandurand et al., 2004, p. 125; Dandurand, 2005, pp. 2-3; Griffiths, 2003, p. 13; Dandurand et al., 2008a, pp. 65-66).

The final step, step 5, involves monitoring "the transformation of inputs into outputs (a capacity development response)" and evaluation, which "focuses on how these outputs contribute to the achievement of outcomes (capacity development), and, indirectly, impact (development objectives)" (UNDP, 2008, p. 15). Outputs in criminal justice reform activities may include the number of trained police officers, judges, and corrections officials, as well as physical infrastructure changes (e.g., rebuilding or refurbishing of local prison facilities and courthouses). Outcomes are what result from reform efforts; criminal justice reform outcomes may assess, for example, violent crime rates and public perception of corruption and rule of law (Wilson, 2006, p. 156).

Evaluation is a key component of assistance efforts; without stating the outputs and outcomes the intervention is designed to achieve, evaluation research assessing the impact and effectiveness of the intervention, cannot properly occur (Griffiths, 2003, pp. 10-11; Wilson, 2006, p. 156). Providing very general outcomes stated in bureaucratic language is not conducive to assessment either; identification of specific, measurable outputs and outcomes that are useful for the local and national governments is necessary to determine the success of external interventions (Dandurand, 2005, p. 7; Griffiths, 2003, pp. 10-11). Given the importance of coordination and developing partnerships during peacebuilding, evaluation researchers should also look beyond project success to evaluate partnership success.

Examples: Utilizing Local Capacity

Oftentimes, when state actors lack credibility and legitimacy in PCEs, non-state actors may have "strong roots, long histories and proven effectiveness in mitigating the invasiveness of the formal security sector" (Scheye & Peake, 2006 as cited in Baker, 2006, p. 38). Therefore, non-state actors – such as clans and chiefs – may play a vital role in criminal justice systems in PCEs because people may go to them as their "first recourse to justice" (Albrecht & Buur, 2009, p. 399). In fact, non-state justice systems may be used to resolve disputes by as much as 80 percent of the world's population (UNODC & USIP, 2011, p. 103). Although there may be a place to engage non-state actors in the capacity development process, these actors are not always utilized. This is unfortunate, as there are multiple examples of how partnerships with non-state actors have been found to strengthen reform efforts and build the local capacity. This section

provides further information on why the international community should consider engaging non-state actors, examples that highlight successful engagement with non-state actors, and why non-state actors have been excluded in times past.

At a time when police services and internal security are needed most, local capacities are often at their lowest. The police service may be unable to adequately respond to increases in lawlessness in the aftermath of conflict due to an absence of resources, weak capacity, or limited personnel, which means they cannot adequately address serious issues plaguing their society (Baker, 2006, p. 27). Challenges also arise when citizens perceive police services to be illegitimate, ineffective, and lacking credibility. This is not uncommon in PCEs because as discussed in Chapter 4, the state may have perpetuated human rights abuses during the conflict, or may not have addressed human rights abuses during the conflict (Albrecht & Buur, 2009, pp. 397-398). Internationally imposed police reform activities may have little relevance to the local population because citizens may have had to provide their own policing outside of major city centres for years, and these services may be more accessible and effective than state policing. Further, these local police services are typically offered in the local language and match local expectations for what should be done when criminal behaviour occurs (Baker, 2009, p. 329). Given these PCE realities, non-state police providers should be consulted to ensure unbiased, accessible, transparent, and accountable crime protection and investigation is provided to citizens throughout the entire country (Baker, 2009, p. 330). Partnerships between police officers and non-state actors in PCEs are beneficial because they work to improve and "strengthen what comes naturally, rather than trying to establish what has not existed before outside the West" (Baker, 2009, p. 331).

In the years following 11 September 2001 (9/11), Australian donors have engaged in assistance efforts to strengthen state policing in Papua New Guinea (PNG). PNG and Australia recognized the importance of capacity development among both state actors and non-state actors to promote local ownership, relevance, and legitimacy, and to increase the likelihood of sustainable outcomes (Dinnen & McLeod, 2009, p. 349). Reform activities have built non-state actor capacities to assist state actors in dispute resolution, crime prevention, community safety, offender diversion, and offender rehabilitation. Strengthening non-state actors' capacities in PNG has resulted in

sustainable and affordable policing for disadvantaged communities, achievement of community development objectives, and increased legitimacy, effectiveness, and affordability for state actors (Dinnen & McLeod, 2009, p. 349). Affordability of police services in PCEs is particularly important because donor support will not always be present and PCEs need to have the ability to pay wages and equipment costs after the international community withdraws their support (Baker, 2006, p. 41). Due to Liberia's weak state capacity to deliver services to its citizenry, the services of chiefs and village elders have been used to address minor disputes and criminal matters, which has proven effective, accessible, and affordable (Albrecht & Buur, 2009, pp. 398-399). To address the problem that rural Bangladeshis were experiencing in attempting to access the formal, urban legal system, the Madaripur Legal Aid Association restored the traditional system of community mediation and dispute resolution. In its first year of operation, the mediation committee handled approximately 7,175 applications, two-thirds (4,711) of which were successfully resolved outside of the formal justice system (UNODC, 2007, p. 15).

The mere existence of local forms of justice –such as the *gacaca* judicial structure in Rwanda – should not imply that they are legitimate and thus, the best method for achieving justice. It is possible the conflict has changed the environment and operational practices, and traditional forms of justice may no longer be considered legitimate simply because they are traditional and have existed for years (Betts, 2005, p. 743). Further caution should be exercised in non-critically relying on non-state justice systems because they may promote social polarization, as well as discriminate against vulnerable populations (UNODC & USIP, 2011, p. 109).

Despite existing evidence to suggest non-state actors may play an important role in criminal justice reform activities, it seems as though international advisors involved in these activities continue to rely on a state-centric approach (Albrecht & Buur, 2009, p. 399). A variety of explanations have been provided to explain the limited inclusion of non-state actors in these activities, including:

- External pressure to achieve success according to headquarters directives;
- The political environment impacts inclusion because international advisors may feel obliged to take the easier route to achieve quick impacts within short timeframes, even if it is not the best option to pursue;

- The SSR language is state-centric;
- The focus on 'technical assistance' as a method to achieve capacity development may prevent inclusion of non-state actors, as international actors may not be able to technically assist with non-state actors, as they are typically only experienced in assistance activities geared towards state actors; and,
- When difficulties arise, it is easiest for international advisors to fall back on what they know (Albrecht & Buur, 2009, pp. 399-402; Dinnen & McLeod, 2009, pp. 349-350).

Summary

Failure to include and empower local experts in reform activities is a practice that is as old as Austro-Hungarian rule in Bosnia-Herzegovina, where, from 1878-1918, experts were brought in to complete local tasks with no regard for local capacity development (Mayer, 2004-05, pp. 245-246). This trend has continued, where in the early 21st century, the UN has been criticized for being "more concerned to sell the image of the mission to the outside world than to establish it in the country" (Pouligny, 2006, p. 147), which suggests a lack of concern with identifying the host-country's capacity for reform.[43] The UN has been accused of developing mission mandates and budgets based on the political concerns of UN member states, rather than basing mission decisions on information gathered from comprehensive assessments of countries' needs and capacities (Campbell & Kespersen, 2008, p. 479).

International actors may be slow to address the local capacity of the recipient country because they have their own agenda to achieve, and involving the community may not be consistent with it. International actors also face the dilemma of having to balance their desire to implement programs in a timely fashion, with their desire to promote the local capacity through participation (Türk, 2009, p. 43). Although working with national actors and through national institutions has been found to take longer in the initial stages of capacity development activities, the trade off is worth it because this process is more likely to result in sustainable outcomes (Ball, 2007, pp. 98-99).

[43] Pouligny (2006, p. 147) obtained this quote from a UN Observer Mission in El Salvador (ONUSAL) employee who was the only local actor hired to work for the mission.

Developing the local capacity and tailoring reform efforts to the local dynamics increases the likelihood that reform efforts will be successful in PCEs (Krause & Jütersonke, 2005, p. 459). Failure to develop the local capacity and achieve true local ownership means international donors may create situations where recipient governments become dependent on external support. This may lead to a variety of problems in PCEs, including creating a situation where citizens do not view their state as legitimate, as the state is unable to provide them with basic services (Brinkerhoff, 2005, p. 7). Developing the local capacity is therefore essential to facilitate the international community's successful withdrawal from PCEs, which is the primary objective of peace operations (International Corrections and Prisons Association (ICPA), 2002, p. 61). Inclusive capacity development processes ensure the recipient country is prepared and capable of managing once the international community withdraws their support and personnel.

Ensuring Local Ownership

Fostering local ownership of peacebuilding activities is just as important as assessing and developing the local capacity (Chetail, 2009, p. 27; Nathan, 2007, p. 1; Van Gennip, 2005, p. 61;). Local ownership has been generally defined as:

> The capacities of political, social, and community actors in a particular country (referred to as 'insiders') to set, and take responsibility for, the peacebuilding agenda and to muster and sustain support for it. Insiders need to develop their own capacity to significantly influence the conception, design, implementation, and review of peacebuilding strategies. (Pouligny, 2009, p. 174)

Owning the SSR process starts with local residents taking responsibility for developing policies, programs, objectives, and strategies, and deciding how they will be implemented (Ball, 2007, p. 98). To guarantee genuine local ownership is fostered, three categories of actors should be involved in these decision-making activities: communities, civil society, and national governments (Pouligny, 2009, p. 177). Local ownership is promoted when international actors support the programs and projects that local actors develop and implement, rather than seeking local support for the programs and projects they develop without input from national actors (Nathan, 2007, p. 4).

The government and people of the host country are responsible for sustainable peace and change in their state. Failure to develop local capacities and promote local ownership means reform activities will be unsustainable because local actors cannot manage on their own (Hänggi, 2009, p. 347; Nathan, 2007, p. 1). In addition to promoting sustainable change in PCEs, fostering local ownership is beneficial in giving the mission credibility, and furthermore, when the local residents feel like they have a stake in the process, the legitimacy of the emerging government institutions increases (Barakat, 2009, p. 111; Baskin, 2003, pp. 169-170). Therefore, the practice of including local actors in identifying and prioritizing their needs, developing and implementing strategies, and determining measures of success, cultivates local ownership and increases the likelihood of citizens viewing the emerging government institutions as trustworthy, legitimate, and effective (Barakat, 2009, p. 111; Griffiths, 2003, p. 8; Griffiths et al., 2005, n.p.).

Although international actors have recognized the importance of promoting local ownership to ensure the success of peacebuilding activities, they do not always follow this lesson (Pouligny, 2009, p. 181). As Nathan (2007, p. 1) argues, donor governments often refer to local ownership but they rarely translate it into a strategy, which hinders the promotion of local ownership in practice. Local ownership needs to be translated into strategy to ensure it is not merely promoted so that if failure occurs, international actors have a "political umbrella" (Tondini, 2008, p. 237) to shield themselves with to deflect blame towards the local residents. The characteristics of international advisors, international organizations, and the host countries themselves, may present obstacles to promoting local ownership. The operational culture among international justice advisors may create obstacles to achieving local ownership, as international advisors may view themselves as the main actors in the peacebuilding process. International advisors need to recognize that their only role is to facilitate change (Pouligny, 2009, p. 182). Tight donor timelines may mean international advisors focus more on achieving quick, timely results than promoting local ownership of SSR activities (Ball, 2007, p. 98). International organizations and advisors may also impose their own SSR models without regard for local ownership due to:

- Their belief that local residents are incapable of conducting SSR;
- Their belief that Western-developed SSR models are applicable everywhere; and,

- The challenges that arise due to pre-determined features of SSR programs that do not accommodate flexibility and responsivity to the local environment (Nathan, 2007, p. 3).

Another challenge in achieving local ownership of SSR activities is that capacities are often weak in PCEs; therefore, local actors may be hesitant to take on responsibilities for reform activities (Ball, 2007, p. 98). Other host-country problems include an absence of national government legitimacy, and the capacity to identify sound policies and programs to put them into practice (Nathan, 2007, p. 3). International advisors should not let these host characteristics prevent them from promoting local ownership given its importance in securing long-term sustainable change because local residents will have the skills and knowledge to manage reform efforts once external financial support has been terminated (Brzoska, 2006, p. 11; Dandurand et al., 2004, p. 137). To increase the likelihood that locally owned criminal justice reform initiatives will be effective, Dandurand (2005) makes five recommendations, including "establishing legitimacy in the proposed reform, finding champions, providing incentives for change, establishing realistic benchmarks and reform objectives; and, conducting project evaluations" (pp. 6-7).

Common Strategy: Effective Coordination and Partnerships

Rule of law assistance activities are most effective when they are structured around a common, comprehensive strategy that has been developed based on information collected during an inclusive assessment and strategic planning process to identify the country's needs, capacities, and realities. Comprehensive strategies should be nationally owned, encourage inter-agency partnerships, and assign specific responsibilities to different individuals and agencies to hold people accountable for completing their assigned tasks (PBSO, 2010a, p. 6; UN Secretary General, 2008, p. 4). Developing a comprehensive strategy is particularly important given high turnover rates of personnel working in post-conflict peacebuilding missions. Clearly defined objectives, policies, strategies, and standards may help address the lack of personnel continuity that

is characteristic of peace missions (Donais, 2004, p. 956).[44] Despite the fact identifying a common strategy has been identified as a best practice in peacebuilding missions, one study that surveyed 366 peacebuilding projects that were funded by Germany, the Netherlands, Norway, and the UK revealed that:

> More than 55 per cent of the projects do not show any link to a broader strategy for the country in which they are implemented. Some projects are not linked to a broader strategy because there is no strategy for them to be linked to. In other cases, the broader strategy exists but projects show no connection to it. (Smith, 2004, pp. 10-11)

Cooperation and coordination are key to achieving success during peacebuilding missions given the vast number of bureaucratic, hierarchical organizations involved in the democratization and liberalization process (Holohan, 2005, pp. 4-5). Although international actors engaged in peacebuilding activities are all striving to establish market democracies, there is little coordination of efforts (Paris, 1997, p. 87). As mentioned in Chapter 2, coordination challenges exist among UN agencies, between the UN and other organizations, between international actors and local actors, and among local actors (Chetail, 2009, p. 26; PBSO, 2010a, pp. 16-17). Self-admittedly, the UN Secretary General (2008) indicates UN coordination in rule of law activities has been sub-par; "past engagement has sometimes been piece-meal, incongruous and donor-driven, resulting in uneven and contradictory development of rule of law institutions, and short-term, superficial gains at the cost of longer-term, sustainable reform" (p. 4).

The UN conducted a study to capture their capacities in various peacebuilding activities (UN Executive Office of the Secretary-General, 2006, Introduction). Thirty-one (31) UN entities (departments, agencies, funds, and programmes) returned 150 questionnaires; entities completed one questionnaire for each peacebuilding activity they were currently engaged in. After the questionnaires were returned, 120 follow-up interviews were conducted with UN experts and staff (UN Executive Office of the

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[44] Hill (2002, para. 19) suggested that one of the potential explanations for a lack of continuity in mission is because the UN's political aims are prioritized higher than their operational aims, which results in the hiring of staff who move from one mission to the next.

Secretary-General, 2006, Introduction). The results revealed that on average, between two and seven UN entities self-reported that they were the main entities in program development and implementation for each peacebuilding activity.[45] This means that up to seven different UN departments, agencies, funds, or programmes could be conducting the same activities, or very similar activities, while reforming particular sectors during peacebuilding activities (UN Executive Office of the Secretary-General, 2006). The overlapping mandates within UN entities means that they:

> Often compete rather than cooperate and coordinate and, at the same time, they can deny responsibility for outcomes. With many players involved, it is very difficult to make out who is responsible for what outcome…too many staff at the UN think mostly in terms of their own organization or their own department, with too little effort being made to seek information and reach out to others for exchange and collaboration. (Herrhausen, 2007, pp. 32-33)

Inter-agency coordination is difficult to achieve because each UN entity has unique mandates, organizational cultures, procedures, funding, and governance structures (Campbell & Kaspersen, 2008, p. 478). The UN system is thus divided, which creates challenges for integration, especially considering impact assessments evaluating the peace operation are not conducted. An absence of accountability measures means each entity may simply focus on their own goals without considering how their activities may contribute to the overall success of PCEs transitioning to peace (Campbell & Kaspersen, 2008, p. 481).

Poor coordination among multiple actors promoting their own agendas, which are highly influenced by their home nations, may seriously impede effective recovery in PCEs (Barkat & Zyck, 2009, p. 1081). One of the problems with poor coordination is that local actors are able to play international organizations off of one another (Hänggi, 2009,

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[45] Three UN entities (DPKO, UNODC, and OHCHR) reported being the main UN entities involved in Judicial and Legal Reform activities, and Corrections Reform activities. Three UN entities (DPKO, UNODC, and UNDP) reported being the main UN entities involved in Law Enforcement Reform activities (UN Executive Office of the Secretary-General, 2006, p. 28, p. 53, p. 57).

p. 345), which may result in the siphoning of resources for corrupt purposes. Poor coordination among individuals and agencies involved in peacebuilding activities may also mean that gaps are not identified and addressed, and that resources are wasted (Chetail, 2009, p. 27). Poor coordination, in combination with an absence of a common strategy, may result in scarce resources being inadequately allocated. For example, while reflecting on his experiences as an RCMP officer involved in peace operations, McPhail (2004 as cited in Donais, 2004, p. 958) explained how local police services would receive 'big' items, including computers and transport vehicles. When in reality, all they actually required was basic equipment, including pens, notebooks, and flashlights.

Although coordination is viewed as essential to the success of peacebuilding efforts, improved coordination may not appease international advisors and organizations, as they risk losing independence in decision-making and operations when external coordination exists (Belloni, 2007, p. 108). Additionally, as participation among civil society groups and non-governmental organizations (NGOs) has increased, so too has their concern about their ability to cooperate with international organizations, as their cooperation with international organizations challenges their independence (Law, 2006, p. 116). Regardless, mission coordination needs to improve; therefore, more attention should be given to identifying solutions to achieve integrated coordination that may facilitate simultaneous organizational independence.

Challenges: Criminal Justice Reform

Resistance to Change

Given the dynamic, and at times, chaotic nature of post-conflict operating environments, it is important to consider potential obstacles that may arise and impede the successful implementation of criminal justice reform initiatives. Failure to identify potential types of resistance, and the reasons underlying this resistance, may hinder the effectiveness of reform efforts. Democratic reform activities that are characteristic of criminal justice reform efforts will only be effective if there is political will and commitment to the reforms among both those in power, and the citizens of the state. International advisors working in PCEs should be cautious in assuming that local residents are

interested in improving their system's capacity, performance, and effectiveness. There have been instances where powerful local actors pursue international actors' proposed policies and reforms in the open, "all the while jockeying behind the scenes to gain personal advantage" (Brinkerhoff, 2007, p. 10). There are many reasons as to why the criminal justice system's ineffectiveness is desirable, and why corrupt officials may actually discourage technical assistance and training interventions (Dandurand et al., 2004, p. 108; Dandurand et al., 2008a, p. 57).

Justice and security sectors are often conservative agencies and they may be resistant to externally imposed change that threatens the status quo (Dandurand, 2005, p. 7). Some individuals may fear they will not survive – economically, politically, or otherwise – in a PCE characterized by peace if they have previously made a living through illicit, violent means. Leaders who possessed significant power during the conflict may lack the political will to follow through with the proposed reforms, as they do not want to share their power and lose their privileges (Brinkerhoff & Brinkerhoff, 2002, p. 518; Brzoska, 2006, p. 8). Other local actors, such as organized crime bosses, ministers, and civil servants, may be resistant to SSR activities because they are opposed to transitioning to democracy (Nathan, 2007, p. 37). Local residents may also lack the social capital to overcome their deep hatred towards others in an environment that has long been characterized by intense hostilities and conflict (Brinkerhoff & Brinkerhoff, 2002, p. 518). In circumstances where incentives for reform do not exist; for example, where leaders do not want to establish accountability structures out of fear they will lose their power, aid may actually create additional problems by supporting corrupt leaders (Coyne & Ryan, 2009, p. 37).

Establishing Legitimacy

Establishing legitimacy is vital to developing and implementing successful criminal justice reform initiatives in PCEs. Unfortunately, legitimacy is never guaranteed, regardless of the good intentions reform activities are designed to achieve. The legitimacy of an intervention needs to be decided from within the host country and cannot be assumed merely because UN member states and the United Nations Security Council (UNSC) support the activities. If reform efforts are going to be successful, legitimacy must come from government officials within the host country, and from

personnel at lower levels. For example, when conducting prison reform, assistance has to be perceived as legitimate by senior government officials, prison service management, and line-level staff to increase the likelihood of buy-in and success (Griffiths, 2003, pp. 8-9). One way to establish legitimacy within a recipient country is for organizations to deliver the results they say they will provide (Pouligny, 2006, p. 181). The practice of involving local stakeholders in identifying criminal justice areas in need of reform has also been found to contribute to the legitimacy of reform efforts (Dandurand, 2005, pp. 6-7).

One of the obstacles to establishing legitimacy results from the sometimes conflicting objectives of the multiple donors involved in any given peace operation. When people from different organizations make contradictory decisions, the legitimacy of the entire mission, and the individual interventions themselves, may be questioned. As discussed in the previous section, donor coordination is a constant challenge in the development and implementation of reform activities. A criminal justice specific obstacle to establishing legitimacy results from the lack of focus that has been given to developing oversight and accountability mechanisms during SSR. It has been suggested that SSR activities typically focus more on the public portion of security sectors, attempting to strengthen their operational capacity and efficiency, at the expense of developing and strengthening democratic oversight and accountability bodies (Ball, 2007, p. 95; Law, 2006, p. 122). The lack of focus on democratic oversight and accountability mechanisms can undermine legitimacy in SSR efforts. Two primary explanations account for the absence of attention paid to strengthening SSR oversight and accountability mechanisms. There may be few available resources to address security sector needs and thus, immediate security realities in PCEs (e.g., organized crime) may utilize all of the available resources to the detriment of working towards longer-term goals like developing oversight structures (Ball, 2007, p. 96). Further, oversight and accountability mechanisms may simply not be on donor agencies' agendas, as their main priority since 9/11 has been strengthening PCEs' intelligence and security capacities (Ball, 2007, p. 95).

Conclusion

Lessons learned from previous peacebuilding activities can be used to inform policy decisions, establish priorities, and facilitate coordination in other PCEs (Rondinelli & Montgomery, 2005, p. 21). Although peacebuilders must be cognizant of recent lessons learned, they should apply only those that are appropriate given the realities of the situation they are working within (Baskin, 2003, p. 170). Placing the local situation within the context of globalization, which is also referred to as glocality, reflects the process of identifying commonalities between societies, while simultaneously taking into account the society's "cultural uniqueness and specificity" (Goddard, 2004, p. 689). Merely designing and implementing reform activities in accordance with international procedural and due process standards is not sufficient to establish democratic norms in PCE criminal justice systems. Research has demonstrated that every environment has its own cultural norms, which necessitate designing and implementing culturally relevant justice initiatives to establish a locally relevant, democratic criminal justice system (Hagan & Ivkovic, 2006, p. 146). So although applying lessons learned from previous peacebuilding activities is important, consideration should also be given to the local capacities, realities, and social, political, and economic conditions to ensure that any peacebuilding activities that are undertaken are adapted to the contextual features of each PCE.

Over the years, concern has been voiced to indicate, "lessons learned are not actually being learned" (Carothers, 2003, p. 12). There is no shortage of lessons learned identifying factors that facilitate or hinder the success of rule of law activities but rather, there appears to be a lack of application of lessons learned in subsequent programming design (Carothers, 2003, p. 12). Practitioners may be hesitant to apply best practices to new programming activities due to uncertainty about their impact on outcomes in the new environment. It may also be because diplomatic staff experience difficulties applying the lessons they have learned and are aware of, to their decision-making processes in future situations (Pouligny, 2006, p. 275). Others have suggested that there may be a break in the feedback loop between evaluation results and the design of future interventions, which has been referred to as a gap or barrier in the knowledge-action system (Cash, Clark, Alcock, Dickson, Eckley, & Jäger, 2002, p. 1). Another explanation as to why evaluation research results may not be used in the design of future

programming activities is because the results are contradictory to what people believe is true. For example, there is a long-standing belief that external experts flying to a host jurisdiction to provide criminal justice assistance and then immediately flying out, is an effective intervention. However, over the years, the research has demonstrated the ineffectiveness of this practice and yet it continues to be used because people believe it works (Dandurand et al., 2008a, p. 60; Griffiths et al., 2005, n.p.). Evaluation research results may also be disregarded in the design of new programs, or modification of existing programs, if the assistance provider does not want to believe that their program was ineffective and resources were 'wasted' because the intended results were not achieved (Babbie & Benaquisto, 2002, p. 378). The failure to apply lessons learned to new program development has also been attributed to the fact that international justice advisors develop extensive experience and expertise about how to do rule of law reform without sharing their knowledge in a systematic way (Carothers, 2003, p. 11). Although this may have been a concern at one point in time, a variety of manuals, guides, and toolkits now exist, and are based on extensive consultation with practitioners.[46]

The focus of discussion is narrowed even further in Chapter 6; the focus shifts from cross-sectional lessons that have been learned while conducting criminal justice

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[46] One example is the *Model Codes for Post-Conflict Justice*, which is three integrated model codes, published beginning in 2007 (see http://www.usip.org/programs/initiatives/model-codes-post-conflict-justice). The Model Codes for Post-Conflict Criminal Justice Project began in 2001. The United States Institute for Peace launched the program and collaborated with the Irish Centre for Human Rights (ICHR), the OHCHR, and the UNODC (USIP, 2013, para. 1, http://www.usip.org/programs/initiatives/model-codes-post-conflict-justice). Another example is the UNODC (2011) guide, *Criminal Justice Reform in Post-Conflict States: A Guide for Practitioners* (see https://www.unodc.org/documents/justice-and-prison-reform/11-83015_Ebook.pdf). Corrections system specific manuals and toolkits include the UNODC (2008) *Handbook on Prisoners with Special Needs* (see http://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf last retrieved 13 March 2013), the UNODC (2007) *Handbook on Prisoner File Management* (see http://www.unodc.org/documents/justice-and-prison-reform/Prison_management_handbook.pdf last retrieved 13 March 2013), and Coyle's (2002) manual, *A Human Rights Approach to Prison Management* (see http://www.prisonstudies.org/info/downloads/handbook_2nd_ed_eng_8.pdf last retrieved 13 March 2013), among many others. Good standards and toolkits are those that can be adapted to suit the needs of different environments but that continue to reflect international human rights norms and standards (Arbour & Costa, 2007, Foreword). If lacking in flexibility, toolkits may be criticized for being imperialistic in nature (Kritz & Schabas, 2007, p. xviii).

reform in PCEs, to the presentation of illustrative examples of complex challenges that exist in PCE corrections systems. These challenges present obstacles to those engaged in corrections reform activities in PCEs, which necessitates their exploration.

CHAPTER SIX: CORRECTIONS REFORM IN POST-CONFLICT ENVIRONMENTS

Chapter Overview

> *One cannot judge a nation by how well it treats its most illustrious citizens, but by the treatment it metes out to its most marginalized – its prisoners.*

(Mandela, 1994, p. 187)

This chapter is devoted to discussion about corrections reform in post-conflict environment (PCEs) with a specific focus on the challenges that exist in PCE corrections systems. The challenges presented in this chapter are illustrative examples of complex challenges that exist in PCE corrections systems; they are essential to explore given the focus of the case study. Note that corrections systems in PCEs experience a myriad of other challenges – as identified in Chapter 4 – that require attention to bring these systems in line with international human rights norms and standards.

Offender populations reflect the wider social situation in which they are situated. Thus, any proposed corrections reform activities must take into account the larger context within which corrections systems operate, including the criminal justice and political context in the country (Organization for Economic Co-Operation and Development's Development Assistance Committee (OECD-DAC), 2007, p. 199). In the aftermath of conflict, corrections systems in PCEs often have the responsibility of addressing social problems because these societies have few and limited resources (Dandurand et al., 2008b, p. 4). To illustrate, corrections systems in PCEs may incarcerate vulnerable individuals, including children and people with mental health issues, simply because orphanages and facilities for mentally ill individuals do not exist (United Nations Office on Drugs and Crime (UNODC), 2010, p. 13). Corrections systems in PCEs – and in non-PCEs – are not appropriately equipped to deal with these populations, whose needs are best served in the community (Dandurand et al., 2008b, p. 4; Griffiths & Murdoch, 2014, p. 94).

Achieving significant change while conducting corrections reform activities in PCEs may be extremely challenging due to inadequate human and financial resources,

and a lack of public support. Insufficient resource availability is a common challenge facing corrections systems in PCEs. The entire population is often poor and struggling in the aftermath of conflict, so resources are typically prioritized to provide basic services for the non-prisoner population, and to rebuild the society to move forward after conflict (UNODC, 2010, p. 73). Securing resources for corrections reform activities is a hard sell because the public would rather invest in education and healthcare initiatives (OECD-DAC, 2007, p. 203). A lack of resources impedes a corrections system's ability to address prison overcrowding, provide rehabilitation, education, recreation and vocational programming, develop pre-release activities, and ensure an adequate number of prison officials and qualified prison staff, among other issues (Penal Reform International (PRI), 2013a, para. 4). It is possible however, that international donor assistance can alleviate some of these concerns through donor-funded government and non-governmental organization (NGO) programs (OECD-DAC, 2007, p. 206).

Failure to obtain public support for corrections reform initiatives may impact reform activities because public sentiment may not be in-line with proposed reforms, and ultimately, the society shapes the character of the prison system and its governance (Tapscott, 2008, p. 67; United Nations Children Fund (UNICEF), 2006a, p. 1). Some citizens may believe prisons are "the dustbin of society, the contents of which, once consigned there, do not merit second thought" (The Guyana Human Rights Group as cited in Dandurand et al., 2004, p. 46). There is concern that citizens are willing to sacrifice offenders' individual human rights and freedoms believing this practice will secure their own personal safety (Dandurand, 2005, p. 6). As Harriott (2000) has noted, due to their fear, citizens tend to favour "a 'get tough' approach including lawless crime control and quick and rough justice" (p. 16). Therefore, emphasis is typically placed on deterrence, punishment, and the protection of society, which means corrections reform is unlikely to be supported by the public. Increasing public pressure to reintroduce the death penalty or other more punitive measures may actually exist, as was found during the assessment phase of justice and security sector reform (SSR) activities undertaken in Jamaica (Dandurand et al., 2004, p. 32). Educating the public about prisons, including the benefits of imprisonment (e.g., rehabilitation) and alternatives to imprisonment (e.g., cost savings), may be helpful in obtaining their support, especially if reformers devote an equal amount of time and attention to victims of crime (OECD-DAC, 2007, p. 203).

What is interesting about the challenges that are discussed throughout this chapter is that some of these issues – including those mentioned above – are not limited to poor countries in the global south. North American corrections systems are experiencing similar problems; for example, Canadian correctional systems are experiencing difficulties in appropriately managing individuals with mental health issues (Griffiths & Murdoch, 2014, p. 94), and addressing high incarceration rates, which results in "a lack of resources and overcrowded, unsafe and squalid conditions" (Sarkin, 2008, p. 1). Even European prison systems, which in the past have not experienced as many problems, are "simmering on the point of riot or rebellion" (Cavadino & Dignan, 2006, p. 43). Further, corrections systems in North America may lack public support (where citizens want punitive policies put in place), and they may suffer from high rates of pre-trial detention (Griffiths & Murdoch, 2014, pp. 15-16). The international commonalities highlighted throughout this chapter illustrate the inherent difficulties in getting corrections 'right' – in any environment.

Prior to exploring illustrative examples of challenges that have to be addressed when conducting corrections reform activities in PCEs, a brief overview of human rights and international standards pertaining to corrections, is presented. It is necessary to frame the discussion of challenges in PCE corrections systems within a human rights framework given that reform activities are designed to create prison systems that operate in accordance with international human rights standards and the rule of law (Department of Peacekeeping Operations (DPKO), 2006, p. 1). While a solid framework of objectives and human rights standards exists for corrections systems in PCEs, less is known about *how* to effectively undertake reform activities in these environments to achieve these objectives and standards given the complex challenges that exist (Griffiths, 2003, p. 4).

Human Rights and International Standards

The adoption of the Universal Declaration of Human Rights in 1948 provided the world with a "common standard of achievement for all peoples and all nations [based on the] recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family" (preamble). These rights are typically enshrined in a

country's Bill of Rights and the government cannot take away an individual's rights – even the rights of those who have allegedly committed a criminal offence, or those who have been found guilty of committing a criminal offence. Imprisoned individuals retain all of their rights except those rights that have been lost as a consequence of their deprivation of liberty. Prisoners must be treated in a humane and dignified manner at all times and they must never be subject to torture or ill treatment.[47] Further, imprisoned individuals have various rights such as the right to an adequate standard of living, the right to physical and moral integrity, the right to education, the right to development, and, the right to health (Office of the United Nations High Commission for Human Rights (OHCHR), 2005b, p. 29). Human rights instruments are designed to promote lawful, humane, and disciplined decision-making and behaviour among corrections system personnel (OHCHR, 2005a, p. 5).

There are a variety of human rights standards that cover a range of international legal authority. Obligations set out in covenants and conventions are binding whereas standards set out through various declarations, minimum rules, and bodies of principles, are simply morally persuasive. In combination, all of these instruments provide a comprehensive international legal framework for "ensuring respect for human rights, freedom and dignity in the context of criminal justice" (OHCHR, 2005a, p. 7). The behaviour of nation states can lead to the creation of customary international law, which is not established in a written agreement. This occurs when states routinely behave in a particular manner because they believe they have to; the behaviour becomes recognized as a principle of customary international law, even if it is not found in a written agreement (OHCHR, 2005a, p. 7). Customary international law and formal treaties which have been ratified or acceded to by States are binding law, such as the

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[47] See the preambles to the Universal Declaration of Human Rights and the two International Covenants on Human Rights for recognition of the inherent dignity and equal rights of all members of the human family. See Principle 1 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988). Further, see the Basic Principles for the Treatment of Prisoners (1990) for the principles that refer to the humane treatment and respect for the dignity of the human person who is either detained or imprisoned.

Universal Declaration of Human Rights, International Convention on the Rights of the Child (CRC), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Charter of the UN. Additionally, there are guidelines, minimum rules and declarations, which are important to identify in discussions of human rights standards pertaining to imprisonment. These include the Standard Minimum Rules for the Treatment of Prisoners, the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), and the UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) (OHCHR, 2005a, p. 14). Regional human rights instruments exist in Europe, the Americas, and Africa, which are applicable to human rights discussions and include the European Convention on Human Rights and the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (OHCHR, 2005a, pp. 24-26). National laws and regulations typically reflect international human rights standards and are necessary for "the good functioning of a democratic society and to the maintenance of the rule of law" (OHCHR, 2005a, p. 5).

Despite the existence of international human rights standards, those who have allegedly committed a criminal offence, and those who have been found guilty of committing a criminal offence, continue to be treated poorly. For example, notwithstanding the fact that more than 150 states have ratified the ICCPR (1966), which forms the basis for the body of UN and international standards and principles for the treatment of prisoners (UN Treaty Collection, 2013, n.p), prisoners continue to be mistreated worldwide. With their signature, states agreed to protect the right to life, treat prisoners with "humanity and with respect for the inherent dignity of the human person" (ICCPR, 1966, Article 10), and prevent the torture and inhuman and degrading treatment of prisoners. Even though many states have signed this treaty, little has been done in terms of following the treaty, which illustrates the gap between international standards set by the world community and the reality of their implementation in practice (Stern, 2006, pp. 158-159). Examples of violations are presented throughout this chapter while illustrating challenges in PCE corrections systems.

To bring PCE corrections systems in line with international human rights standards, a variety of challenges have to be overcome, including prison overcrowding, juvenile incarceration, and the incarceration of other vulnerable prisoners. Challenges

also include hiring qualified, appropriately trained staff members who can safely manage prisoners and ensure prisoners are provided with clean water, basic healthcare, clothing, bedding, and adequate food. These demonstrative examples of challenges in PCE corrections systems will now be explored.

Challenges in PCE Corrections Systems

Corrections systems in PCEs experience similar challenges as one another although each experiences a unique mix of challenges and to varying degrees. Figure 6.1 illustrates categories of issues that create challenges for prison managers in PCEs and developing countries. This figure also appropriately highlights the challenges that donors and international corrections advisors have to address in reforming corrections systems in PCEs and developing countries. Each of the issues is identified in the outer portion of the figure; international human rights standards are available to address all of these issues (UNODC, 2010, p. 13). In addressing these issues, donors and international actors may engage in a variety of tasks, which are found in the inner circle of the figure. These tasks include, but are not limited to, reforming existing legal frameworks; engaging in strategic policy design and implementing new policies and procedures; building oversight and accountability mechanisms into the system; and, strengthening leadership (UNODC, 2010, p. 13).
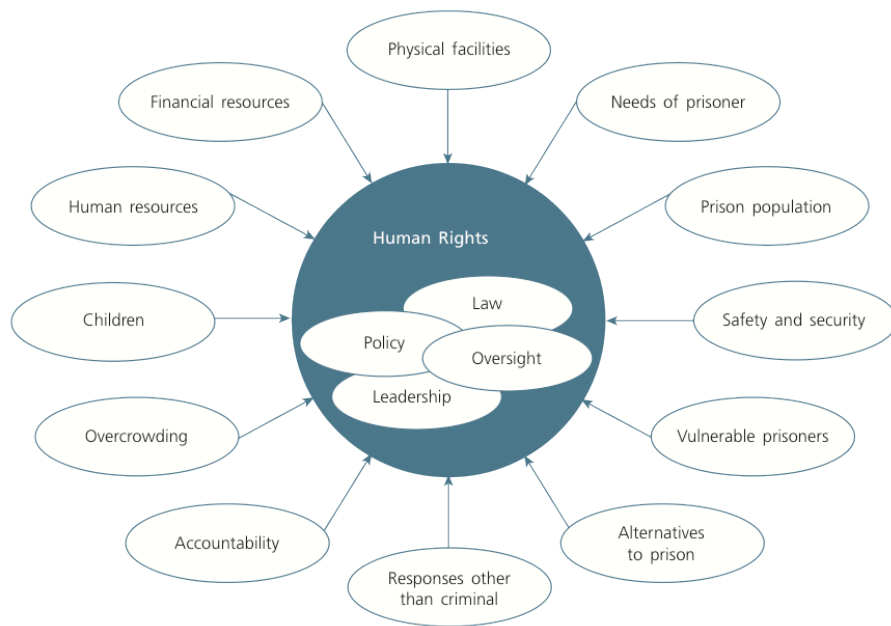
Figure 6.1. ***Categories of Common Issues that Create Challenges in PCE and Developing Countries' Corrections Systems***

Note. UNODC (2010; p. 13); used with permission.

Overcrowding

Despite decreasing crime rates and increasing prison construction programs, prison overcrowding continues to be one of the most challenging problems criminal justice systems and prison administrators are experiencing around the world (PRI, 2013a, para. 1). Prison overcrowding transcends boundaries, as it occurs in adult and youth detention facilities, and, in countries that are resource-rich, as well as in countries that are resource-challenged (Griffiths & Murdoch, 2009, p. 2; UNODC & United States Institute of Peace (USIP), 2011, p. 101). Therefore, overcrowding serves as an example of how corrections reform can be extremely challenging, as prison systems throughout the world struggle to address this issue (Griffiths & Murdoch, 2009, p. 2). Prison overcrowding is difficult to address because the solutions are not corrections-specific; collaboration among all criminal justice sectors is required to tackle the problem (UNODC & USIP, 2011, p. 101). For example, new legislation introducing alternatives to imprisonment may need to be implemented as a solution to decrease a country's reliance on imprisonment.

Prison overcrowding occurs when "the numbers of persons confined in a prison are greater than the capacity of the prison to provide adequately for the physical and psychological needs of the confined persons" (Griffiths & Murdoch, 2009, p. 2). As of 2012, the number of prisoners outnumbered the total number of available spaces in corrections systems in 117 countries. In 32 of these countries, occupancy rates were between 150 and 200 percent and in an additional 16 countries; prison occupancy rates doubled the capacity of the prison (PRI, 2012a, p. 1). As mentioned above, overcrowding exists in prison systems throughout the world. The following percentages highlight the highest rate of overcrowding in each region of the world, accompanied by the name of the host country:

- Americas: Haiti (335%);
- Africa: Benin (307%);
- Asia: Iran (259%);
- Oceania: French Polynesia (215%); and,
- Europe: Serbia (158%) (PRI, 2012a, p. 1).[48]

To illustrate the severity of prison overcrowding, individual examples will now be provided, including a discussion about the consequences of overcrowding. In 2003, South African prisons were experiencing overcrowding, as cells designed to hold twenty prisoners were holding upwards of fifty prisoners (Samara, 2003, p. 279). In 2001, the Panchito López Juvenile Detention Centre in Paraguay was found to be operating with 270 inmates in a space that was intended for a maximum of 80 inmates. This resulted in situations where three inmates had to share one bed, and where inmates had private space the equivalent size of a newspaper (Amnesty International, 2001, p. 2). Not surprisingly, five years later, prison overcrowding was plaguing the adult prison system in Paraguay; over 3,000 prisoners were residing at Tacumbú at a time when it had a maximum capacity of 1,200 (Nowak, 2006, para. 6). Conditions are no better in Burundi,

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[48] Caution should be exercised in interpreting these figures, as they may not adequately reflect the severity of the problem. A prison service may not operate at overcapacity as a whole; however, individual prisons within the system may operate in excess of their capacity (PRI, 2012a, p. 1).

where it is not uncommon for almost one hundred detainees to be sentenced to a small cell (55 square meters) with no toilet (Defence for Children International (DCI), 2003, p. 46). Further, in Haiti, prisoners often have to take turns sitting and sleeping. Additionally, prisoners can only use the sanitation facilities for a maximum of 30 minutes per day, which is often the only time prisoners leave their cells (International Crisis Group, 2007, p. 1). These conditions are not unique to this system. Prisoners in other jurisdictions have resorted to tying themselves to window bars so they can sleep standing up, as there is not enough room to sleep lying down (Macaulay, 2002, p. 4). In 2002, Weiler (p. 262) reported that prisoners in Russian prisons experienced such high rates of overcrowding that there were times when they did not have enough oxygen to breathe. In some situations, severe overcrowding and a lack of space have resulted in prisoners dying of suffocation (UNODC, 2010, p. 69). Overcrowding can also increase the risk of violence and gang activity, which has a negative impact on the safety and security of prisoners and staff (UNODC, 2010, p. 65). What is shocking about high rates of incarceration is that oftentimes, detainees may be in prison without having been charged or convicted of serious offences, they may pose no threat to the community, and in some cases, they may not have gone through appropriate legal channels (OECD-DAC, 2007, p. 205).

Overcrowding is an important issue to address, as it is a violation of offenders' rights on its own, and, it also results in the violation of other rights (PRI, 2013a, para. 5; Special Rapportuer, 2004, p. 54). Overcrowding makes it difficult for prison systems to provide basic services for prisoners (e.g., food) and to provide programming, including education and rehabilitation programs. In extreme circumstances, for instance, in the Panchito López Juvenile Detention Centre described above, prison overcrowding actually creates conditions that amount to cruel, inhuman and degrading treatment of prisoners. The conditions of confinement at Panchito López Juvenile Detention Centre actually violate provisions of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Overcrowding violates UN and international human rights standards "which require that all prisoners shall be treated with the respect due to their inherent dignity and value as human beings including being accorded a reasonable amount of space" (Walmsley, 2001, p. 18).

Overcrowded prisons also create circumstances that violate international human rights standards requiring that prisoners receive the "highest attainable standard of physical and mental health" (PRI, 2013a, para. 5).[49] Poorly ventilated prisons, high rates of overcrowding, inadequate prevention practices (if any), high-risk behaviours, and malnutrition, increase the risk of transmission of communicable diseases, such as Tuberculosis, Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS), Gonorrhoea, Hepatitis B and C, and Syphilis (Aids Campaign Team for Africa (ACT*Africa)*, 2007, pp. 2-3; UNODC, 2010, p. 74).[50] In addition to the negative repercussions for prisoners, prison staff is also put at risk for infectious disease transmission given their close proximity and exposure to prisoners (UNODC, 2010, p. 73). Overcrowding may also have significant consequences for the outside community given that most offenders eventually return to their communities; for example, in South Africa, approximately 25,000 people are released from prison every day (Samara, 2003; p. 292). The consequences for the community are staggering when you consider the high rates of overcrowding and infectious disease in the South African prison system (Samara, 2003; p. 292). The spread of communicable diseases to the community places high demands on healthcare systems and has human costs due to the spread of these serious diseases (ACT*Africa*, 2007, p. 2; Griffiths, 2003, p. 5; OCED-DAC 2007, p. 199; UNODC, 2007, p. 4).

See Table 6.1 for the principles policymakers and practitioners are advised to consider when developing strategies to address overcrowding.

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[49] This reflects Article 10 of the ICCPR (1966), which states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

[50] The most common cause of death in the South Africa prison service is due to disease, which is primarily transmitted from one inmate to another (Special Rapporteur, 2004, p. 3).

Table 6.1   *PRI's Ten-Point Plan to Reduce Prison Overcrowding*

PRI's Ten-Point Plan to Reduce Prison Overcrowding
1. Ensure data management systems are in place to collect and analyze data to inform policy development.
2. Reform the entire criminal justice system: consider alternatives to imprisonment, crime prevention measures, and restorative justice practices.
3. Develop and use diversion programs at various stages of the criminal justice system.
4. Address the use of pre-trial detention, including access to justice.
5. Design and implement non-custodial sentencing options.
6. Use imprisonment as a last resort for children and young offenders: develop alternative options for this vulnerable population.
7. Consider non-custodial options for parents with dependent children.
8. Divert offenders with substance abuse or mental health issues to community-based programs.
9. Ensure consistency in judicial sentencing practices, and proportionality in sentencing.
10. Develop conditional release programs, which facilitate offenders' social reintegration.

*   PRI (2012a, pp. 2-4).

Pre-trial Detention

Over-reliance on pre-trial detention has been a contributing factor to prison overcrowding, which as discussed above, has negative consequences for prisoners, staff, and communities. As stated in international human rights standards, pre-trial detention is an infringement of the right to liberty and the exceptional rule of deprivation of liberty, and further, high rates of pre-trial detention and lengthy periods of pre-trial detention are "contrary to the principle of the presumption of innocence" (Nowak, 2007a, para. 6).[51] The UN Standard Minimum Rules for Non Custodial Measures include provisions advocating against the use of unlawful or unnecessary imprisonment, especially with respect to children, the mentally ill, and individuals awaiting trial.[52]

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[51] The Universal Declaration of Human Rights (1948) states, "everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence" (Article 11(1)).

[52] See section 6 of the UN Standard Minimum Rules for Non Custodial Measures (1990), which argues against the use of pre-trial detention. Further, see Rule 13.2 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), which pertain strictly to the

Despite the existence of these human rights standards advocating against the use of imprisonment for people awaiting trial, approximately three million people are being held in pre-trial detention throughout the world (Shaw, 2008, p. 2). Country-specific examples will now be discussed to illustrate the problem of, and the consequences of, pre-trial detention.

Almost 80 percent of Haiti's prisoners are pre-trial detainees, waiting several weeks to several months before disposition of their cases (Fuller, Texier, Brosseau, Lemaire, & Pierre-Louis, 2002, p. 1). As of January 2001, almost all of the prisoners at the Panchito López Detention Centre were reportedly being imprisoned for pre-trial detention, as only eight of the 201 juveniles in custody had been sentenced (Amnesty International, 2001, p. 2). Many offenders will serve months, and sometimes years, as pre-trial detainees living in cramped, damp, poorly ventilated, vermin-infested facilities (Amnesty International, 2001, pp. 2-3). To illustrate, the Special Rapporteur on torture found that the prison conditions for pre-trial detainees in Nigeria were inhuman, particularly the sanitary conditions. Some pre-trial detainees in Nigeria had been held in these unsanitary conditions for up to six years while waiting for their case to go before the courts (Nowak, 2007b, p. 29). Despite the fact the Guinean Code of Criminal Procedure provides the right for accused individuals to be tried within a reasonable time – within four months of being admitted as a pre-trial detainee – between 70 to 80 percent of approximately 1,000 offenders at one of the primary detention facilities in Guinea (at Maison Centrale) are awaiting trial (Human Rights Watch (HRW), 2006, p. 12). Fourteen pre-trial detainees reported they had spent more than 4 years awaiting trial, including two children, and six more pre-trial detainees had been awaiting trial for more than six years (HRW, 2006, p. 12). These incidents are unlawful because justice was delayed

administration of justice for juveniles. Rule 13.2 clearly states that pre-trial detention should be replaced by alternative measures, such as intensive supervision or care by the juvenile's family or in an education facility or home, and for the minimum period of time necessary.

and thus, justice was denied. Article 9 of the ICCPR (1996) requires pre-trial detainees have their cases heard within a reasonable time.[53]

A disproportionate number of pre-trial detainees are poor and cannot afford legal representation, or they cannot deposit financial bail to secure their release. This may be particularly challenging for youths in jurisdictions where a juvenile court does not exist and where children are tried in adult criminal courts. These children are unlikely to be legally represented, or have the financial resources to pay bail, which ultimately results in lengthy pre-trial detention periods (UNICEF, 2006, p. 45). This is a serious problem because as Shaw (2008) states, "when poor defendants are more likely to be detained, it can no longer be said that the criminal justice system is fair and equitable" (p. 2).

Developing alternatives to imprisonment has been advocated as a solution to address prison overcrowding and the over-reliance on pre-trial detention in PCEs (Griffiths & Murdoch, 2009, p. 14). In the early 1990s, Zimbabwe authorities realized they needed to decrease their nation's prison population and the associated costs of imprisonment because a 'snapshot' of the nation's prison population revealed that 80 percent of their prisoners were serving sentences of less than 12 months, and many were in prison despite having been given the option of fines. Based on these findings, Zimbabwe passed legislation to develop an alternative to imprisonment – a community service scheme (UNODC, 2007, p. 37). Through the joint efforts of various government committees and the community, community service orders were effective in decreasing prison populations and costs. Within the first four years of its operation, the program proved to be a success. Ninety-one percent of the 18,000 probationers sentenced to community service successfully completed it, participants had lower recidivism rates than non-participants, and the cost was approximately one-fifth of the cost of imprisoning

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[53] Article 9(3) of the ICCPR (1966) states, "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement."

someone. Zimbabwe's success in decreasing their imprisonment rates and associated costs, and developing a scheme that reflected African customary traditions, led to the design and implementation of similar programs throughout Africa (UNODC, 2007, p. 37).

Children: Juveniles in Detention[54]

International human rights standards pertaining to children in conflict with the law address children's rights at various stages of the justice process. Certain standards address non-carceral issues, such as crime prevention and early intervention, whereas others address carceral issues, such as the conditions of detention and the reintegration of juvenile offenders (PRI, 2013b, para. 6). These standards reflect the unquestionable belief that children are entitled to additional care and protection given their age, vulnerability, and immaturity (PRI, 2013b, para. 7; PRI, 2004, p. 49). The Convention on the Rights of the Child (CRC) is the main treaty concerning children who come into conflict with the law and it covers the 3 P's: provision ("certain things and services"), protection ("from certain acts"), and participation ("in decisions affecting their lives and in society as a whole") (DCI, 2003, p. 27).[55] With specific regard to the detention of children, the CRC (1989) states, "the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time" (Article 37(b)).[56]

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[54] "Anyone under 18 who comes into contact with the justice system as a result of being suspected or accused of an offence" (UNICEF, 2006a, p. 1) is defined as a child in conflict with the law.

[55] The underlying premise of the CRC is that children have distinct rights from adults and that childhood is "a time when children can grow and play, rest and learn" (UNICEF, 2006, p. 43).

[56] The 1985 UN Standard Minimum Rules for the Administration of Justice (The Beijing Rules), the 1990 UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Rules), and the 1990 UN Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules) fall under the CRC umbrella treaty. The Beijing Rules advocate the importance of juveniles having their own juvenile justice system whereas the Riyadh Guidelines identify the importance of prevention within juvenile justice. Lastly, the Havana Rules embody the protection of children's legal rights when they come into conflict with the law and are deprived of their liberty. Other important standards relating to the imprisonment of children and youth in conflict with the law are the: Standard Minimum Rules for the Treatment of Prisoners (1955); Body of Principles for the Protection of All Persons under any Form of Detention or

Although 193 states are parties to the CRC, research consistently demonstrates how states continue to over-rely on imprisonment and especially, pre-trial detention, for juvenile offenders.[57] This is not without consequence, as the conditions within which youth are incarcerated are often horrific, degrading, overcrowded, and inhuman, and the repercussions cannot be overlooked (DCI, 2003, p. 9). As of 2006, estimates indicate that there are more than one million children imprisoned worldwide (UNICEF, 2006, p. 22).[58] The proportion of imprisoned juveniles varies depending on the country; estimates range from .5 to 30 percent of the overall prison population (DCI, 2003, p. 11).[59] Although estimates in the lower range of this spectrum may seem insignificant in terms of proportion of the overall prison population, they are not. Such proportions may represent a large number of prisoners. For example, as of July 2003, 185,217 people

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Imprisonment (1988); Basic Principles for the Treatment of Prisoners (1990); Kampala Declaration on Prison Conditions in Africa (1997); and the UN Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules; 1990). All of these international standards are founded on five crucial principles for the treatment of juveniles in detention. These principles are: "the best interests of the child; the right to dignity and respectful treatment; separation from adult prisoners; deprivation of liberty as a last resort and for the shortest period possible; and protection from torture" (Dandurand et al., 2008b, p. 53).

[57] Although the Committee on the Rights of the Child (2007, para. 83) recommends six months as the maximum amount of time children should spend in pre-trial detention, with their detention being reviewed every two weeks, some countries do not have legislation that reflects these recommendations. Bangladesh, Jordan and Kazakhstan do not have defined limits, whereas Georgia limits the time period to nine months rather than the recommended six months (PRI, 2012c, p. 17). It should be noted that not all states have failed to set guidelines, as Pakistan and Uganda have set their limit at six months (PRI, 2012c, p. 17). Similar to sentenced juvenile offenders, children awaiting trial may be exposed to abuse and are unlikely to have the means to shelter themselves from these acts (PRI, 2004, p. 52).

[58] The Havana Rules (1990) define deprivation of liberty as "any form of detention or imprisonment or the placement of a person in a public or private custodial setting from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority" (Article II, 11(b)).

[59] The exact extent of juvenile detention is not fully known, as data on children in detention is scarce for a number of reasons. Justice system data is often inadequate (for example, temporal gaps) and data may not be kept if literacy levels are low among prisoners and prison personnel. In societies without national birth registration and identification systems, prisoners may not know their age. Further, children may be coerced into lying about their age; for example, in Nigeria, children are coerced to exaggerate their age so they can be tried as adults (Dandurand et al., 2008b, p. 11; UNICEF, 2006, p. 44).

were imprisoned in South Africa and 2.2 percent (4,032) of these individuals were children (South African Human Rights Commission, 2004, p. 2). Further, a 2008 snapshot of the Southern Sudan Prison Service revealed that 9.5 percent (199) of their total prisoner population was aged 18 or younger (Dandurand et al., 2008b, p. 11).

Children typically end up in detention facilities because they have engaged in 'criminal behaviour,' or because they are accompanying their mothers who either gave birth to them while they were in prison, or prior to their term of incarceration.[60] Children typically come into conflict with the law for committing non-violent, minor offences; estimates indicate that only 5 to 10 percent of imprisoned children are detained for having committed serious offences (DCI, 2003, p. 11). The only 'crime' a child has committed may result from him or her being poor and homeless, which led to a life of petty crime, vagrancy, prostitution, or begging for survival (PRI, 2013b, para. 2). In other instances, the child has committed a 'status offence,' which if it were committed by an adult, it would not be considered an offence. Examples of status offences are running away from home and missing curfew (PRI, 2012c, p. 15). The situation in Nigeria illustrates this issue; approximately 70 percent of 6,000 juveniles in prison or juvenile detention centers in the country are first-time offenders. In general, these children and teenagers have been arrested for misdemeanours, which include acts of truancy, petty stealing, and in some situations, walking or loitering in the street (UNICEF, 2006, p. 44).

As mentioned above, children may also be imprisoned due to their mother's circumstances. The Southern Sudan Prison Service has policies that allow children to reside with their mothers until they are two years old (Dandurand et al., 2008b, pp. 23-24). Children may also reside with their mothers in other African prisons; as of 2005, 68 children were living with their mothers in South African prisons, and they could remain with their mothers until they were five years old (Vetten, 2008, p. 138). Despite the existence of statutory limitations, in some jurisdictions, children reside with their mothers

[60] There are other reported instances where children – typically girls – end up in prison as victims of crimes, which is a violation of their human rights. In Nigeria, victims in trafficking and rape cases may find themselves in detention facilities because of weaknesses in the investigation and prosecution process (UNICEF, 2006, p. 44).

well past the maximum legislated age. According to written policy in Ethiopia, children are only allowed to reside with their mothers until they are 18 months old. However, in practice, children as old as the age of 8 have been found to be detained in prisons with their mothers and not attending school (ACHPR, 2004 as cited in Vetten, 2004, p. 138). What is unique about children accompanying their mothers in prison is that they may not be considered the official responsibility of the prison service. Additionally, children typically live in the same prison conditions as their mothers despite their special needs, which may be of concern depending on the country or the prison where they are detained.

Every child has the right "to a standard of living adequate for [their] physical, mental, spiritual, moral and social development" (CRC, 1989, Article 27(1)). Some say children who come into conflict with the law are not a high social or political priority, as they are 'out of sight' and therefore, out of mind (DCI, 2003, p. 21). The 'out of sight, out of mind' policy cannot continue to be followed for children deprived of their liberty given the multitude of concerns associated with their incarceration. Many juvenile detention centers and facilities where youth are imprisoned are plagued with human rights violations (DCI, 2003, pp. 137-138). The research literature paints a dire picture of the juvenile carceral experience. Inadequate healthcare, food, education, vocational and therapeutic programming, and exposure to physical, psychological, and sexual abuse are all common features in juvenile facilities (DCI, 2003, p. 23; UNICEF, 2006, pp. 44-45). Subsequent paragraphs illustrate some of the existing realities in juvenile detention facilities worldwide.

Of the estimated 6,000 children and teenagers residing in youth facilities in Nigeria, approximately 90 percent do not have adequate standards of living. For example, these juvenile offenders may not have proper access to food, toilets, clean linens, and bathing facilities, which has significant health repercussions (UNICEF, 2006, pp. 44-45). Children in the Prison of Vaqar in Albania are not provided with a nutrient-rich and satisfying diet; some juveniles in this detention facility rely on consuming large quantities of vitamins (which are often out of date) from the hospital pharmacy to get their nutrients (DCI, 2003, p. 38). Juveniles in detention in Burundi live in appalling conditions, as they do not get soap or toilet paper, water systems do not always work, and there is only one room that the boys can use as a makeshift shower facility (using

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cans to bathe) (DCI, 2003, p. 47). These are all factors that increase a child's risk of contracting communicable diseases and becoming ill.

Juveniles may be housed with adults despite the fact mixing children and adults in detention facilities contravenes Article 10(2b) of the ICCPR (1966) and Article 37(c) of the CRC (1989). These human rights standards explain how juveniles should be housed separately from adults unless it is considered to be in the child's best interests. Adult systems are inadequate in addressing the needs of youth who come into conflict with the law. Processing children through the adult system may cause children great harm and because they are in their formative years, detention can have an adverse effect on their physical, psychological, and social development (DCI, 2003, p. 23). Evidence from around the world documents the negative repercussions of incarcerating youth with adults. Juveniles who are housed with adults are more likely to be raped, beaten and exploited (DCI, 2003, p. 23; PRI, 2004, p. 52). The evidence suggests that children who are incarcerated with adults are twice as likely to be beaten, fifty percent more likely to be attacked with a weapon, and five times more likely to be sexually assaulted than children who are incarcerated with other children (DCI, 2003, p. 23). Juveniles are mixed with adult offenders in both Burundi and Southern Sudan, which increases their risk of sexual abuse and exploitation (Dandurand et al., 2008b, p. 56; DCI, 2003, p. 132). The lack of separation between adults and children may be due to inadequate or nonexistent legislation requiring separation, the absence of a separate system to deal with children who come into conflict with the law, or the absence of available resources to construct separate sections for juveniles within adult prison facilities (Dandurand et al., 2008b, pp. 65-67).

Juveniles may be subject to violence at the hands of older prisoners and also, prison staff, which may include physical or sexual violence, or verbal abuse (PRI, 2012c, p. 5). Prison rape rates are the highest among juveniles awaiting trial in South African prisons, which disproportionately impacts the street children in the country (Samara, 2003, p. 279). Allegations against staff at the Panchito López Juvenile Detention Centre demonstrate the severity of incidents of physical violence against youth, which constitutes torture or cruel, inhuman or degrading treatment. Boys in this detention centre reported being suspended upside down while their backs were beaten with a hammer, their hands and feet scalded, and their heads put in plastic bags. Sometimes, it

was not the act of doing something that resulted in physical violence against boys in this detention facility, it was the lack of action. There were allegations that staff refused the children access to toilets, food, and drink, for up to several days at a time (Amnesty International, 2001, p. 1). Some countries, such as Kazakhstan, have programs in place to provide training for judges and juvenile justice system employees to improve the country's capacity to address the needs of children in conflict with the law (PRI, 2012c, p. 32).

All of these realities may damage children's mental, physical, and social development, and further, imprisonment will likely result in stigmatization, which may prevent youth from reintegrating into their communities upon release. These experiences suggest that youth who are being deprived of their liberty are being punished. The purpose of depriving youth of their liberty is to facilitate their rehabilitation. As such, detention should be used as a last resort and if imprisonment is unavoidable, it should be designed to contribute to the youth's long-term social adjustment through providing care, protection, programming opportunities, and recreation/sport activities (PRI, 2004, p. 53). See Table 6.2 for the principles policymakers and practitioners are advised to consider when developing strategies to respond to children in conflict with the law.

Table 6.2.   ***PRI's Ten-Point Plan for Fair and Effective Criminal Justice for Children***

PRI's Ten-Point Plan for Fair and Effective Criminal Justice for Children
1. Develop early intervention and crime prevention programs for children.
2. Ensure data management systems are in place to collect and analyze data to inform policy development.
3. Increase the minimum age of criminal responsibility to at least the age of 12.
4. Develop a youth criminal justice system, which separates children from adults, and is operated by specially trained personnel.
5. Remove status offences from existing legislation.
6. Provide children with the right to be heard during judicial proceedings.
7. Create diversion programs for youth at each stage of the criminal justice system.
8. Detention should always be used a last resort for children and juvenile offenders.
9. Address the needs of children reintegrating back into their communities after a period of confinement.
10. Develop appropriate mechanisms to ensure children in conflict with the law are not subject to violence while detained.

*   PRI (2012b, pp. 2-4).

Vulnerable Prisoners: Women in Detention

More often than not, women are underrepresented in peace negotiations during times of conflict, as discussions about peace agreements are typically male-dominated (Bell & O'Rourke, 2007, p. 125). Women are also typically absent in transitional justice processes; too little attention is given to their experiences before, during, and after conflict, their needs and demands for justice following conflict, and their role in designing transitional justice mechanisms (Bell & O'Rourke, 2007, p. 123). Given these more general concerns about the absence of gender-sensitive practices in PCEs, it is understandable why concern exists about the experiences of incarcerated women in societies transitioning from war to peace. It has been argued that corrections systems in most environments are not usually gender sensitive to the needs of imprisoned women, let alone corrections systems operating in PCEs (Ashdown & James, 2010, p. 123).

Since 2006, the female prison population has increased on all five continents; over the past few years, the increased rates of women and girls in the total prison population in Europe and Asia have been particularly high. Women account for between 2 and 9 percent of the world's prison population. There are approximately 625,000

women and girls detained worldwide (Walmsley, 2012, p. 1).[61] Women who are detained in PCE corrections systems tend to be incarcerated for non-violent offences, such as theft or fraud, with their offences being closely related to their poverty (Ashdown & James, 2010, p. 123). Women's imprisonment is influenced by their poverty in two ways. First, women may commit offences because they are poor; and second, women may end up incarcerated for offences because they cannot afford to pay for bail, fines, or legal services (Ashdown & James, 2010, p. 123; PRI, 2008(1), p. 2). As discussed earlier, corrections systems must be viewed within the larger societal context, and women's imprisonment is no different. Women's imprisonment reflects the ideological, legal, and cultural values of the PCE. For example, on a mission in Afghanistan, the UN Special Rapporteur on Violence Against Women found that the majority of women were incarcerated for adultery-related charges, including remarrying after divorce, which reflects larger social values and norms (PRI, 2008(1), p. 2).

Because corrections systems in PCEs are not typically a priority area of governance in terms of donor attention and funding (OHCHR, 2006, p. 18), there is concern about the prison conditions in these environments. As previously discussed, the prison infrastructure may be weak, the conditions are likely to be very poor in terms of food, water and disease prevention mechanisms, and the prison itself is likely to be overcrowded. Further concerns exist for women imprisoned in PCE corrections systems, as female offenders have unique needs that require attention. Female offenders are likely to have histories characterized by severe abuse (mental, physical, and sexual) and poverty (OECD-DAC, 2007, p. 202). Imprisoned women have medical needs that differ from men and they require gender-sensitive medical provisions. Imprisoned women are at high-risk for "sexual and reproductive health diseases, including cancer" (UNODC, 2010, p. 75); so adequate medical care should be provided. Additionally, imprisoned women require access to sanitary pads when they have their menstrual cycle. In some jurisdictions, women are "simply left to bleed under a tree so they do not dirty the cells"

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[61] These statistics reflect the number of women and girls held as pre-trial detainees or sentenced offenders in 212 prison systems in both independent countries and dependent territories, up until the start of January 2012 (Walmsley, 2012, p. 1).

(UNODC, 2010, p. 75). Because far fewer women are imprisoned than men, women may be imprisoned far from their families (if there are large regional facilities rather than multiple local facilities), or women may be imprisoned in prisons housing male prisoners, which presents safety issues (UNODC, 2010, p. 79). Similar to women in non-conflict situations, women in post-conflict situations may be subject to violence from public officials. Women may be subject to various forms of staff abuse, including verbal abuse, inappropriate touching, and rape (UNODC, 2010, p. 80), which highlights the necessity of gender-sensitive policies and education training programs for prison staff. Gender-sensitive issues that should be addressed in PCE corrections systems also include determining whether:

- Appropriate classification and placement procedures are used;
- Women have access to legal representation given their vulnerabilities to poverty and resulting inability to pay for legal representation;
- Prison practices exist to address the special physical and mental health needs of women prisoners (including reproductive health, ante-natal and post-natal care, and issues related to substance abuse and past sexual abuse);
- Women officers are employed to attend solely to women offenders;
- Family contact is encouraged by prison management; and,
- Education, treatment, and vocational training are available (Ashdown & James, 2010).[62]

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[62] In addition to Articles 10(1) and 10(3) of the ICCPR (1966), which state that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person, there are unique standards relating to imprisoned women. These include the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the UN Declaration on the Elimination of Violence against Women (1993; PRI, 2008(1), p. 10). Further, special standards that address the unique needs of imprisoned women are found in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988), the Standard Minimum Rules for the Treatment of Prisoners (1955), and the UN Rules for the Treatment of Women Prisoners and Non-custodial measures for Women Offenders (the Bangkok Rules) (Ashdown & James, 2010; PRI, 2008(1), p. 10).

Human Resources: Prison Staff

      Corrections systems worldwide are "people-oriented business[es]" (International Corrections and Prisons Association (ICPA), 2002, p. 2). Recruiting, training, and retaining qualified staff is vital to the success of corrections reform activities undertaken during peace operations (ICPA, 2002, p. 2, p. 10). There are high staff attrition rates in challenging correctional environments, which may reflect the demanding nature of the work, poor working conditions, poor pay, lower status than other criminal justice officials (e.g., police officers and military personnel), or the low level of professionalism among staff members (Tapscott, 2008, pp. 77-78). Prison officials work with men and women who may have mental health or addictions issues, come from the most marginalized groups in society, and may be dangerous and aggressive towards staff (Coyle, 2002, p. 15). Additionally, given the unique circumstances in PCEs, it is possible that ex-child soldiers may be detained in prisons, as well as individuals who have connections with organized crime networks. Such challenging prison populations require highly trained staff members who can manage their unique risks and needs. Unfortunately, it is not uncommon for prison staff to receive very little training or no training at all; for example, prison officials in Africa only receive basic introductory training that focuses primarily on the control of prisoners (through the use of weapons) (PRI, 2000 as cited in Tapscott, 2008, p. 77). Given the tendency of prison staff to be inadequately paid and poorly trained, the likelihood of staff being vulnerable to external, corrupt temptations increases (Coyle, 2002, p. 16). As Le Billon (2008) explains, "personal financial wealth … becomes a greater symbol of social status in a peaceful era" (p. 346). Thus, low salaries may prevent individuals from participating in a desirable social group, so personnel may resort to illegal means to obtain wealth, which may undermine reform efforts.[63] There is further concern about poorly trained and remunerated corrections personnel because a

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[63] Findings from the police reform literature also highlight this problem: the combination of low salaries, poor training, and ineffective leadership contributed to bribery and corruption among the police service in post-conflict Cambodia (Broadhurst & Bouhours, 2009, p. 188). Low salaries, or a complete absence of pay for police officers in post-conflict Sierra Leone led to corruption and demoralization among police officers (Baker, 2006, p. 37).

UN study found these staff characteristics were directly linked to violence within institutions (PRI, 2012c, p. 32).

Training prison officials in PCEs presents unique challenges due to the historic and situational context within which the training is provided. In some authoritarian, military-run countries, military officials are sometimes responsible for operating the prisons. These individuals operate the prisons on the basis of militia training and experiences, and many have never completed official prison staff training (OECD-DAC, 2007, p. 200). Prison officials may also be illiterate, which creates challenges in developing training materials and delivering programs.[64] Finding facilities to conduct training may be a challenge given that public institutions in some PCEs may not exist, because as discussed in Chapter 4, public buildings may have been looted or destroyed during the conflict (DPKO, 2006, p. 66). Capacity development initiatives involve training corrections personnel as part of the overall strategy to establish the rule of law in PCEs. The remainder of this chapter focuses on corrections reform activities that may be used to address local capacity development in PCE corrections systems.

Vetting and Recruitment

Vetting – the process of assessing the suitability (integrity or competence) of existing justice system officials to continue in their positions – is a necessary process that takes place during corrections reform activities (and criminal justice reform activities in general) (DPKO, 2006, p. 33). The vetting process holds people accountable for their previous actions, and prevents them from engaging in further inappropriate conduct, such as corruption or repression. Vetting plays a role in establishing an organizational culture where individuals respect the population and are responsive to their needs; it can transform criminal justice institutions "into instruments of genuine public service" (Kosovo Institute for Policy Research and Development (KIPRED), 2009, p. 11). Vetting is therefore an effective strategy to use because it promotes individual accountability,

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[64] Illiteracy may be high in PCEs; for example, high illiteracy rates exist in Cambodia, Haiti, Liberia, Rwanda, and Timor-Leste (UNODC & USIP, 2011, p. 76).

addresses past injustices, and fosters organizational change. A significant number of employees may be dismissed through vetting, which creates the need for mass recruitment. Mass recruitment often reflects international human rights standards for "affirmative action or positive discrimination measures" (OHCHR, 2006, p. 34). It is advantageous to ensure the host country's ethnic composition is represented in recruitment outcomes, and further, that the recruitment of women is encouraged (DPKO, 2006, p. 33). Implementing recruitment standards is important "since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends" (Standard Minimum Rules for the Treatment of Prisoners, 1955, Rule 46(1)).[65]

Study Tours

Study tours are useful in providing host-country personnel with the opportunity to observe, and communicate with, personnel from other jurisdictions. Study tours to jurisdictions with vastly different circumstances, cultural values, and financial resources than the host-country are unlikely to be helpful for those participating; these study tours may in fact, be counterproductive (DPKO, 2006, p. 27). Study tours to emerging democracies and those in the same region may however, be beneficial for personnel in PCEs because the systems share similar conditions and realities (Nathan, 2007, p. 49). Strict imitation of the external model to the recipient country is unlikely to develop capacity or promote short-term or long-term change (Dandurand et al., 2008a, p. 61). Therefore, addressing issues of transferability and applicability of the knowledge, models, and techniques learned during study tours is a key component of this training strategy. Another important consideration when planning study tours is identifying appropriate individuals to participate in the tour, since it is usually high-ranking officials who attend such tours. These individuals may or may not have the actual responsibility of engaging in training activities in their respective jurisdictions (Dandurand et al., 2008a,

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[65] Recruitment application procedures may involve an application, background questions, interview questionnaire forms for references to complete, an interview, physical aptitude and medical testing, a written exam, waiver forms, a background check, and sometimes, a review by a War Crimes Tribunal (DPKO, 2006, p. 32).

p. 61). Another strategy that can be used to increase the effectiveness of study tours is to train the trainers in capacity development activities, so they know how to train others upon their return. This increases the likelihood of knowledge and skills transfer upon the participants' return to their home jurisdiction, as they will know how to disseminate the information they have learned (OHCHR, 2005b, p. 5).

Training-the-Trainers

Capacity development activities may involve 'training-the-trainers' strategies because these activities promote long-term sustainability of reform efforts when they are appropriately designed. International advisors should assess the local capacity to ensure the PCE corrections system has the capacity and resources to sustain the training initiatives over the short and long-term (Dandurand et al., 2008a, p. 56; DPKO, 2006, p. 37). Consideration should also be given to who participates in training-the-trainer initiatives, as previous experience has shown that participants may not be selected based on appropriate criteria. For example, Jefferson (2005, p. 489) observed that the selection of host country corrections personnel for training-the-trainers activities conducted as part of Nigerian prison reform was based on seniority within the service.

International advisors should understand the local environment; in times past, international advisors have arrived in host jurisdictions with little or no understanding of the criminal justice system's operational issues, needs, and institutional capacities, in addition to lacking knowledge of the local language (Dandurand et al., 2008a, p. 60). Bastik (2010, p. 66) explains how African countries contribute the largest number of corrections gratis staff to mission, which is concerning given the poor prison standards in their home countries.[66] Existing research also documents incidents of international police advisors being deployed to mission from countries that do not follow the human rights

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[66] Heinemann-Grüder and Grebenschikov (2006, p. 49) suggest that UNMIK CIVPOL officers are rarely motivated to participate in missions for altruistic reasons (e.g., challenging work environment, to obtain international experience). Rather, the pay more often motivates these officers – especially officers from poorer countries. This is problematic as poorly motivated CIVPOL personnel negatively impact organizational performance in mission (Heinemann-Grüder & Grebenschikov, 2006, p. 49).

standards they are supposed to teach the local residents (Baker, 2006, p. 27; Donais, 2004, p. 955). Experience with, or knowledge of, comparative law or comparative analysis of criminal justice systems may assist international advisors in developing strategies that are appropriate and workable for the local context (Dandurand et al., 2008a, p. 63).

Mentoring

Mentoring was developed to go hand-in-hand with classroom training initiatives; mentors provide 'on-the-job' guidance to host country prison staff to supplement the classroom training or 'job-shadowing' they previously participated in (DPKO, 2006, p. 21). Pairing international advisors with local personnel increases the likelihood of transferability and sustainability of knowledge and skills, as host country personnel learn how to put the knowledge and strategies they have learned into practice in their own jurisdictions (Dandurand et al., 2008a, p. 63). A variety of factors contribute to effective mentoring programs. These factors include mentors being experts on the correctional reform topic they are advising on, having a solid understanding of the larger political, social, and economic context within which the prison system is operating; and, understanding the legal framework, overall justice system, and the mission mandate. Further, effective mentorships are based on an accurate assessment of the local capacity, engagement with key stakeholders, supportive partnerships with local residents, inclusion of host-country traditions and customs, identification of local champions for change, and development of a common strategic plan to bring the host country's corrections system in line with international human rights standards (DPKO, 2006, pp. 21-22).

Conclusion

As mentioned in the introductory comments at the beginning of this chapter, getting corrections 'right' and addressing existing challenges is difficult in many environments. It was noted that corrections systems throughout the world experience similar challenges; for example, managing high rates of incarceration, and meeting the needs of offenders with mental health issues. Worldwide examples such as these highlight the inherent difficulties in conducting corrections reform activities in general.

Addressing the challenges in PCE corrections systems may be even more difficult due to inadequate resources, weak state capacity, and the likelihood that these systems are experiencing many, if not all, of the challenges identified in Figure 6.1. It is not surprising that corrections reform in PCEs is difficult when you consider all of these factors, in combination with the characteristics and realities of PCEs that were discussed throughout earlier chapters (e.g., an absence of legitimacy and public confidence in state institutions, corruption, violence, and insecurity).

The realities, challenges, and dynamics of conducting corrections reform activities in Kosovo are discussed in later chapters. Prior to exploring these findings, discussion in Chapter 7 provides a brief historical overview of how the international community became involved in post-conflict peacebuilding activities in Kosovo.

CHAPTER SEVEN: KOSOVO: HISTORY, INTERVENTION, AND INDEPENDENCE

Chapter Overview

Up until now, the focus of discussion in this dissertation has been on introducing, defining, and describing the various concepts and practices that pertain to the case study. Having provided a thorough overview of post-conflict environments (PCEs), peacebuilding, criminal justice and corrections reform activities, as well as the key challenges and lessons that have emerged from previous engagements in the field, it is now time to narrow the scope of the dissertation to focus on the actual case study. Prior to describing the peacebuilding and reform activities that were undertaken in Kosovo, the methods utilized, the results that emerged, and the implications of the findings, it is important to highlight and explore the events that took place in Kosovo that led to the international intervention within the borders of the now sovereign state.

This chapter is designed to illustrate the unique political, economic, and social factors that existed – and some that continue to exist – within Kosovo. The reader will be informed when reading subsequent chapters that document and describe the multiple challenges and complexities of conducting criminal justice and corrections reform in Kosovo. A variety of topics are explored in this chapter including why Kosovo was chosen as a case study, the historical factors that contributed to the Kosovo conflict, how the international community became involved and in what capacity, criticisms of the international community's decisions and activities, how Kosovo eventually declared independence, and, the significance of the international community's intervention in Kosovo for subsequent humanitarian engagement.

Why Study Kosovo?

A case study of corrections reform in Kosovo was chosen for multiple reasons. First, the literature documenting corrections reform activities that have taken place in Kosovo pales in comparison to the literature on peacebuilding activities undertaken in

other sectors in Kosovo. The second reason is the relative lack of literature identifying lessons learned from experiences conducting corrections reform in PCEs in general, when compared to the literature on other criminal justice sectors in these environments (Aitchison, 2010, p. 78). The third reason relates to the United Nations Interim Administration in Kosovo's (UNMIK) mandate – which was the most extensive UN mandate undertaken at the time of the intervention – as UNMIK had "to build from scratch all state institutions while simultaneously governing and maintaining the rule of law and order in the province" (Bernabéu, 2007, p. 73). UNMIK had a mandate unlike any mandate in previous missions, as the international community took administrative control of the territory, aiming to develop and implement self-governing institutions to facilitate democratic transition. The fourth reason is that the North Atlantic Treaty Organization (NATO)-led intervention in Kosovo was the first time the organization intervened outside of its member states, and against a sovereign state (Merriam, 2001, p. 113; Wright, 2006, p. 10) while using armed force to implement United Nations Security Council (UNSC) resolutions for humanitarian purposes.[67] Kosovo was also unique in that unlike in other PCEs – such as Afghanistan – there was a high level of internal civilian support for military intervention (notably from the Kosovar Albanians who formed the majority within Kosovo) (Percival & Sandorp, 2010, p. 1).[68]

The relative lack of literature about corrections reform activities conducted in Kosovo, and other PCEs in general is justification enough for selecting corrections reform in Kosovo as a case study for this dissertation. However, consideration of these other factors further supports the selection of corrections reform in Kosovo as a case study of peacebuilding activities undertaken in PCEs.

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[67] Those critical of the international intervention in Kosovo suggest that the US-led NATO intervention was not conducted for altruistic, humanitarian reasons. It has been argued that the intervention was used to strengthen the US' "position of worldwide dominance" and to establish a new purpose for NATO in the post-Cold War era (Gibbs, 2009, p. 11).

[68] To illustrate, following the NATO intervention and when NATO's occupation of the territory began, troops were welcomed with cheering crowds (Kifner, 1999, p. 126 as cited in Merriam, 2001, p. 146).

History

Figure 7.1.   Map of Kosovo

Note.   Central Intelligence Agency (CIA; 2013); used with permission.

Internal and International Conflict in Kosovo

As a small, landlocked nation in the Balkan Peninsula, Kosovo has a tumultuous history based on inter-ethnic violence and hostilities. As a "war-torn corner of the former Yugoslavia" (Bhaumik et al., 2006, p. 1177), citizens in Kosovo spent most of the late 1990s experiencing conflict, precipitated by nationalism and ethnic differences between Kosovar Albanians and Kosovar Serbians. Kosovo is culturally diverse and home to nearly two million people; approximately 92 percent of the population is Albanian and the remainder are Serb, Bosniak, Gorani, Turk, Ashkali, and Egyptian (Central Intelligence Agency, 2013, n.p.). Prior to discussing the events and factors that contributed to the conflict in Kosovo, it is important to acknowledge that there were two violent conflicts in Kosovo. First, there was an internal armed conflict that lasted from February 1998 until June 1999, which was characterized by mass human rights violations against Kosovar

Albanians that were perpetuated by Kosovar Serbians (Independent International Commission on Kosovo (IICK), 2000, p. 30). Second, there was an international conflict that occurred between 24 March 1999 and 10 June 1999, which was fought between Yugoslavia and NATO (IICK, 2000, p. 30). Throughout this project, reference will be made to the overall conflict in Kosovo, thereby encompassing both the internal conflict and the international conflict that occurred.

As is typical in most PCEs, there are multiple perspectives and various claims about the historical events and developments that took place in Kosovo (Ker-Lindsay, 2009, p. 8). Every attempt has been made to provide an accurate portrayal of the historical events that led to the conflict in Kosovo. Although an in-depth discussion encompassing the entire history of Kosovo is beyond the scope of this dissertation, it is important to highlight the root causes of the conflict in Kosovo, and how Kosovar Albanians came to desire independence.

Balkan Nationalism Surges

Similar to other ethnic-based conflicts, the Kosovo ethnic conflict is rooted in events that occurred centuries ago. Kosovar Albanians attach significance to Kosovo as a nationalist symbol given that Prizren/Prizren is where the Albanian national movement began in 1878 (IICK, 2000, p. 33). Kosovar Albanians also believe they are descendants of the ancient Illyrian who inhabited Kosovo and the surrounding areas; thus, they believe Kosovar Serbians have taken over their land (Murphy, 2007, pp. 69-70). Kosovar Serbians also accuse Kosovar Albanians of conquering Serbian land; they allege that Kosovo Albanians took advantage of the Turkish expansion by converting to Islam (Murphy, 2007, p. 69). Moreover, Serbians attach significance to Kosovo because of the Battle of Kosovo Polje/Fushë Kosovë that took place in 1389 when the Serbian army was defeated by the Ottoman Empire's Turkish army (Goddard, 2004, p. 686). Although a military loss for the Serbians, the Battle of Kosovo Polje/Fushë Kosovë is a central event that shapes Serbian identity and explains nationalistic tendencies to date. Kosovar Serbians attach additional significance to Kosovo for religious reasons, as the Serbian Orthodox Patriarchate was established in Kosovo in the 13th century (Foreign & Commonwealth Office, 2008, n.p.).

Prior to the First World War, the western Balkans belonged to either the Habsburg or Ottoman empires.[69] Following the conclusion of WWI and the signing of multiple treaties, the western Balkan territory came to be known as Yugoslavia, "the kingdom of Serbs, Croats, and Slovenes" (Mayer, 2004-05, p. 238). Shortly following WW II, Josef Tito came into power as the President of the Socialist Federal Republic of Yugoslavia (SFRY).[70] Following changes to its 1974 constitution, the SFRY was comprised of six republics (Croatia, Montenegro, Slovenia, Bosnia-Herzegovina, Serbia, and Macedonia) and two autonomous provinces (Vojvodina and Kosovo), and it was regarded as "one of the most decentralized political systems in the world" (Gibbs, 2009, p. 49). Tito's leadership and the Cold War are two of the many factors that are said to have contained growing ethnic tensions and nationalism among the Macedonians, Croats, Bosnian Muslims, Albanians, and Serbians throughout the 1960s and 1970s (Mayer, 2004-05, p. 238). However, nationalism and ethnic tensions in the SFRY could not be contained following the death of Tito, which in combination with other concerns regarding the 1974 Yugoslav constitution, and the weak economy, propelled Balkan nationalism and contributed to the break-up of Yugoslavia (Hehir, 2010a, p. 5; Mayer 2004-05, p. 238).[71] It was shortly following Tito's death in 1980, that many of the SFRY's federal republics exhibited behaviour demonstrating their desires for independence (Cviic, 1997 as cited in Goddard, 2004, p. 686).

Prior to the 1974 Yugoslav Constitution, Kosovo only had status as an autonomous region of Serbia. The 1974 Yugoslav Constitution raised their status to that

[69] Serbia and Kosovo remained part of the Ottoman Empire for almost 500 years following Serbian defeat at the Battle of Kosovo Polje/Fushë Kosovë. Serbia became independent of the Ottoman Empire in the 19th century, and in the Balkan Wars of 1912-1913, annexed Kosovo from the Ottoman Empire (Foreign & Commonwealth Office, 2008, n.p.).

[70] Up until June 1991, Yugoslavia was referred to as the SFRY. In 1992, the republics of Serbia and Montenegro declared they were the FRY (International Criminal Tribunal for the Former Yugoslavia (ICTY), n.d. http://www.icty.org/sid/321 last retrieved 22 April 2013).

[71] Some have argued that the International Monetary Fund's (IMF) structural adjustment programs and other Western nations' economic policies in Yugoslavia contributed to the collapse of the federation. Living conditions deteriorated with the imposition of austerity measures and the conditions became ripe for nationalist sentiment (Gibbs, 2009, p. 46). For further exploration of these issues, see Gibbs (2009).

of an autonomous province, which resulted in Kosovo being given nearly the same status and privileges as Yugoslav's federal republics; however, Kosovo did not share the right to secession under national law, as Kosovo remained part of the Republic of Serbia (Stahn, 2001, p. 532). In the years following Tito's death, Kosovar Albanians held multiple demonstrations to voice their desire for republic status, which are said to have begun with student protests at the University of Priština/Prishtinë in 1981. These student protests were initially focused on securing better educational facilities and opportunities for Albanians but eventually became protests about independence (Hehir, 2010a, p. 5; Ker-Lindsay, 2009, p. 10). Given Kosovo's dual status as a province of the SFRY and as part of Serbia, both the Serbian government and international community did not consider Kosovo's request for independence to be reasonable (Goddard, 2004, p. 686).

The Kosovar Albanian pro-independence movement upset Kosovar Serbians because they believed the 1974 Constitution already gave Kosovar Albanians significant freedom. Around this time, Kosovar Serbians claimed Kosovar Albanians were repressing the Serbian community (Hehir, 2010a, p. 5). Kosovar Serbians who fled Kosovo due to anti-Serbian sentiments and/or economic reasons, demanded Serbia exert control over the province. Slobodan Milošević of the Serbian Communist Party promoted his political career by making Serbian concerns about Kosovar Albanian nationalism a focal point of his platform; this greatly contributed to his success in assuming the Serbian Presidency in 1989 (Ker-Lindsay, 2009, p. 10). The Constitution of the Republic of Serbia was reformed by the Serb parliament after Milošević assumed the Serbian Presidency. On 24 February 1989, the Serbian National Assembly in Belgrade amended their constitution to revoke Kosovo's autonomy, reducing their status to that of a municipality (Hehir, 2010a, p. 1; Stahn, 2001, p. 533). The revocation of Kosovo and Vojvodina's semi-autonomous status was a defining moment in Yugoslav history; many republics demanded independence when these changes occurred (Foreign & Commonwealth Office, 2008, n.p.; IICK, 2000, p. 41). Milošević returned to the Kosovo Polje/Fushë Kosovë on the 600th anniversary of the Battle of Kosovo Polje/Fushë Kosovë – in June 1989 – and explained how Serbia had fought for their rights in the past and would not hesitate to do so again in the future, thus demanding a greater Serbian state (Goddard, 2004, p. 686).

As a consequence of Serbian nationalism, as led by Milošević, the semi-autonomous status that Kosovo had enjoyed as a province of the Federal Republic of Yugoslavia (FRY) was revoked and replaced with controlled rule from Serbia's capital, Belgrade (Korovilas, 2002, p. 109). The changes to the 1974 Constitution meant Kosovo's powers were reduced to that of the status of a municipality and they lost control of many areas, including the security and education sectors, and the development of socio-economic policy (Stahn, 2001, p. 533). Prior to Milošević retracting Kosovo's status as a semi-autonomous province, Kosovo had its own regional assembly and a lot of autonomy within the SFRY (Korovilas, 2002, p. 109). In retracting Kosovo's semi-autonomous status, Milošević illegally shut down Kosovo's provincial assembly, arrested members of the Kosovo assembly, and repressed the most popular Albanian-language newspaper (Ramet, 1996, p. 39). These initial actions were only the beginning of a dark period for Kosovar Albanians whom, at the hands of Milošević, experienced multiple and severe human rights violations with the implementation of discriminatory laws between 1989 and 1991 that were designed to Serbanize the province (Hehir, 2010a, p. 6; IICK, 2000, p. 41). As time went on, in addition to their loss of autonomy as a province, Kosovar Albanians lost access to healthcare, education and employment (it is estimated that 150,000 ethnic Albanians were removed from state sector employment and replaced by Kosovar Serbians) (Kosovo Institute for Policy Research and Development (KIPRED), 2009, p. 15). Moreover, Kosovar Albanians were subject to police brutality, discrimination during the administration of justice, arbitrary detention characterized by torture and inhuman treatment, and repression by Serbian law enforcement authorities (UN General Assembly, 1994, s. 18(a-d)).

Following Serbian changes to their status, Kosovo Albanians declared Kosovo "an equal and independent entity within the framework of the Yugoslav federation" (Stahn, 2001, p. 534) as peaceful resistance to Milošević's actions and desire to rule from Belgrade. Kosovar Albanians developed parallel systems of government that provided services in those areas Belgrade expelled them from: healthcare, education, and employment (Hehir, 2010a, p. 6). The dissolved Kosovo Assembly adopted their own constitution in 1990 and held a secret national referendum on independence, which was supported by a majority. In May 1992, Ibrahim Rugova of the Democratic League of Kosovo/ Lidhja Demokratike te Kosovës (LDK) party was elected the president of the

'Republic of Kosovo' in the underground parliamentary elections. Despite the Republic of Kosovo's best efforts, a 'constituent assembly' was not organized because Serbian police forces intervened, and the international community failed to provide international recognition of the Republic (Stahn, 2001, pp. 534-535). Despite the aforementioned oppressive conditions for Kosovar Albanians, unlike in many other areas in the Balkan region, Kosovo remained mostly peaceful from 1990 to 1995 (Hehir, 2010a, p. 6).

The Lead-up to International Intervention

Milošević played a large role in three wars in the former Yugoslavia by providing support for Serbian leaders in Croatia, Bosnia, and Kosovo, and, establishing Belgrade government ministries whose jobs were to liaise with Serbian leaders in these locations and elsewhere (Hagan & Ivkovic, 2006, p. 136).[72] The first war broke out in Croatia, followed by Bosnia, and then Kosovo. In 1995, the international community intervened and ended the war in Bosnia with the signing of the Dayton Accords.[73] In the lead-up to the Dayton Accords, Kosovo Albanians anticipated that the international community would end the Bosnian conflict, as well as acknowledge Kosovo's independence. Acknowledgement did not occur and many of Rugova's supporters began to question the passive resistance stance being taken against Belgrade, and in early 1996, the Kosovo Liberation Army/Ushtria Clirimtare e Kosoves (KLA/UÇK) engaged in its first attacks against Serbian police officers (Ker-Lindsay, 2009, p. 11). A 1996 education agreement – where Kosovar Albanians were told they would be able to attend educational facilities again, and under the pre-1990 curriculum – served as hope to the Albanian population that perhaps the situation was about to improve (IICK, 2000, pp. 50-51).

When implementation of this education agreement did not occur in the fall of 1997, the Kosovar Albanians' previously peaceful resistance to Milošević's repression

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[72] As a consequence of his behaviour in the FRY, and Kosovo in particular, the ICTY indicted Milošević for war crimes in 1999 (Hagan & Ivkovic, 2006, p. 136).

[73] The Dayton Accords has also been referred to as the Paris Protocol, the Dayton-Paris Agreement, or the Dayton Agreement.

ended altogether. The lack of recognition for Kosovo in the Dayton Agreement was interpreted as meaning "the metal in Kosovo was not hot enough to bring about political change. [Therefore,] the KLA decided to make it glow" (Hodge, 2002, p. 111). The KLA/UÇK believed further attacks would provoke excessive counterattacks from Belgrade, resulting in the international community stepping in to intervene on behalf of Kosovar Albanians to condemn the human rights violations Milošević was committing (Ker-Lindsay, 2009, p. 12). By 1998, the conflict had escalated in Kosovo in two ways; first, with the KLA/UÇK attacks against Serbian civilian and police officers; and second, with the Serbians launching counter-operations following the US Special Envoy for the Balkans, Robert Gelbard's, comments describing the KLA/UÇK as a terrorist organization. These attacks and counter-attacks put increasing pressure on the international community to intervene to expedite the peace process (Ker-Lindsay, 2009, p. 12).

Fifty-eight Kosovar Albanians, including women and children, died in a March 1998 Serbian crackdown on the KLA/UÇK; Serbians killed the entire Jashari clan (Murphy, 2007, p. 72). This incident propelled the US and its European allies to address the conflict by denouncing the violence and developing solutions for moving forward. Following this attack against Kosovar Albanians, US Secretary of State Albright strongly suggested to the US government, the US public, and their European allies, that Milošević was unlikely to comply through diplomacy, and that force would need to be used to secure his compliance to the international community's demands (Williams & Taft, 2003, p. 241). Rather than use force to intervene however, United Nations Security Council Resolution (UN SCR) 1160 (21 March 1998) was adopted under Chapter VII, recognizing that the Kosovo conflict posed a threat to regional peace and security. UN SCR 1160 condemned the actions of both Yugoslavia and the KLA/UÇK and "called for an end to the violence, imposed an arms embargo on Yugoslavia, voiced support for the non-violent opposition movement in Kosovo and called upon both sides to cooperate with international efforts to broker a negotiated settlement" (Bellamy, 2010, p. 46). Milošević failed to comply with the demands of UN SCR 1160 and consequently, UN SCR 1199 (23 September 1999) was adopted. UN SCR 1999 demanded Yugoslavia stop the violence and discrimination against Kosovar Albanians to prevent a humanitarian crisis from occurring. UN SCR 1999 also stipulated that Yugoslavia would

be held accountable and subject to further measures if they failed to comply with Western demands to improve the situation in Kosovo (Bellamy, 2010, p. 48). Milošević did not respect either of these resolutions, and yet in October 1998, US Ambassador Richard Holbrooke believed peace could not be established without Milošević, so he made a deal with him. The two reached the "October Agreement," which was bound by UN SCR 1203, under Chapter VII of the UN Charter. UN SCR 1203 permitted NATO flights over Kosovo, the deployment of unarmed Organization for Security and Co-operation in Europe-Kosovo Verification Mission (OSCE-KVM) observers, and a reduction in Yugoslav security forces (IICK, 2000, p. 76; Williams & Taft, 2003, p. 241). The OSCE-KVM was created to complete many tasks, including supervising the cease-fire, monitoring human rights violations, facilitating and assisting the return of displaced persons, and supporting the implementation of a political settlement (Ker-Lindsay, 2009, p. 13).

Milošević and his Yugoslav authorities initially respected the October Agreement by immediately withdrawing troops from Kosovo. It is significant to mention that after Milošević and his Yugoslav authorities initially withdrew, the KLA/UÇK took advantage of the situation, continuing to engage in attacks against Kosovar Serbians (Gibbs, 2009, pp. 185-186). The KLA/UÇK was hoping the FRY government would retaliate so Western leaders would intervene and support their cause (Ker-Lindsay, 2009, p. 13). Despite the international community's efforts to engage in diplomatic negotiations to end the violence and repression against Kosovar Albanians within Kosovo, FRY security forces increased their attacks against Kosovo Albanians between December 1998 and January 1999 in response to the KLA/UÇK movement (Foreign & Commonwealth Office, 2008, n.p.). Milošević violated agreed-upon conditions, continuing with his ethnic cleansing campaign by organizing troops between Belgrade and Priština/Prishtinë (Williams & Taft, 2003, p. 242). Throughout the process of trying to negotiate peace,

thousands of citizens died, and an estimated 230,000 were forced from their homes (Ker-Lindsay, 2009, p. 13).[74]

Last Chance: Rambouillet Accord

The use of international force against Milošević and his Yugoslav and Serbian troops had been threatened by the US and its European allies as early as 1992; however, this threat was perceived by Milošević as being hollow given previous inaction by the international community. The increase in Serbian attacks against Kosovar Albanians in 1998 and early 1999 represented significant human rights abuses, which the international community could not continue to ignore. In January 1999, following the massacre of forty-five Albanians in the town of Reçak/Račak, the Contact Group organized a formal meeting between the KLA/UÇK and Milošević in the French town of Rambouillet. The KLA/UÇK was told Kosovar Albanians would lose external support if they failed to sign the agreement while Milošević was told a military attack would occur if he failed to accept the agreement (Ker-Lindsay, 2009, p. 14).

The final attempt at negotiating peace, the Rambouillet Accord, was mediated and discussed from 6 February 1999 until 19 March 1999. There were two primary objectives; first, the restoration of peace, security, and stability in Kosovo within Yugoslavia; and second, the provision of international supervision to oversee the disarmament of the KLA/UÇK and the withdrawal of Yugoslav and Serbian troops (IICK, 2000, p. 82; Stahn, 2001, p. 536). The Rambouillet Accord was the international community's first attempt at providing Kosovo with autonomy and self-government; however, the agreement was not ratified because of FRY rejection. Milošević refused to sign the proposal because he viewed it as supporting Kosovo independence, and because it entailed NATO occupation throughout all of Serbia, Kosovo, and what was left of Yugoslavia (Gibbs, 2009, p. 209). Shortly thereafter, NATO airstrikes began against Yugoslavia. Milošević's failure to sign the Rambouillet Accord had

[74]   This does not reflect the number of people who were displaced during the NATO-led intervention, which will be addressed in subsequent paragraphs.

consequences for Serbia's future because Serbia lost territory and the opportunity to have a voice concerning Kosovo's future (IICK, 2000, p. 158).

NATO Intervention: Operation Allied Force[75]

From the moment Milošević retracted Kosovo's autonomy in 1989, the situation within Kosovo slowly spiralled towards a full-fledged internal conflict. Throughout the late 1990s, Serbian security forces perpetuated human rights violations against Kosovar Albanians while Albanians resisted, attempting to gain autonomy. The international community was faced with a moral and legal dilemma in deliberating inaction versus action within Kosovo. They had to balance "the responsibility to avoid force if at all possible, and the demand to protect a victimized population against severe abuse of human rights and gross violations of international humanitarian law" (IICK, 2000, p. 131). The international community made the choice to intervene because they knew the FRY government was the force behind mass human rights violations against Kosovar Albanians, and that they were unlikely to compromise (IICK, 2000, p. 86).

Although slow to intervene, the NATO alliance soon found themselves in a conflict with Yugoslavia. The night prior to the NATO air campaign in Kosovo, US President Bill Clinton identified the importance of intervening and portrayed the Balkans as "a powder keg at the heart of Europe that has exploded twice before in this century with catastrophic results" and cautioned "let a fire burn here in this area and the flames will spread" (Clinton, 1999 as cited in Hehir, 2010a, p. 14). President Clinton argued the NATO bombing campaign was necessary on various grounds, including "to demonstrate the seriousness of NATO's response to aggression, to deter Milošević's escalating attacks in Kosovo, and seriously to damage Yugoslavia's military capacity to wage war in the future" (IICK, 2000, p. 85). In addition, European leaders emphasized the importance of the NATO campaign to prevent a humanitarian catastrophe given the

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[75] See *The Kosovo Report: Conflict, International Response, and Lessons Learned* (IICK, 2000) for a more thorough discussion of the Kosovo conflict and the international community's response, as well as lessons learned.

rapidly declining situation in Kosovo, as evidenced throughout 1998 and 1999. In March of 1999, "Operation Allied Force" began when the US and NATO – without UNSC approval – finally followed through with their threats to use force, and embarked on a 78-day bombing campaign against Milošević and his troops. On 24 March 1999, NATO and US warplanes began their attack against Yugoslavia in an attempt to drive Yugoslav forces out of Kosovo (police, military, and paramilitary), denounce the actions of Milošević, condemn such human rights atrocities, terminate Milošević's reign of terror against Kosovar Albanians, facilitate the safe return of displaced persons, provide access for relief organizations, and facilitate peace in the region (Merriam, 2001, p. 112).

The NATO air campaign was initiated based on the belief that the FRY would react as the international community desired – with Milošević agreeing to sign the Rambouillet agreement following initial airstrikes. This did not happen; the Belgrade government actually intensified their ethnic cleansing activities against Kosovar Albanians as retaliation against the NATO strikes (IICK, 2000, pp. 86-88). Evidence demonstrates that FRY forces engaged in ethnic cleansing during the NATO bombing campaign, which displaced approximately 590,000 Kosovar Albanians within Kosovo, and an additional 863,000 outside of Kosovo's borders (IICK, 2000; p. 90). During the NATO bombing campaign, violence and repression intensified, as an estimated 10,000 people were murdered; the majority of whom were Kosovar Albanians who were murdered by FRY security forces. An additional 3,000 people were estimated to have gone missing; according to the International Committee on the Red Cross (ICRC), 1700 were believed to be in Serbian prisons, and the remainder were believed to be dead (IICK, 2000, p. 91). This suggests the Belgrade government had their own goals in the NATO intervention, including: keeping the international community out of the FRY, maintaining sovereignty over Kosovo, defeating the KLA/UÇK, and cleansing Kosovo's Albanian population (IICK, 2000, p. 86).[76] On 10 June 1998, Milošević finally agreed to

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[76] A further 488 to 527 Serbian civilian deaths occurred as a consequence of NATO bombing (Human Rights Watch (HRW), 2000, p. 5).

withdraw Yugoslav and Serbian troops from Kosovo, accept Western cease-fire agreements, and repatriate ethnic Albanians.

Was the NATO Intervention Illegal?

The NATO intervention in Kosovo was deemed to be illegal as it breached international law given that the UNSC did not give its approval for the intervention. UNSC approval could not be secured because Russia was against international intervention in Kosovo and threatened to veto any interventions that approved the use of force in the province (Bellamy & Williams, 2010, p. 121). Regardless, the NATO campaign was deemed to be legitimate given the serious human rights violations that were taking place in the province, and because the intervention liberated the Kosovar Albanian majority from years of Serbian oppression.[77] It was also deemed to be legitimate given that all methods of diplomatic resolution had failed and progress was not foreseeable without the international community's involvement, as demonstrated by Milosëvić's lack of commitment to diplomacy and previous UN SCRs (IICK, 2000, p. 289). The International Criminal Tribunal for the Former Yugoslavia (ICTY) eventually indicted Milošević as a war criminal in 1999 because of his ethnic cleansing campaign against Kosovar Albanians and the atrocities that occurred in Bosnia and Croatia (IICK, 2000, p. 233). The indictment of Milošević and the label of 'war criminal' served to further legitimize the use of force against Yugoslav troops within Kosovo and thus, the NATO intervention (Williams & Taft, 2003, p. 246).

NATO Successes and Failures

The NATO campaign was successful in many ways. FRY forces were expelled from Kosovo; Milošević committed to an agreement similar to the proposal made in Rambouillet, France; and, years of repression against Kosovar Albanians were terminated. At the organizational level, NATO demonstrated its political and military

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[77] Although there was no written policy in place at the time, the US and other NATO member states recognized their responsibility to protect citizens (even within sovereign states) from human rights violations, which spurred international action in Kosovo (Wright, 2006, p. 10).

capabilities (IICK, 2000, p. 97; Murphy, 2007, p. 74). These successes are however, overshadowed by a significant failure: the massive ethnic cleansing campaign against Kosovar Albanians did not stop. As previously stated, during the NATO campaign, over one million Kosovar Albanians were displaced; additionally, approximately 10,000 were murdered (IICK, 2000, pp. 90-91, p. 97).[78] There were countless other human rights violations that took place during the NATO-intervention. The number of reported incidents of rape against Kosovar Albanian women is only 96; although underreporting is an issue due to the stigma attached to rape in traditional Albanian society. Destruction, looting, and pillaging of residences was common during the NATO intervention; a reported 500 villages were attacked. There were multiple incidents of Kosovar Albanians being used as human shields to protect Serbians from NATO airstrikes. Kosovar Albanians were discriminated against when in need of medical care, as they were expelled from hospitals. Incidents of documentation destruction often took place when Kosovar Albanians were forcefully displaced. As a whole, throughout the 78-day bombing campaign, Kosovar Albanians were subject to torture, cruel, and inhuman treatment (IICK, 2000, pp. 308-311).

The NATO-led intervention did not initiate Serbian attacks against Kosovar Albanians, but it is likely the air campaign enabled them because OSCE-KVM monitors were removed from the province (IICK, 2000, pp. 88-89). Further, NATO's decision to fly at 15,000 feet to protect NATO troops meant the FRY military was able to engage in the ethnic cleansing campaign against Kosovar Albanians with some suggesting "instead of preventing a humanitarian catastrophe, NATO's decision had contributed massively to a gathering disaster. A flood of biblical proportions" (Glenny, 1999, p. 658). Those critical of the aerial attack suggest that the campaign against the FRY military was commenced and conducted on the premise that saving hundreds of Kosovars' lives and preventing

[78] It is difficult to determine exactly how severe the human rights violations were within Kosovo. Many of the human rights organizations that were present in Kosovo were there to identify and describe the variety of human rights violations that were occurring through narrative accounts, rather than to calculate the number of such incidents using statistically rigorous methods (IICK, 2000, p. 302).

the displacement of thousands of others, was not worth risking the life of even just one NATO member (Murphy, 2007, p. 103).

The Realities in 'Post-Conflict' Kosovo

Even though the NATO-led intervention in Kosovo ended in 1999, the consequences of years of conflict are far-reaching; the ethnic violence and hostilities will remain in Kosovo's "social fabric" (Wang, Salihu, Rushiti, Bala, & Modvig, 2010, p. 1, para. 1). There may be physical and psychological consequences for individuals who live through times of conflict because "the consequences of conflict, like shrapnel, penetrate deep into minds and hearts, to be worked out over a lifetime and beyond, and affecting relationships and identities for generations" (Miller & Affolter, 2002, p. 5). In the immediate aftermath of the conflict, life for many Kosovars was, at best, uncertain. Some of the basic realities included a shortage of food and water, destruction of the agrarian economy, poor quality of available food, and unpredictable electricity outside of Priština/Prishtinë (Nussbaum, 2002, p. 51). Massive emergency repairs were required to rebuild the transportation infrastructure and public utilities (United Nations Development Group (UNDG), 2001, p. 15). Further realities specific to the healthcare system in post-conflict Kosovo included: poor access to services, poor quality of services, inadequate referral systems, a shortage of healthcare employees, and inconsistent healthcare access across ethnic groups, social classes, and regions (Percival & Sondorp, 2010, pp. 4-5). The international conflict left many spaces in Kosovo unsafe and uninhabitable because of landmines (UNDG, 2001, p. 24).[79]

Forty years of communism, a history of poor economic management, physical infrastructure damage caused during the war, the fleeing of Serbian personnel, and ethnic-based discrimination, left Kosovo facing serious social and economic challenges in the post-conflict period (Matheson, 2001, p. 78; UNDG, 2001, p. 7). Even prior to the

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[79] By the end of 2000, approximately 2,150 square kilometers of Kosovar land had been de-mined resulting in the clearance of: 11,780 unexploded ordinance, 5,313 anti-tank mines, 9,809 anti-personnel mines, and 5,901 cluster bomb units (UNDG, 2001, p. 24).

conflict, Kosovo was one of the poorest regions in Europe; however, the war served to further destroy the province (IICK, 2000, pp. 37-38). Prior to Milošević retracting Kosovo's status as an autonomous province of Serbia in 1989, Kosovo's per capita output was only 28 percent of the average per capita output of Yugoslavia (Bhaumik et al., 2006, p. 1177). Kosovo's economy was poorly managed by Belgrade in the ten years following the revocation of the province's semi-autonomous status. This contributed to both poor private and public investment in Kosovo throughout the 1990s. Following the conflict and the establishment of UNMIK in 1999, Kosovo was provided with economic support from the international community (Korovilas, 2002, p. 110). One of the basic challenges in establishing Kosovo's economic independence in the years immediately following the conflict was maintaining access to European trade links and the economy. This was a challenge because the bordering neighbour states were volatile and one of their neighbours is Serbia, who cut their links with Kosovo at the conclusion of the NATO intervention (Korovilas, 2002, p. 119). Another economic challenge was that Serbians had filled many positions prior to the NATO intervention and the mass exodus of Serbians post-intervention meant that many state-owned industries were closed in the extraction, manufacturing, and agriculture sectors (Korovilas, 2002, p. 114). It is important to consider the economic situation in PCEs, as its state of existence has important implications in terms of crime, corruption, and the thriving black market operating in these environments.

Crime

The quick withdrawal of Yugoslav military and police personnel created a security vacuum in Kosovo, which resulted in increased human, drug, and weapons trafficking, smuggling, corruption, organized crime, terrorism, and the criminalization of the economy (Jones et al., 2005, p. 28; O'Connor et al., 2007, p. 4; Strohmeyer, 2001a, p. 48). This is not surprising; as was discussed in Chapter 4, in the aftermath of many conflicts, lawlessness occurs because these environments breed criminality, which can be due to weak or non-existent criminal justice systems (United Nations Office on Drugs and Crime (UNODC) & United States Institute of Peace (USIP), 2011, p. 15).

Throughout the 1990s, Kosovar Albanians experienced mass human rights violations at the hands of Kosovar Serbians. As a consequence, a large portion of

Kosovo's population was living in neighbouring countries when the NATO air campaign ended (Strohmeyer, 2001a, p. 48). The NATO-led Kosovo Force (KFOR) was successful in facilitating the return of displaced Albanians, as the return of refugees within Kosovo occurred at a quicker pace than had been witnessed in any other PCE. By 08 July 1999, 650,000 refugees had returned to Kosovo (Strohmeyer, 2001a, p. 48). This created humanitarian and security challenges for UNMIK and KFOR, as returning refugees resorted to various forms of intimidation and violence. These acts included arson, looting farms, raping women, destroying cars and homes, and murdering and kidnapping ethnic minorities (Boyle, 2010, p. 199; Murphy, 2007, p. 86; Strohmeyer, 2001a, p. 48). In the immediate aftermath of the NATO intervention, KFOR was unable to protect Serbians and other ethnic minorities from Kosovar Albanian attacks, as they were overwhelmed with securing the retreat of Serbian forces while managing the quickly-paced return of displaced persons (Ker-Lindsay, 2009, p. 16).

The Situation is Reversed

One of the most defining weaknesses in the UNMIK/KFOR framework was their failure to predict, and therefore reduce, the likelihood of reverse ethnic cleansing and revenge killings against Kosovar Serbians, and further, prevent the enclavization of Kosovo based on ethnicity (IICK, 2000, pp. 104-105, pp. 108-110).[80] Given the ethnic realities of the internal conflict in Kosovo, UNMIK and KFOR should have been able to predict that violence and intimidation would continue after the NATO intervention. Immediately upon deployment, UNMIK and KFOR were accused of inadequately addressing security concerns among ethnic minorities residing in Kosovo, and for being lenient with Kosovar Albanians who attacked Kosovar Serbians (Murphy, 2007, p. 157).

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[80] After the NATO intervention in Kosovo, and the withdrawal of Yugoslav troops, enclaves offered Kosovar Serbians increased security when reverse ethnic cleansing was occurring. Mitrovica/Mitrovicë is the largest Serbian enclave in Kosovo; this enclave, as well as other Serbian enclaves in Kosovo, have strong ties with Belgrade, and often have parallel structures in place to ensure Serbians have access to healthcare, education, and security (Kostovicova, 2008, pp. 637-638). See Kostovicova (2008) for further discussion about the 'enclavization' of minorities in Kosovo, especially in Mitrovica/Mitrovicë, and how 'enclavization' has served to create further tension and division between Serbians and Albanians in post-conflict Kosovo.

In the aftermath of the NATO intervention, Kosovar Albanians engaged in revenge attacks in retaliation for their own wartime victimization (Boyle, 2010, p. 198). KFOR estimates indicate that in the five months following the withdrawal of Yugoslav forces, there were over 400 murders in Kosovo, with almost 34 percent of cases involving Serbians as victims (Boyle, 2010, p. 199). Towards the middle of 2000, it appears as though revenge attacks shifted towards acts of reprisal violence, as the incidents became more strategic in nature due to the presence of KFOR and UNMIK International Civilian Police (CIVPOL). As a consequence of these incidents of revenge and reprisal violence, "more than half of the Serb population left the province … the remaining Serb population is living in enclaves or divided cities" (IICK, 2001, p. 7). These incidents of revenge and reprisal violence demonstrated that "there are no 'good guys' and 'bad guys' in the complex mosaic of Balkan identities and conflicts" (Murphy, 2007, p. 91). Incidents of reverse ethnic cleansing minimized the credibility of the NATO campaign (Murphy, 2007, p. 104). UNMIK and KFOR continued to work with the KLA/UÇK leaders responsible for much of the violence, which fuelled concerns about the security of ethnic minorities in the region and provided the KLA/UÇK with greater authority. The Albanian extremists were involved in organized crime and the black market, and benefited from the power and economic control they were given by working with, and negotiating with, UNMIK and KFOR (Murphy, 2007, p. 158).

Kosovo Independence

You gave us freedom but not a future.

(Eide, 2004, para. 2)

Figure 7.2. *The Official Flag of the Republic of Kosovo*

Note. CIA (2013); used with permission.

The international community did not address Kosovo's status in UN SCR 1244; their failure to address the status issue for Kosovo resulted in continued hostilities, as demonstrated during the riots in March of 2004 (which are discussed in the next chapter). A former Finnish President was appointed as the UN Special Envoy for Kosovo; in February 2006, Martti Ahtisaari began status talks in Vienna, Austria. Throughout the next 14 months, 17 rounds of negotiations were undertaken. Little was resolved given the Serbians' desire to provide only substantial autonomy for Kosovo within Serbia, and the Albanians' desire to obtain nothing less than independence (Ker-Lindsay, 2009, p. 104). Given the lack of resolution following 17 rounds of negotiations, Ahtisaari told the UNSC that negotiations had not achieved the desired outcome of agreement between the two parties, and he presented his proposal. Ahtisaari emphasized that the only solution for Kosovo was independence with international supervision (both civilian and military) (Kostovicova, 2008, p. 635). Ahtisaari's Comprehensive Proposal for the Kosovo Status Settlement (CSP) was designed to provide protection for the Serbian community living within Kosovo (KIPRED, 2009, p.

17). Therefore, there were two fundamental aspects detailed in the report, which were the proposed "communitarian and territorial approach, and… the nature of supervision" (Kostovicova, 2008, p. 635). Serbians would be given community rights and Serbian-majority municipalities, while the International Civilian Office (ICO) in Kosovo would provide supervision (Kostovicova, 2008, p. 635).

The UNSC did not adopt the Ahtisaari package in early 2007 because Russia opposed the proposal given that the Serbians and Albanians had not agreed upon, nor designed, the solution (Ker-Lindsay, 2009, pp. 113-115; Kostovicova, 2008, p. 636). The lack of adoption of the Ahtisaari proposal led to another 120 days of negotiations with the Contact Group, including a US-European Union (EU)-Russia Troika, which did not result in any further resolution on the status question. A coordinated declaration of independence was therefore made by the Kosovo Assembly on 17 February 2008; support came from the majority of the EU (including the largest members - Britain, France, Germany, and Italy), the US, and Australia.[81] Kosovo's constitution, which came into effect on 15 June 2008, fully reflects the country's acceptance of UN Special Envoy Ahtisaari's CSP (Kostovicova, 2008, p. 636).

There have been four democratic elections in Kosovo since the 1999 conflict; one occurred in December 2010, following Kosovo's declaration of independence. Although the Kosovo government has full responsibility for public administration, various international organizations assist the Government of Kosovo. As of December 2012, the Special Representative of the UN Secretary-General (SRSG) heads UNMIK, and the head of the European Union Rule of Law Mission in Kosovo (EULEX) provides mentoring, advising, and monitoring assistance. The EU's Special Representative to Kosovo assists the Government in achieving the EU's policy objectives for the establishment of peace, democracy, and respect for human rights, and further,

[81] As of 01 June 2012, 91 states have recognized Kosovo, including all of its neighbouring countries (except Serbia) (President of the Republic of Kosovo, 2013, n.p.).

coordinates the EU's activities in Kosovo (Europe Union Office in Kosovo, n.d., para. 1).[82]

Although it is beyond the purview of this project to identify and thoroughly explore the issues surrounding the status question in Kosovo, it is important to acknowledge certain questions that arose during peacebuilding activities because UN SCR 1244 failed to grant Kosovo status as an independent nation. For example, was it realistic to expect UNMIK to establish the rule of law and democratic governance structures in Kosovo given that it was not a state? Why was Kosovo expected to meet international and UN human rights standards if it was technically still part of Serbia (until declaring independence in 2008)? Was it reasonable to assume success could be achieved without its final status being determined?

Conclusion

Previous norms in international relations were questioned at each stage of the external intervention in Kosovo (Hehir, 2010a, p. 1), and as many have observed, Kosovo marked the beginning of a new form of external intervention in PCEs (Hehir, 2010a, p. 1; Percival & Sondorp, 2010, p. 1). As a consequence of the intervention in Kosovo, the use of force is now considered a viable strategy to use to achieve humanitarian objectives. The NATO intervention in Kosovo also served to interject the

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[82] EULEX began in Kosovo in December 2008, becoming fully operational in April 2009, and with a mandate until June 2014. EULEX's work is guided by UN SCR 1244 and the organization's tasks are divided between two divisions. The Executive Division is involved in case investigations and prosecutions, including adjudicating sensitive cases, whereas the Strengthening Division provides monitoring, mentoring, and advising to police, justice, and customs officials (EULEX Kosovo, n.d., n.p). Worldwide economic problems and the local political climate created initial challenges for EULEX: EULEX only had 1,700 employees by April 2009, rather than the anticipated 2,000. EULEX has also been criticized for being inappropriately structured because as of April 2009, 1,300 of the 1,710 employees were police officers, which meant the most corrupt and weak rule of law institution in Kosovo – the judiciary – was neglected. Another criticism was that 15 percent of EULEX's employees worked for UNMIK until EULEX became operational, which was problematic given severe criticisms of UNMIK and their inability to do their job (KIPRED, 2009, p. 22).

"doctrine of sovereignty as responsibility into the debate about humanitarian intervention" (Bellamy, 2010, p. 39). As discussed in Chapter 3, the UN endorsed the idea of sovereignty as 'responsibility to protect' in 2005, explaining that, "each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity" (UN General Assembly, 2005, para. 138). If a state is unwilling or incapable of fulfilling this responsibility, the international community has the responsibility to intervene to address these humanitarian concerns (Warner & Giacca, 2009, p. 291).

One of the greatest, general lessons learned following the international community's intervention in Kosovo, is the need to use early diplomatic engagement to prevent conflict, rather than use force to engage following the outbreak of intense conflict (IICK, 2000, p. 295). The external intervention in Kosovo also has implications for the international community with respect to continued intervention in sovereign states. Future external interventions should be informed by three general lessons learned from Kosovo:

- Policies towards Kosovo have consistently been shaped with the interests of external actors to the fore;
- External intervention – both military and diplomatic – does not guarantee that intra-state conflicts will be resolved peacefully or quickly; [and]
- Tangible evidence of the need for reform of international law and the international political system does not necessarily lead to actual reform (verbatim, Hehir, 2010b, p. 194).

These general lessons learned reflect those covered in earlier chapters, and suggest the need for greater concern with the local context and needs, and *how*, and even *if*, international engagement is the best strategy to use in conflict-ridden environments.

Having reviewed the historical factors that lead to the NATO intervention in Kosovo, the NATO intervention itself, Kosovo's independence, and the general lessons learned from the international community's engagement in Kosovo, the discussion will now be narrowed even further to focus on the case study. Peacebuilding activities undertaken in Kosovo are discussed in Chapter 8, including corrections reform activities undertaken by the Correctional Service of Canada (CSC).

CHAPTER EIGHT: POST-CONFLICT PEACEBUILDING AND REFORM IN KOSOVO

NATO won the war. Now the United Nations has to win the peace.

(Independent International Commission on Kosovo (IICK), 2001, p. 97)

Chapter Overview

When the North Atlantic Treaty Organization (NATO)-led aerial bombing campaign ended in Kosovo in June of 1999, the international community faced staggering challenges as they embarked on peacebuilding activities in the post-conflict environment (PCE). Some of the initial post-conflict realities in Kosovo were discussed in Chapter 7, including the physical infrastructure damage, dire economic conditions, increasing crime rates, and acts of revenge violence perpetuated against Kosovar Serbians. Discussion throughout this chapter describes the approach the United Nations Interim Administration in Kosovo (UNMIK) and the NATO-led Kosovo Force (KFOR) took in addressing the post-conflict realities in Kosovo, with a specific focus on criminal justice reform activities. As the discussion reveals, UNMIK and KFOR faced many challenges in fulfilling their responsibilities. UNMIK and KFOR faced severe challenges in reforming the criminal justice system given that when they arrived, the police could not provide safety and security for their people, the judicial system had collapsed, and the prisons could not be used to detain accused or sentenced individuals (UNMIK, 2003, p. 2). This chapter begins with a brief overview of UNMIK and KFOR's objectives and activities before continuing into a discussion about the reform objectives, challenges, and results that are relevant to each component of the criminal justice system. The chapter ends with a discussion about the Correctional Service of Canada's (CSC) involvement in corrections reform activities in Kosovo. This discussion includes the foreign policies that influence the CSC's international engagements, the CSC's responsibilities in Kosovo, and the anticipated outcomes of their efforts.

UNMIK Objectives and Activities

President Milošević accepted the Athisaari-Chernomyrdin agreement in June of 1999, which ended the 78-day NATO-led aerial bombing campaign against Yugoslavia. With his signature, the Yugoslav government agreed to stop the repression and violence in Kosovo, withdrawal its troops, accept the return of refugees, have NATO troops enter Kosovo, and for the UN to administer the province by establishing an interim civil administration (UNMIK) (IICK, 2001, p. 99). On 10 June 1999, United Nations Security Council Resolution (UN SCR) 1244 put Kosovo (newly economically and politically free from the Federal Republic of Yugoslavia (FRY)) under the provisional administration of UNMIK, and the military presence of KFOR (Korovilas, 2002, p. 109; Stahn, 2001, p. 544). At the time of its creation in June of 1999, UNMIK had the most comprehensive mandate of any UN mission in the history of the organization. Although KFOR's role and responsibilities were similar to previous UN-authorized forces, the international civil presence was far beyond anything the UN had done before (Matheson, 2001, p. 79).

UNMIK possessed the powers of the state given that the Special Representative of the UN Secretary-General (SRSG) in Kosovo was given "all legislative and executive authority, including the administration of the judiciary" (UNMIK/REG/1999/1, Sec 1(1.1)). UN SCR 1244 outlined the many tasks UNMIK was responsible for, including performing basic civilian administrative functions, supporting the establishment of substantial autonomy and self-government in Kosovo, organizing and overseeing the development of Provisional Institutions of Self-Government (PISG), transferring their administrative responsibilities to the PISG, supporting the political process to determine Kosovo's final status (holding elections), and monitoring the transfer of authority from the PISG to the permanent civil administration. Further, UNMIK was responsible for protecting and promoting human rights, ensuring the safe return of refugees and displaced Kosovars, maintaining law and order, supporting humanitarian and disaster relief, and supporting the reconstruction of key infrastructure, and other economic reconstruction (UN SCR 1244, 1999, para. 11). UNMIK thus had multiple responsibilities that were far beyond the responsibilities the UN had exercised in traditional peacekeeping missions. Specific examples of activities not previously tasked to traditional peacekeeping missions included UNMIK acting as the civil administration, and building democratic institutions (Søbjerg, 2006, p. 65). In addition to these tasks, UNMIK had to create a legislative

framework within which all of the post-conflict peacebuilding efforts would take place. This is because the NATO intervention resulted in the withdrawal of Serbian authorities that had previously governed Kosovo and its security sector institutions (Strohmeyer, 2001a, p. 47).

Administering the territory was a huge undertaking and it was initially organized around four pillars, as illustrated in Figure 8.1. To coordinate tasks and ensure there was a chain of command for the various organizations, overall authority was delegated to the head of the mission, the SRSG (Søbjerg, 2006, p. 66).[83] The UN possessed leadership of the process through the SRSG, although as illustrated in Figure 8.1, multilateral organizations were partners with each other and the UN; this was the first mission with this type of collaboration (Murphy, 2007, p. 9).

PILLAR I: Humanitarian Assistance (phased out in 2000)	•Led by: UN High Commissioner for Refugees •Includes: humanitarian assistance activities
PILLAR I: POLICE AND JUSTICE (created in 2001)	•Led by: UN •Includes: police, courts (legal and judicial) and corrections reform activities
PILLAR II: CIVIL ADMINISTRATION	•Led by: UN •Includes: activities to reestablish healthcare, education
PILLAR III: DEMOCRATIZATION AND INSTITUTION BUILDING	•Led by: Organization for Security and Cooperation in Europe (OSCE) •Includes: developing local, independent media, elections
PILLAR IV: RECONSTRUCTION AND ECONOMIC DEVELOPMENT	•Led by: European Union (EU) •Includes: activities to build a market-based economy

Figure 8.1.   UNMIK Peacebuilding Pillars

Note.   IICK (2001, p. 101); Matheson (2001, pp. 79-80); Murphy (2007, p. 79)

[83]   Multiple individuals have cycled through the SRSG position, which has created challenges in implementing and adhering to a long-term strategy in Kosovo (Murphy, 2007, p. 79).

Following the return of most refugees and displaced persons, the humanitarian assistance pillar was phased out at the end of June of 2000. A new police and justice pillar was created on 24 May 2001 to facilitate greater integration and coordination of police, justice, and prison reform activities to address the security concerns in post-conflict Kosovo. The pillar was led directly by the UN, and was tasked with criminal justice reform to develop an effective and accountable justice system that operates free from discrimination, and respects human rights and the rule of law (UNMIK, 2004, p. 3). Pillar I included UNMIK's police organization (International Civilian Police (CIVPOL)); CIVPOL was tasked with providing public security, and developing capacities among the Kosovo Police Service (KPS). The pillar also included the UNMIK Department of Justice, which was the department tasked with developing capacities in the penal and judicial systems, and operating these systems in the interim period (Wilson, 2006, p. 157). The Department of Justice organizational chart is presented in Figure 8.2.
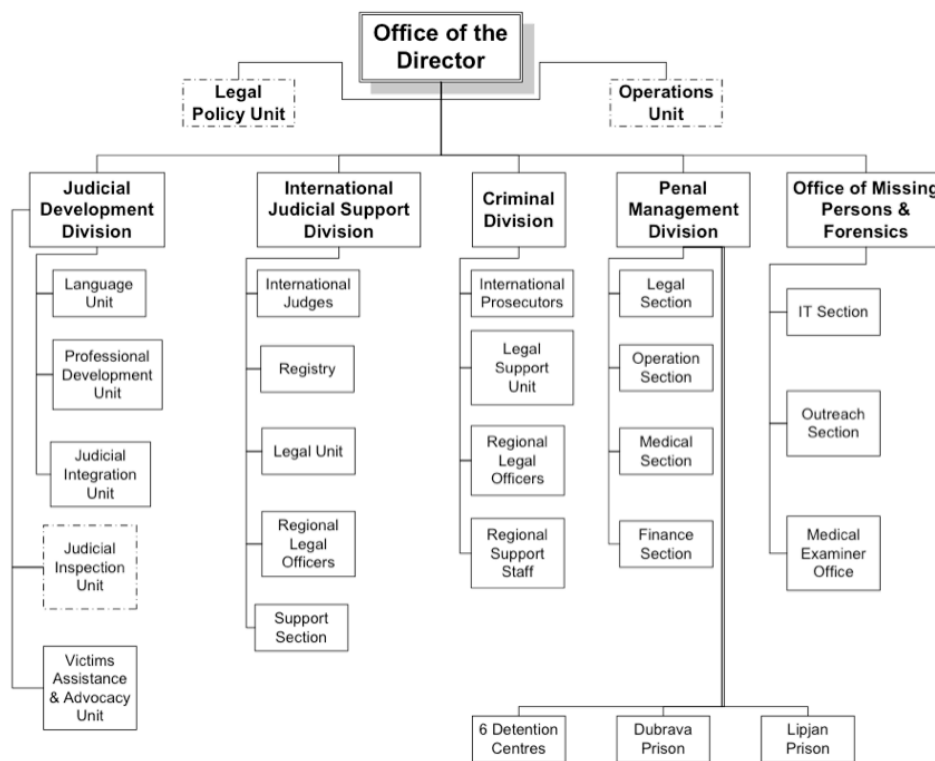
Figure 8.2. ***Department of Justice Organizational Chart***

Note. UNMIK (2004; p. 4); used with permission.

Pillar I, Police and Justice, came to an end in May of 2006, although the SRSG continued to possess authority over the criminal justice system through reserved powers (United Nations Development Programme (UNDP), 2006, p. 63). The statistics presented in this chapter are only as recent as UNMIK's participation as it existed under Pillar I, Police and Justice, given the focus of the research and the time period captured in the case study (1999 to 2006).

KFOR Objectives and Activities

KFOR had a variety of objectives to achieve at the conclusion of the NATO air campaign.[84] Their mandate came from UN SCR 1244 and the Military Technical Agreement (MTA) between the FRY, Republic of Serbia, and NATO (NATO, 2012, n.p.). Although KFOR's mandate has changed throughout the years, their primary mandate following the conflict was to deter renewed hostilities; maintain a ceasefire; ensure the permanent withdrawal of FRY military, police, and paramilitary forces; demilitarize the Kosovo Liberation Army/Ushtria Clirimtare e Kosoves (KLA/UÇK); and, establish a safe environment so refugees and displaced individuals could return, the PISG could be established, aid could be delivered, and international organizations and civilian personnel could operate and move freely in Kosovo. KFOR was also responsible for securing public safety and order, supervising demining until international civilian personnel could take over, supporting and working with international civilian personnel, and monitoring the borders (UN SCR 1244, 1999, para. 9). In the immediate aftermath of conflict, KFOR soldiers also took on responsibilities beyond their mandate because neither UNMIK nor the Organization for Security and Co-operation in Europe (OSCE)

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[84] KFOR was made up of men and women who were from NATO member countries, non-NATO countries, and partner countries (NATO, 2012, n.p.). KFOR troops were organized into five multinational brigades led by France, Germany, Italy, the United Kingdom, and the United States (Wilson, 2006, p. 153). The number of KFOR members decreased from approximately 50,000 members in 1999 to approximately 39,000 members in 2002, to 17,500 by the conclusion of 2003, and today, the numbers are down to 5,500 (NATO, 2012., n.p.). The decrease in the number of KFOR troops reflects an increase in the capacities of the KPS (Wilson, 2006, p. 165).

had a large amount of civilian support. Therefore, NATO soldiers were often required to conduct law and order tasks when CIVPOL did not have the adequate numbers or capacity to provide security in Kosovo (Wilson, 2006, p. 154).

The next few sections of this chapter highlight the operational realities that existed in each component of the criminal justice system following the NATO intervention in Kosovo. The activities UNMIK and KFOR undertook in reforming each component of the criminal justice system are discussed, as are the challenges the organizations experienced while conducting these activities, and the results of their work. The chapter concludes with a discussion about the CSC's role and responsibilities in conducting corrections reform activities in Kosovo.

Criminal Justice Reform in Kosovo

When UNMIK was established in Kosovo, the police were unable to provide security and public safety for the people, there was no judicial system to prosecute accused individuals, and there were no prisons to incarcerate accused and convicted individuals (UNMIK, 2003, p. 2). Criminal justice reform activities in Kosovo were thus designed to tackle public safety concerns, develop a court system to conduct trials, and establish a prison system to incarcerate accused individuals and sentenced offenders. Establishing a functioning criminal justice system in Kosovo was vital to promoting peace and security. As discussed in Chapter 7, post-conflict Kosovo experienced many growing security issues in the aftermath of conflict, which included continuing ethnic hostility, increasing crime rates, and increasing organized crime activities involving Albania mafia structures (IICK, 2001, p. 112).

UNMIK experienced many cross-sectional challenges while reforming the criminal justice system in Kosovo; for example, much of the physical infrastructure was destroyed (sometimes as a consequence of NATO bombing) or looted during the conflict, so existing justice facilities were inadequate (IICK, 2001, p. 113). Files, stationary, and office equipment were missing; the latter of which meant newly appointed judicial personnel used their personal typewriters to complete their tasks (Strohmeyer, 2001a, p. 57). Additionally, before many of the remaining justice buildings could be used,

they had to be cleared of mines and booby traps. Furthermore, many of the remaining Kosovar Albanian justice system personnel were inexperienced, since most of them lost their jobs following the revocation of Kosovo's autonomy in 1989, and had not been employed in the justice system since then. Experienced Kosovar Serbians who held the posts during the 1990s fled to other countries after the NATO intervention due to the potential danger they faced at the hands of Kosovar Albanians (Goddard, 2004, p. 687). This is why the international community referred to Kosovo as an "empty shell" (Strohmeyer, 2001b, p. 109) when they arrived. Kosovo existed but the internationalized territory required extensive capacity development to flourish in the aftermath of conflict.

Courts: Legal and Judicial Systems

Legal Framework Reform

One of the initial challenges UNMIK faced in their efforts to reform the judicial system was determining the applicable legal framework for their legal training efforts, as there was much confusion and debate about the issue (Strohmeyer, 2001a, p. 56). Initially, the Serbian Criminal Code was determined to be the applicable legal framework in UNMIK-administered Kosovo, as promulgated in UNMIK Regulation 1999/1/3 (UNMIK, 1999a). However, due to mass Kosovar Albanian rejection of the Serbian Criminal Code, UNMIK revoked their decision, and under UNMIK Regulation 1999/24/1, declared the applicable legal framework was that which stood in 1989, prior to a decade of human rights violations condoned by the Serbian Criminal Code (O'Connor, 2006, p. 522; UNMIK, 1999b). Although UNMIK declared that the pre-1989 legal framework was the most appropriate framework to use, shortly thereafter, they realized that it did not completely comply with international human rights standards. UNMIK was thus criticized for promulgating laws that violated international human rights standards (O'Connor, 2006, p. 524).

UNMIK was also criticized for politicizing the issue of justice by initially designating the Serbian Criminal Code as the applicable law, only to retract their decision and implement the pre-1989 legal framework. UNMIK's decision was perceived as a political move, as the pre-1989 legal framework was not more democratic than the Serbian Criminal Code, and it was less developed (Strohmeyer, 2001a, p. 59). For example, it did not contain provisions for war crimes or drug trafficking, so judges

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sometimes had to use the Serbian Criminal Code to prosecute these offences (Bernabéu, 2007, p. 85; Chesterman, 2009, p. 1522). Because UNMIK stipulated that the Serbian Criminal Code was to be used in situations not covered by the pre-1989 legal framework, UNMIK and KFOR personnel experienced considerable confusion when it came to interpreting the law (Bernabéu, 2007, p. 85). Further confusion was created given that judges, prosecutors, lawyers, and police officers were expected to interpret the applicable legal framework in light of international human rights law (OSCE, 2000, pp. 15-16). These justice officials were responsible for determining if the pre-1989 legal framework was consistent with international human rights standards, which although "legally sound in every respect, it is clear that the formula adopted was practically unworkable" (O'Connor, 2005, p. 239).

Uncertainty about the appropriate, applicable legal framework in Kosovo in the immediate aftermath of conflict meant the loss of months that are critical in PCEs (Kritz and Schabas, 2007, pp. xvii-iii).[85] If the law reform process takes a long time, there is a risk of impunity for those who are guilty of potentially serious criminal acts (O'Connor, 2005, p. 242). The absence of an effective judiciary, confusion about the legal framework, and poor perception towards the rule of law in Kosovo, created an environment characterized by impunity, resulting in instances of revenge violence against Kosovar Serbians and other ethnic minorities, as discussed in Chapter 7, and increasing crime rates (Bernabéu, 2007, pp. 85-6). UNMIK was criticized for taking too long to implement a penal code and code of criminal procedure that respected human rights. It was not until April of 2004 that the new Provisional Criminal Code and Provisional Criminal Procedure Code of Kosovo came into force, becoming the foundation for criminal law in Kosovo (UNMIK, 2004, p. 14). Despite the implementation

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[85] The UN's experiences in Kosovo, East Timor, and Cambodia highlighted the importance of engaging in criminal law reform activities in PCEs, as PCE legal frameworks are typically ineffective and archaic (O'Connor et al., 2007, p. 4). As a consequence of discussions about the challenges the UN experienced during missions in Cambodia, East Timor, and Kosovo, significant changes have occurred. The *Model Codes for Post-Conflict Criminal Justice* have been written to assist practitioners conducting substantial legal framework reform in PCEs (Kritz & Schabas, 2007, p. xvii).

of this new legislation, UNMIK continued to be criticized for their failure to develop a comprehensive legislative framework because for example, eight years after the war, a legislative framework that tackled organized crime was not complete (European Commission, 2007, p. 47).

Judicial Reform

The judicial system was incapable of conducting trials in the aftermath of conflict in Kosovo, which made it difficult to respond to security challenges (UNMIK, 2003, p. 2). The judicial system had collapsed because the non-Albanians who administered Kosovo's justice system throughout the 1990s fled when the Yugoslav troops retreated (Strohmeyer, 2001a, p. 50). In pursuing their mandate to secure public safety and promote law and order in Kosovo, KFOR arrested many people for having committed serious and violent offences, resulting in a backlog of more than 200 cases within the first two weeks of their arrival (Strohmeyer, 2001a, p. 49). An absence of a functioning judicial system meant that those accused of serious crimes, such as violence and human rights violations, were not immediately brought to justice. Establishing a functioning judicial system was thus vital to promoting justice and security in Kosovo.

UNMIK's objective was to immediately re-establish "an independent, impartial and multi-ethnic judiciary" (UNMIK, 2004, p. 14). This would prove challenging; upon UNMIK's arrival, only 30 out of 756 judges and prosecutors were Kosovar Albanians, which was a consequence of discriminatory policies implemented by the Belgrade government throughout the 1990s (Strohmeyer, 2001a, p. 50). Finding lawyers was slow and time-consuming, as legal personnel were sought by word of mouth (Strohmeyer, 2001a, p. 53). Despite these difficulties, by the end of December of 1999, 300 local judges and prosecutors had been appointed (UNMIK, 2004, p. 14) and by 2006, this number had risen to 390 (UNDP, 2006, p. 65). UNMIK experienced significant obstacles in attempting to integrate Kosovo Serbians into the judiciary despite their success in creating multi-ethnic police and corrections systems (Wilson, 2006, p. 172). One such obstacle was the existence of parallel judicial structures operating in North Mitrovica/Mitrovicë, which prevented Kosovo Serbians from joining the judiciary UNMIK was re-establishing (UNMIK, 2004, p. 18). The riots in March of 2004 (discussed later in this chapter) also created obstacles for UNMIK in their attempt to integrate Serbians and

other ethnic minorities into the judiciary. Some minority judges and prosecutors were displaced during the riots, while others became even more discouraged from joining the Kosovo justice system (UNMIK, 2004, p. 19). By 2003, only approximately 4.4 percent of judges and prosecutors were Serbian and another 5.5 percent were other ethnic minorities (Turkish, Bosnian, Gorani, and Roma) (UNMIK, 2003, pp. 15-16).

In the months following the NATO intervention, UNMIK was criticized for failing to establish a fair and independent judicial system, as there were multiple allegations of ethnic bias, including concerns about lengthy pre-trial detention for Serbians and Roma. Concerns were voiced not only about lengthy pre-trial detention but also, about the conditions of pre-trial detention; many pre-trial detainees were being held in makeshift military tents (Ryan, 2010, p. 121). Allegations also strongly suggested Albanian judges discriminated against Serbian accused, as Serbians were subject to harsh punishments and the extensive use of preventative detentions, in addition to being convicted on weak evidence (Bernabéu, 2007, p. 86). Albanian judges feared for themselves and their families due to threats and community pressures, which may have contributed to their biased decision-making. Kosovar Albanians were also simply biased towards Kosovar Serbians given the 10 years of Serbian-inflicted discrimination they experienced throughout the 1990s (Hartmann, 2003, pp. 6-7). In contrast to the treatment Serbian accused received from Kosovar Albanian judges, Albanian accused were given lenient treatment, and at times, they were released without being charged despite extensive evidence to convict them (Bernabéu, 2007, p. 86).

To address concerns with Kosovar Albanian judicial bias, UNMIK Regulation 2000/6 was passed, resulting in the appointment of an international judge and prosecutor (IJP) to the court in Mitrovica/Mitrovicë, and in May of 2000, to all of the courts in Kosovo (UNMIK, 2000a; UNMIK, 2004, p. 14). In response to serious concerns about continued ethnic bias, and the intimidation of witnesses and their reluctance to testify in court, the number of IJPs available to sit with Kosovar Albanian judges was increased in UNMIK Regulation 2000/64 (UNMIK, 2000c). UNMIK Regulation 2000/64 was designed to ensure Kosovar Albanian judges could not out-vote IJPs in serious crime trials, as panels of three judges, which consisted of an international majority, were required to hear these cases (United Nations Development Group (UNDG), 2001, p. 26;

UNMIK, 2004, p. 14). As of 14 June 2004, there were 24 IJPs working in Kosovo courts (UNMIK, 2004, p. 15).

After seven years under UNMIK tutelage, the following court structure was in place in Kosovo:

- The Supreme Court of Kosovo;
- Five District Courts;
- Twenty-six Municipal Courts; and
- One High Minor Offence Court and 25 Municipal Minor Offence Courts (UNDP, 2006, p. 64).

With 311 local judges and 84 prosecutors by 14 June 2004, the local judiciary could nearly satisfy all of the demands made of the courts. At this point in time, the local judiciary in Kosovo was capable of handling 100 percent of all of the civil cases before the courts, and approximately 97 percent of all of the criminal cases (UNMIK, 2004, p. 17). In spite of these successes, an OSCE Mission in Kosovo (2004) review of the judicial system revealed many problems in the judicial system, including violations of the right to:

- Be tried within a reasonable period of time (there was a growing backlog of cases (p. 9));
- Be tried by a tribunal established by law (there were violations regarding the composition of the trial panel (p. 18));
- An impartial tribunal (at times, judges took on the prosecutor's role if prosecutors were absent (p. 21));
- A public trial (speaking with the judge was often the only way a person could obtain information about when and where the trial would be (pp. 25-26)); and,
- Cross-examine witnesses (witness statements collected during the investigation were read during trial, so cross-examination was not possible (p. 27)).

After seven years of security sector reform (SSR) activities in Kosovo, Kosovars continued to have weak trust and confidence in the judicial system, and believed corruption and political interference negatively impacted the system. Kosovars viewed the judicial system as being lenient towards socially prominent individuals, fearful of prosecuting organized crime cases, and inaccessible (UNDP, 2006, pp. 29-30). Analysis

conducted on the judicial administration in Kosovo in 2006 revealed mismanagement of funds, too few judges in comparison to the number of cases before the courts, unprofessional and poorly trained judges, poor transparency on case decisions, and an inadequate legal infrastructure (UNDP, 2006, p. 67). These results indicate further reform needs to occur for Kosovars' to view their judiciary as an independent, capable body. An absence of faith and trust in the rule of law can increase vigilantism, organized crime, trafficking, terrorism, and overall instability in PCEs, which compels further judicial reform (UNDP, 2006, pp. 30-31).

Police Reform

As discussed throughout Chapter 7, Kosovar Albanians were the victims of numerous human rights violations throughout the 1990s. Under the command of President Milošević, Serbian special police and Yugoslav troops engaged in mass human rights violations against Kosovar Albanians. These human rights violations included extrajudicial executions and other unlawful killings, among others (Human Rights Watch (HRW), 1998, para. 1). Following the NATO-led intervention in 1999, there were serious allegations of Kosovar Albanian police forces committing similar acts against Kosovar Serbians. Because police personnel misused force against citizens prior to, during, and after the conflict in Kosovo, reforming police services was considered a particularly vital step in successfully achieving democratic reform in the territory (Grillot, 2008, p. 320; UN General Assembly, 1994, sections 18-19).

Reforming the police service in Kosovo was one of the first tasks undertaken by UNMIK. The objective was to build a democratic police service whose ethnic-composition reflected that of the larger community, and whom the community could trust (Grillot, 2008, p. 330). Reforming the police service and creating a multi-ethnic police force was a priority for UNMIK, as they recognized community policing could only be effective if the police service reflected the make-up of the local population (Heinemann-Grüder & Grebenschikov, 2006, p. 51). KFOR, CIVPOL, and the KPS were responsible for providing public security in Kosovo (Jones et al., 2005, p. 27). CIVPOL had two main objectives in Kosovo. The first of which was providing transitional law enforcement services, and the second was developing the KPS. These objectives were designed to unfold over a three-phase process: during the first phase, CIVPOL advised KFOR in

executing their responsibilities to establish public safety and order in Kosovo. In the second phase, KFOR transferred law and order responsibilities to CIVPOL. During this phase, CIVPOL was developing the local KPS. During phase three, CIVPOL was tasked with transferring their law and order authorities to the KPS, and providing mentoring services thereafter (UNMIK, 2004, p. 6). Concerns have been voiced about how UNMIK conducted democratic police reform in Kosovo. Criticism was primarily directed at the interconnectedness among CIVPOL, KFOR, and the KPS; police-military patrols were common, as was using military facilities for law enforcement purposes (Ryan, 2010, pp. 122-123). The concern was that KPS members were being trained and monitored in a police-military environment, which "makes it inevitable that civilian policing standards are going to be viewed largely as a theoretical construct" (Ryan, 2010, p. 123).

The OSCE opened the Department of Police Education (DPED) and the Kosovo Centre of Public Safety, Education, and Development (KCPSED; also commonly referred to as the Kosovo Police Service School (KPSS)) in August of 1999 in Vushtrri/Vučitrn, and began training a multi-ethnic police force in September of 1999. Initially, cadets were put through an accelerated five-week training program, although by 2006, the program had been spread out to twenty weeks of in-class training at the KCPSED and 20 weeks of training in the field (UNDP, 2006, p. 96). The instructors at the KCPSED were successful in providing valuable training to the cadets; classroom activities and subsequent field training activities introduced the cadets to new ideas and skills, and strengthened the cadets' knowledge of technical and democratic policing (Peake, 2004, pp. 19-20). Classroom training components trained recruits in criminal investigation procedures, how to manage domestic violence cases, community policing strategies and principles, and how to conduct investigations of traffic accidents (Jones et al., 2005, p. 36). There was however, criticism of the human rights training given to KPS officers in the field, as CIVPOL officers and senior KPS personnel conducted the field mentoring. CIVPOL officers often came from police agencies that did not always adhere to human rights standards, so there were concerns about their abilities to teach others about behaving in accordance with human rights standards (Decker, 2006, p. 502, p. 508).

In 2001, two years after the NATO intervention, the KPS was the most multi-ethnic and gender-balanced criminal justice sector; 15 to 20 percent of the 1,381

graduates in field training were ethnic minorities and 25 percent of them were women (UNDG, 2001, p. 25). Despite UNMIK's initial success in achieving gender balance in the KPS, by 2006, 86 percent of KPS officers were male (UNMIK, 2006, p. 5). As the percentages in Figure 8.3 reveal, in 2006, the 7,150 existing KPS officers continued to represent the community's ethnic diversity (UNDP, 2006, pp. 94-95).[86]
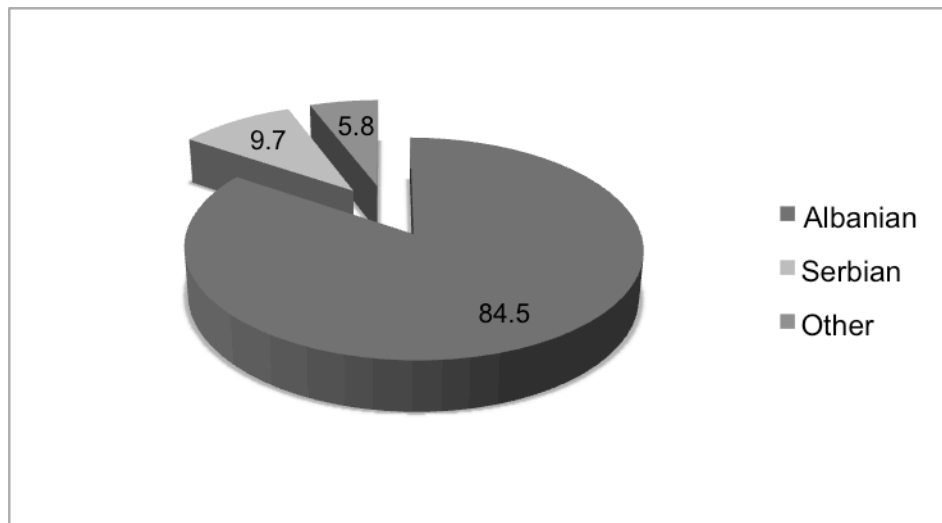
Figure 8.3.   KPS: Ethnic Representation as of 2006

Note.   UNDP (2006, p. 94).

As of 2006, the KPS was one of the most trusted institutions operating in Kosovo although there were concerns about the increasing politicisation of the KPS, corruption, and the KPS' ability to enforce the rule of law. There were also concerns about senior management personnel because as of 2006, 80 percent of all KPS officers had been hired over six years, which meant there were few experienced officers to choose management personnel from (UNDP, 2006, pp. 95-97). Moreover, frequent movement of senior officers can have a negative impact on developing police services because it inhibits "institutional stability and …[prevents] strategic thinking from being implemented…individuals concerned are never in place long enough to either gain the

[86]   As of 2006, the general population in Kosovo was: 90.2 percent Kosovar Albanian, 4 percent Kosovar Serbian, and 5.8 percent other ethnic minorities (UNDP, 2006, p. 94).

mastery of their new role or have any lasting influence on their staff" (UNDP, 2006, p. 97).

UNMIK experienced challenges with their own civilian police force (CIVPOL). Officers were often untrained to tackle their responsibilities in post-conflict Kosovo, civilian officers took longer to arrive than originally anticipated, and the international community deployed fewer officers than UNMIK requested (IICK, 2001, p. 111). These challenges meant there were no trained security personnel to deal with basic criminal activities and civil disorder in the immediate aftermath of the conflict, which led to increases in criminal behaviour and revenge violence, as discussed in Chapter 7 (Murphy, 2007, p. 86). CIVPOL has also been criticized for being corrupt (Murphy, 2007, p. 80), and, for having officers that came from jurisdictions where human rights were not always respected (HRW, 2004, p. 14). Due to the challenges experienced by CIVPOL, various agencies and individuals have thus recommended developing a standby police force that would be readily available when large missions are undertaken, as this is essential to achieving law and order in the immediate aftermath of conflict. It would be highly beneficial if members on this force had experience dealing with the realities of post-conflict policing environments, as well as working in different cultural environments (IICK, 2001, p. 112). Further to being quickly and easily deployable, these forces should include specialized units to address the realities in PCEs, such as corruption and trafficking (Heinemann-Grüder & Grebenschikov, 2006, p. 56). Strohmeyer (2001b) also recommended creating "a standby network of experienced international jurists" (p. 122) that are quickly deployable to PCEs, as the failure to address crime and unrest through judicial proceedings in these environments can quickly erode public confidence in the UN and emerging institutions.

Corrections Reform

The rule of law is enhanced in PCEs when corrections reform activities are conducted to bring corrections systems in line with international human rights standards (Department of Peacekeeping Operations (DPKO), 2012, p. 1). As discussed in Chapter 4, the ultimate goal of conducting corrections reform activities in PCEs is to develop a transparent, accountable, and ethical corrections system "that incarcerates prisoners in safe, humane and secure conditions and which is built on principles of fundamental

human rights, equality before the law, and the dignity of individuals" (DPKO, 2006, p. 1). This section of the chapter describes the corrections reform activities that UNMIK conducted in their quest to achieve this goal.

The Penal Management Division (PMD) of the UNMIK Department of Justice was responsible for reforming and re-establishing the Kosovo Correctional Service (KCS), which included reforming its legal and operational framework to reflect international human rights prison standards (UNMIK, 2003, pp. 16-17). Further, the PMD was responsible for conducting a massive recruiting campaign, which involved training activities to ensure KCS personnel would possess the skills and knowledge to operate in accordance with international human rights prison standards (UN Secretary General, 1999/779, para. 72). The PMD was also tasked with recruiting international corrections advisors, and running the KCS facilities while the local capacities were being developed. Additionally, the PMD was responsible for developing a strategy to eventually transfer the operational authority over to the KCS (UNMIK, 2003, pp. 16-17).

Following the NATO intervention in Kosovo, UNMIK experienced difficulty locating adequate facilities to detain arrested individuals, as the correctional facilities were unusable given damage to the physical infrastructure (Strohmeyer, 2001a, pp. 57-58). NATO bombing had caused significant damage to the largest prison in Dubrava/Dubravë, while other facilities were in dire condition, lacking adequate cell space (UNMIK, 2004, p. 19). All of the buildings in the Dubrava/Dubravë prison complex had been damaged by NATO cluster bombs or cruise missiles (Hill, 2002, para. 9).[87] UNMIK also had to address the reality that many correctional officials had withdrawn with Yugoslav security forces. This meant that prison facilities contained neither correctional officers nor inmates, as the inmates had been transferred to undisclosed locations in Serbia and Montenegro (Strohmeyer, 2001a, p. 57; UN Secretary General, 1999/779, para. 72). Given the aforementioned realities, UNMIK quickly realized that they needed to initiate corrections reform activities to assess and develop the local

[87] There was also evidence that the NATO bombs had injured people working and living in the prison (Hill, 2002, para. 9).

capacity, build new correctional facilities, and bring in international corrections advisors to temporarily run the system (Strohmeyer, 2001a, p. 58). Although the need was clearly present, UNMIK experienced difficulties in achieving these tasks, as donor countries were hesitant to provide funds for prison reconstruction activities, and UN member states were also reluctant to provide corrections personnel to assist with the activities (Strohmeyer, 2001a, p. 58). Recall from Chapters 4 and 6, that this lack of interest in, and funding for, corrections reform activities is not uncommon during peacebuilding missions.

Due to the physical destruction of prison facilities during the conflict, pre-trial detainees were held in temporary prison facilities in the immediate aftermath of the conflict. These temporary prison facilities were typically army tents located in KFOR camps, with military personnel acting as correctional officers. There were concerns about this practice, as KFOR personnel did not possess the requisite skills and knowledge of international human rights prison standards to humanely fulfill correctional officer duties (Strohmeyer, 2001a, p. 58). This was also a concern when prison facilities started to open and CIVPOL officers were appointed to act as prison officers. CIVPOL was running various prison facilities due to the shortage of international prison officers (Strohmeyer, 2001a, p. 58; UNMIK, 2004, pp. 20-21). A unique situation unfolded in Mitrovica/Mitrovicë Detention Centre, which is a detention facility located in a Serbian enclave. For quite some time, neither Kosovar Serbians nor Kosovar Albanians could staff Mitrovica/Mitrovicë Detention Centre because of continuing ethnic tensions, conflict in the Serbian enclave, and concern about biased staff behaviour towards inmates. For many years, the institution was fully staffed by internationals, and shared a compound with French KFOR, who conducted patrols of the city and protected the outside perimeter (Rankin, 2002, p. 4). Muise, a CSC employee who was hired by the UN to act as the Director of Mitrovica/Mitrovicë Detention Centre, said he experienced challenges while supervising 66 CIVPOL officers from 19 different countries who were tasked with staffing the detention facility (Muise & Rankin, 2002, para. 1, para. 7; Rankin, 2002, p. 4). In most instances, the CIVPOL officers did not have experience acting as prison keepers, and they were from a diverse range of countries (e.g., Egypt, Ghana, Nigeria, Canada). This meant extreme caution had to be exercised to ensure violations of

fundamental human rights did not occur simply for the sake of maintaining order within the institution (Muise & Rankin, 2002, para. 7).

Basic obstacles arose during the initial stages of corrections reform activities in post-conflict Kosovo. As discussed by McVie, a CSC employee whose responsibility was creating policy and strategic plans for the KCS, one of these basic tasks was finding somewhere to purchase locks and keys (McVie & Rankin, 2001, para. 19). Muise discussed the basic challenges at Mitrovica/Mitrovicë Detention Centre, including unreliable utilities, which resulted in electrical failures and unpredictable tap and toilet failures (Muise & Rankin, 2002, para. 11). McVie also reflected on the existence of challenges on a grander scale, explaining how inadequate resources were allocated to individuals engaged in corrections reform efforts with "no insurance, no access to UN vehicles, and a great shortage of interpreters and drivers" (McVie & Rankin, 2001, paras. 12-13). Some of these challenges were addressed after McVie's two-year strategic plan was accepted by UNMIK, which resulted in guaranteed financing for corrections reform activities (McVie & Rankin, 2001, paras. 12-13). However, even after UNMIK committed to a two-year corrections reform plan, McVie said there were further challenges in finding personnel – international and local – who were qualified to participate in the reform activities (McVie & Rankin, 2001, para. 14).

Significant security challenges existed in managing KCS facilities; it was of utmost importance that Kosovar Serbians and Kosovar Albanians were securely separated from one another. There were serious concerns about incidents of ethnic violence due to the ethnic nature of the conflict, and because some Kosovar Serbian prisoners were being detained for genocide and war crimes perpetuated against Kosovar Albanians. Therefore, strict separation measures were necessary to ensure inmate safety and institutional stability (McVie & Rankin, 2001, para. 18; Muise & Rankin, 2002, paras. 8-9). International corrections advisors also learned about cultural differences in the KCS. An initial observation was that prisoners physically retreated at the sight of corrections officers:

> They'd grown up in a society where beating prisoners was normal punishment. It was hard to explain to them how due process should work, the concept of using only necessary force, negotiating to get at the root of

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problems. Concepts that we take for granted are not always familiar to
people from other countries. (McVie & Rankin, 2001, para. 15)

Another observation was that Kosovar Albanian prisoners were accustomed to
living in communal family living arrangements in the outside, free community. Thus,
Kosovar Albanians viewed being detained in a single cell as punishment, akin to
segregation in Western prison systems (McVie & Rankin, 2001, para. 17). As discussed
in Chapter 5, cultural differences such as these are important to identify, understand,
and take into account when developing new correctional policies and strategies, so they
reflect the local context and build on what is appropriate in the host country.

Correctional instructors at the police school in Vushtrri/Vučitrn were responsible
for training the national KCS recruits who, upon successful completion of their training,
would be deployed to PMD facilities in Kosovo (Wilson, 2006, p. 163). Between 1999
and 2003, the PMD was successful in increasing the number of corrections personnel for
detention facilities, and, in increasing the system's cell capacity (UNMIK, 2003, pp. 17-
20). Increased prison capacity in Kosovo meant that serious offenders could be
imprisoned, which improved public security because violent criminals, traffickers, and
corrupt officials were off of the streets (Jones et al., 2005, p. 45; Wilson, 2006, p. 163). A
snapshot of the Kosovo prison population in June of 2004 revealed that approximately
one quarter of inmates were imprisoned for robbery or theft, and nearly one third were
imprisoned for murder (UNMIK, 2004, p. 23). Increased prison capacity also meant the
prison population grew (Wilson, 2006, p. 163); by April of 2006, there were 1,277
inmates being detained in KCS facilities. Of these 1,277 inmates detained in KCS
facilities, 42 percent were pre-trial detainees, 5 percent were juvenile offenders, and 2.1
percent were female offenders (UNDP, 2006, p. 106).

Prizren/Prizren Detention Centre was the first prison that was up and running in
November of 1999, and by 2006, two other KCS prisons and five detention centres were
also fully functioning. The two prisons were Dubrava/Dubravë for men and Lipljan/Lipjan

for women and juvenile offenders. The remand facilities were Peć/Pejë, Prizren/Prizren, Pristina/Prishtinë, Mitrovica/Mitrovicë, and Gnjilane/Gjilan.[88] As early as January of 2000, local residents were being hired as Deputy Directors for the KCS. In January of 2000, a local was appointed as a Deputy Director and worked alongside four international corrections advisors (UNDP, 2006, p. 105). By 2004, twenty-two of the recruits from the first cadet class had attained Deputy Director status within the KCS (UNMIK, 2004, p. 21). As of early 2006, a local was the Commissioner of the KCS, and all of the facilities were under the authority of the KCS except for Dubrava/Dubravë, where multiple problematic incidents had occurred over the years (UNDP, 2006, p. 105).[89] Figure 8.4 illustrates the multi-ethnic composition of the KCS, as it existed in June of 2004.[90]
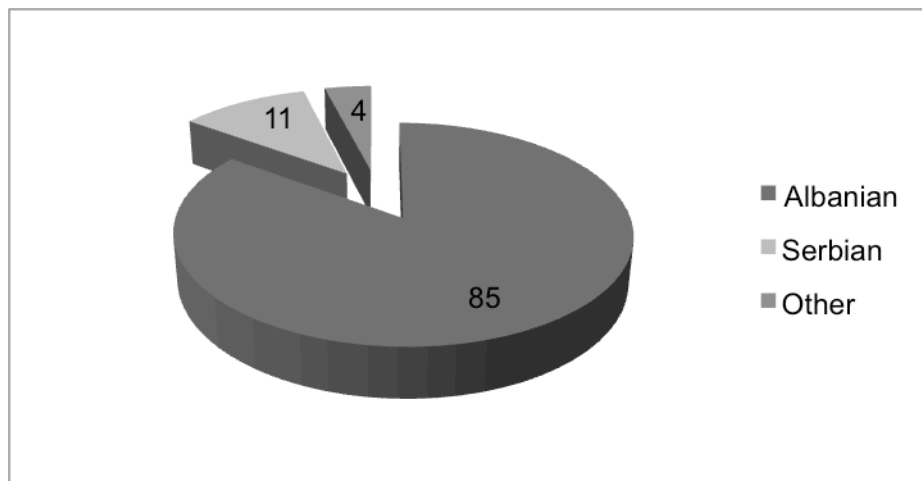
Figure 8.4.   KCS: Ethnic Representation as of 2004

Note.   UNMIK (2004, p. 21).

As of June of 2004, the number of KCS personnel from each ethnic group adequately reflected their representation in the offender population (Serbians represented 7 percent of the prison population, and other ethnic minorities, 3 percent),

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[88]   In 2006, another detention center was being built in Lipljan/Lipjan (UNDP, 2006, p. 105).
[89]   The KCS was set to take control of Dubrava/Dubravë in late 2006 (UNDP, 2006, p. 105).
[90]   Unfortunately, ethnic representation data was not available to depict the figures, as they existed in 2006.

as well as the general population (7 percent and 5 percent respectively) (Jones et al., 2005, p. 45; UNMIK, 2004, p. 22). Despite adequate ethnic representation, UNMIK recognized the importance of integrating even more Serbian correctional staff into the KCS (UNMIK, 2004, p. 26). In April of 2006, there were 1,200 KCS prison staff, and an additional 400 civilian support workers. At this time, nearly 18 percent of the KCS prison staff were female, which appropriately reflected their low representation in the prison population (UNDP, 2006, p. 106).

Under the tutelage of the PMD, the KCS experienced some serious incidents; in 2000, thirty serious defendants escaped from KCS prison and detention facilities (UNDP, 2006, p. 105). Three years later, a prison riot broke out in Dubrava/Dubravë prison, resulting in the death of five prisoners, and multiple injuries to other inmates and corrections officers. An external inquiry explained how the absence of recreational and educational opportunities for prisoners contributed to the riot; other shortcomings included poorly trained staff, and poor living conditions (UNDP, 2006, p. 105; UNMIK, 2004, p. 24). In 2006, the management of Dubrava/Dubravë prison had yet to be transferred to the KCS, as there were ongoing issues with the conditions in this facility.

Aside from noting the ongoing challenges at Dubrava/Dubravë, and the need to consider ongoing international support after the transfer of authority to the KCS, the Internal Security Sector Review (ISSR) was positive about the changes that had been made to the KCS. The ISSR determined that the KCS was operating in accordance with international best practices, local staff seemed to adhere to international human rights prison standards in their day-to-day conduct, and staff training and development was available (UNDP, 2006, p. 106). The Lipljan/Lipjan prison for women and juvenile offenders even had a mother-and-child unit for female offenders with children (Rankin, 2002, p. 5). Furthermore, the KCS and UNMIK Education Department had collaborated to develop a program to provide education programs for both sentenced offenders and pre-trial detainees (Hill, 2002, para. 16). However, not every review of the prison system was as positive. In 2006, the European Commission's Kosovo Progress Report (2006, p. 12) highlighted weaknesses in the system; primarily, the lack of separation between juvenile offenders, offenders with mental health issues, and sentenced and pre-trial detainees. A lack of separation between juvenile offenders and adult offenders, and

between sentenced offenders and pre-trial detainees, amounts to human rights violations, as discussed throughout Chapter 6.

Conditional Release[91]

In 2002, UNMIK established a Conditional Release Commission to help decrease the prison population, and more appropriately utilize correctional resources (UNMIK, 2004, pp. 25-26). As of 2004, the commission was chaired by an international judge who sat twice per month to review applications from 20 offenders who were eligible for release, after having served half of their sentence (UNMIK, 2004, p. 26). Up until January of 2013, the Conditional Release Panel existed under the Ministry of Justice; however, it now exists under the direction of the Kosovo Judicial Council. The Kosovo Probation Service supervises offenders on conditional release, and in 2013, it is anticipated that electronic monitoring will be integrated into supervisory practices (Republic of Kosovo Ministry of Justice, 2013, para. 5).

Kosovo Probation Service

International justice advisors from Italy, Luxembourg, and Sweden started work on the Kosovo Probation Service in 2000. In December of 2003, the first cohort of twenty probation officers graduated from a ten-week training course held at the KPSS; these probation officers completed their field training from January to March of 2004. Probation was developed as an alternative to imprisonment, and it is based on the principle that "social inclusion provides the best protection for communities from the harm and distress caused by crime" (UNMIK, 2004, p. 25).[92] The Kosovo Probation Service, also referred to as the "Service for the Execution of Alternative Sanctions and Social Reintegration of Convicted Offenders" (Republic of Kosovo Ministry of Justice, 2011, para. 1), continues

[91] Limited attention has been given to Kosovo's conditional release and probation services given that the focus of the case study is institutional corrections. Furthermore, the sample population that was interviewed during the case study research was only involved in corrections reform activities in prisons, and had limited (if any) knowledge about the activities conducted in these other areas.

[92] For more information on the Kosovo Probation Service as it exists today, see http://www.md-ks.org/?page=2,31 last retrieved 22 April 2013.

to exist in Kosovo today. Probation is used to manage prison overcrowding, reduce correctional costs, humanize sentencing practices, utilize community capacities, and encourage offender reintegration (Republic of Kosovo Ministry of Justice, 2011, para. 4). The organization fulfills traditional activities associated with Western probation services.

UNMIK and KFOR Weaknesses

Evaluating UNMIK and KFOR's performance in reconstructing the security sector in Kosovo is challenging due to the absence of an overarching policy framework guiding their work. UNMIK and KFOR's approach developed over time, reflecting the security issues that arose along the way (Heinemann-Grüder & Grebenschikov, 2006, p. 44). Overall though, it has been suggested that at the beginning of the mission in Kosovo, UNMIK and KFOR were unprepared to provide security, or establish the rule of law in the province (Bernabéu, 2007, p. 73). One of the largest and most agreed-upon criticisms of the international community's presence in Kosovo is that they did a poor job of establishing a "fair and equitable security and justice system" (Bono, 2010, p. 132). It has been said that in attempting to re-establish the security sector in Kosovo, UNMIK neglected issues of justice, and human rights violations were not addressed (Kosovo Institute for Policy Research and Development (KIPRED), 2009, pp. 17-18). The existence of a weak criminal justice system created a culture of impunity in post-conflict Kosovo, which ignited more ethnic and political tensions, resulting in further acts of violence (HRW, 2008, p. 1). Additional criticisms of UNMIK and KFOR highlight their ineffectiveness in developing the local capacity, fostering local ownership, effectively completing demilitarization, and addressing the status question, which are discussed in subsequent paragraphs.

UNMIK and KFOR were criticized for failing to foster local ownership of criminal justice reform activities, and for failing to develop the local capacity. Because the status question was left unresolved in UN SCR 1244, it was difficult to promote local ownership of the security sector (Law, 2006, p. 119). UNMIK and KFOR maintained authority in certain areas, including law enforcement and security matters, which undermined capacity development and local ownership (Bernabéu, 2007, p. 75; Heinemann-Grüder & Grebenschikov, 2006, p. 45). Prior to the ISSR that was conducted in 2005 by the then-SRSG, Jessen-Petersen, UNMIK and NATO had complete authority over the

security sector without local participation in the process. Following the review in 2005, and in particular, following Kosovo's Declaration of Independence in 2008, the people of Kosovo were finally given more ownership and oversight of the security sector (KIPRED, 2009, p. 30). Concerns have been directed at the lack of capacity development within the judiciary in Kosovo, as local judges have been hesitant to take on serious war crimes cases, which may be due to years of being seen as "unfit and unable by the 'international experts' to solve the society's problems" (KIPRED, 2009, p. 25).

KFOR was responsible for demilitarizing the KLA/UÇK in the aftermath of conflict. Murphy (2007, p. 92) has argued that many weapons were not handed over, and that complete demilitarization did not occur. As a consequence of incomplete disarmament, demobilization, and reintegration (DDR), some individuals kept a large number of weapons, and have since become key players in criminal organizations, undermining democratization, and creating instability and insecurity in Kosovo (Murphy, 2007, p. 92).[93] The decision was made to demilitarize the KLA/UÇK and integrate them into the civil defence corps, the Kosovo Protection Corps/Trupat e Mbrojtjes së Kosovës (KPC/TMK); approximately 5,000 ex-KLA/UÇK members wound up in the KPC/TMK, and many others in the KPS (Heinemann-Grüder & Grebenschikov, 2006, p. 46). This was a questionable decision, as some suggest that organized criminal factions are now embedded in these organizations (Murphy, 2007, pp. 92-93). Various incidents have highlighted the failure of the decommissioning process in Kosovo. In 2001, KPC/TMK members actively supported the National Liberation Army in Macedonia in their efforts to violently overthrow their government (Bono, 2010, p. 135). Another example of the failed decommissioning process is the behaviour of the KPS during the riots of March of 2004, which are discussed in subsequent paragraphs.

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[93] Given political insecurity within Kosovo – due to the lack of resolution regarding the ultimate status of the territory – citizens were unwilling to hand in their weapons (Krause & Jütersonke, 2005, p. 453).

UNMIK had the difficult task of governing Kosovo 'in limbo,' as UN SCR 1244 did not address Kosovo's final status as an independent state.[94] Although initially thought to be beneficial in maintaining cooperation and coordination between the various parties, the unresolved status question ultimately caused much strife for UNMIK (IICK, 2001, pp. 262-263). For example, the lack of consensus about Kosovo's final status created challenges in establishing an armed force in Kosovo (Bellamy & Williams, 2010, p. 270; Law, 2006, p. 114). NATO could not train the KPC/TMK to become Kosovo's armed force, as "only states can have legitimate armed forces" (Bellamy & Williams, 2010, p. 270). This example illustrates how the international community's failure to determine Kosovo's final status impeded UNMIK in their efforts to develop local capacities and build democratic government institutions (Bellamy & Williams, 2010, pp. 269-270).

As their demand for sovereignty increased, Kosovar Albanians began to view UNMIK as indecisive, corrupt, and an impediment to their independence, contributing to their social and economic problems (HRW, 2004, p. 15; Ker-Lindsay, 2009, p. 102). Albanian frustrations erupted during the riots of March of 2004 when Kosovar Albanians engaged in attacks against Serbians, other ethnic minorities (including Roma and Askaeli), and UN, KPS, and KFOR personnel and equipment (HRW, 2004, p. 7). Kosovar Albanian frustrations that resulted in the March riots of 2004 were initially ignited by sensationalized – and what were later determined to be inaccurate – media accounts about three Albanian children drowning in the river Lumebardh/Ibar river after being chased by Serbians (HRW, 2004, p. 20). This incident, in combination with existing tensions, resulted in Kosovar Albanians attacking ethnic minorities and security forces. UNMIK, KFOR, and KPS personnel almost lost control of Kosovo over the two-day period, which involved an estimated 51,000 individuals, who engaged in 33 major riots (HRW, 2004, p. 1). The consequences of the riots were devastating, and included the burning and destruction of 550 ethnic minorities' homes, and 27 Orthodox churches and monasteries, in addition to extensive damage done to another 182 ethnic minorities'

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[94] See Ker-Lindsay (2009) and the IICK (2001) for further discussion about the Kosovo status issue.

homes, and two Orthodox churches and monasteries (HRW, 2004, p. 62). Furthermore, nineteen people died, 954 were injured, approximately 4,100 were displaced, and 58 KPS officers, 65 CIVPOL officers, and 61 KFOR officers suffered injuries (HRW, 2004, p. 26, p. 62). These attacks demonstrate the inherent fragility of PCEs, and how the mere presence of international peacekeepers is not enough to keep a state from slipping back into conflict (Mayer, 2004-05, p. 238).

The riots demonstrated the failure of the security institutions within Kosovo, revealing weak intelligence and analysis capabilities, insufficient riot suppression training, and poor coordination between UNMIK, KFOR, and the KPS (HRW, 2004, pp. 24-25). UNMIK, KFOR, and the KPS suffered a setback in confidence following the riots, and relationships were severely impacted because Kosovar Serbians and other ethnic minorities felt as though UNMIK, KFOR, and the KPS had failed to protect them (HRW, 2004, p. 2). Allegations that some members of the KPS were involved in the attacks, and that some KFOR personnel – including French, German, and Italian troops – did not effectively prevent the attacks and protect minorities, their homes, and their religious sites, further undermined the relationships between the UN and ethnic minorities residing in Kosovo (HRW, 2004, pp. 2-3). One of the most devastating consequences of the riots of March of 2004 was that they abruptly ended Serbian participation in Kosovo's governing institutions, thus strengthening the parallel systems operating in Serbian enclaves, and increasing Serbia's connections with Kosovar Serbians (Ker-Lindsay, 2009, p. 20; KIPRED, 2009, p. 17).

The riots – the worst internal conflict that has occurred since the conclusion of the NATO intervention – revealed how little progress KFOR and UNMIK had made during their first five years in Kosovo (Ker-Lindsay, 2009, pp. 20-21). The riots highlighted UNMIK and KFOR's ineffectiveness in addressing the inter-ethnic hostilities and hatred that characterized the relationship between vying ethnic groups in Kosovo. The riots demonstrated that Kosovo "was certainly not on the path to becoming a peaceful multiethnic democracy" (Ker-Lindsay, 2009, p. 21). Although the riots are often attributed to the intense hatred between Kosovar Serbians and Albanians, Hehir (2010a, p. 3; 2010b, p. 191) suggests they actually reflect poor international decision-making with respect to addressing underlying hostilities, developing a shared identity, and resolving the status question. The riots forced the international community to address

the status question, as it was obvious tensions and frustrations were running high (Kostovicova, 2008, p. 635).

Summary

The failure of some of the reform efforts conducted in Kosovo has been attributed to the behaviour UNMIK modelled for the PISG, as UNMIK has been accused of undermining its own objectives while promoting a democratic transition and SSR in Kosovo (Bernabéu, 2007, p. 77). Although the Constitutional Framework for Provisional Self-Government in Kosovo provided the PISG with wide responsibilities and authority, the ultimate authority was given to UNMIK, as the SRSG could override any legal decisions made by the PISG, and even dissolve the assembly (UNMIK, 2001, Chapter 12). Democratic governance and the rule of law are essential components of SSR activities, and putting all of the power in UNMIK's authority is not compatible with these principles (Stahn, 2001, p. 561). As Hehir (2006, p. 203) said, one has to question how Kosovars could reasonably be expected to learn about democracy from UNMIK, and come to accept it, when they were being ruled by an unaccountable, self-appointed, transitional administration. UNMIK's unwillingness to give the PISG responsibility for overseeing the security sector may have reflected their concern that this move would lead to instability, which could threaten international peace and security (Bernabéu, 2007, p. 78). Another example of UNMIK neglecting democratic principles lies in how the Constitutional Framework for Provisional Self-Government in Kosovo did not restrain KFOR's authority, as neither civil body – UNMIK nor the PISG – bound their authority (UNMIK, 2001, Chapter 13). The lack of civil authority over the military was viewed as being out of step with promoting and developing a democratic culture in Kosovo (Bernabéu, 2007, p. 76). KFOR has been criticized for poor coordination among multi-national KFOR brigades (Heinemann-Grüder & Grebenschikov, 2006, p. 45), which is a

consequence that arises when there is no civil authority over the military (Bernabéu, 2007, p. 76).[95]

UNMIK also neglected democratic principles with their use of executive detentions for security reasons, which gave police personnel extensive discretion and power to carry out their duties, and bypass the local law and justice system in the name of public security (Bernabéu, 2007, p. 77). Individuals imprisoned for executive detentions could be held in pre-trial detention for up to one year under UNMIK Regulation 1999/26/1; this regulation was severely criticized by human rights organizations (Bernabéu, 2007, p. 77; UNMIK, 1999c). Further, under UNMIK Regulation 2000/47, UNMIK (Section 3) and KFOR (Section 2) personnel were given special immunities, as they could not be arrested and detained in Kosovo, which also undermined democratic principles (UNMIK, 2000b). An example of CIVPOL officers being above the law was an incident in 2002 where an UNMIK officer was neither arrested, nor detained, over accusations that he sexually assaulted a Kosovar Albanian girl (Ryan, 2010, p. 122). UN personnel have frequently been accused of misbehaviour during missions.[96] For example, Groves et al. (2009, p. 203) conducted qualitative interviews with local women in Timor-Leste, which revealed incidents of gender-based violence (primarily rape) committed by the United Nations Transitional Administration in East Timor (UNTAET) personnel against the local women. The participants reflected on how the UN dealt with the accusations (in the rare cases they were reported) through internal deliberation, and without disclosing the verdicts, which led the women to believe the UN was acting with impunity (Groves et al., 2009, p. 203). Of further interest is that the arrival of international peacekeepers in Kosovo contributed to the growth of prostitution using trafficked women. In the months following the arrival of international

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[95] KFOR soldiers were not under UN command; NATO believed this was beneficial because NATO unified command facilitated quicker decision-making, increased inter-operability, and better staffing and equipment (Bellamy & Williams, 2010, p. 123).

[96] Over the years, peacekeepers in various missions, including Bosnia and Herzegovina, West Africa, Kosovo, and the Democratic Republic of the Congo, have been accused of engaging in serious criminal behaviour, including drug smuggling, pedophilia, and the trafficking of women and children (OHCHR, 2006, p. 41).

peacekeepers in Kosovo, brothels were established around military bases (Godec, 2010, p. 246).

The aforementioned examples demonstrate how various international actors and organizations involved in SSR in Kosovo did not set a great example for Kosovo's developing security sector institutions and personnel (Bernabéu, 2007, p. 80).[97] Breaches of democratic principles, such as those outlined above, undermined public confidence in the interim government in Kosovo, as UNMIK and KFOR were perceived as operating above and outside of the law (Boon, 2005, p. 321). These inconsistencies reflect the challenges that arise in balancing the need for immediate security and stability in a PCE with "the broader achievement of security through full recognition and respect of human rights and democratic procedures" (Bernabéu, 2007, p. 89). Peacebuilding realities such as these spur debate about the UN and its accountability, as it is "not itself a party to, among other things, the human rights treaties negotiated under its auspices" (Chesterman, 2009, p. 1511), which is ironic given that this means lawless processes may be used to promote the rule of law during peacebuilding activities.

Canadian Peacebuilding: A Case Study of the CSC's Role in Conducting Corrections Reform in Kosovo

Canadians were highly involved in the military engagement in Kosovo, as Canadians flew a high portion of non-US air strike missions during Operation Allied Force (Huliaras & Tzifakis, 2007, p. 568). Canada's involvement in Kosovo reflected the nation's concerns with human security, rather than their commercial interests, as Canada did not have economic interests in the Balkan region when they became involved in Operation Allied Force (Huliaras & Tzifakis, 2007, p. 570). Canadian activities were designed to enhance human security in Kosovo by preventing a relapse into conflict, developing respect for human rights, protecting citizens, addressing organized

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[97] See Chesterman (2009) for further discussion about how the UN promotes the rule of law, while not being bound by it.

and transnational crime, and strengthening the rule of law (Huliaras & Tzifakis, 2007, pp. 562-563). Discussion throughout the remainder of this chapter will highlight how the CSC's corrections reform activities fit within this larger framework. A case study of the corrections reform activities undertaken by the CSC in Kosovo has been conducted as an example of peacebuilding activities, and the associated challenges and dynamics involved. Prior to discussing the CSC's role in the correctional reform activities undertaken by the UN in Kosovo, it is important to discuss why and how the CSC became involved. Therefore, the section begins with discussion about the Department of Foreign Affairs and International Trade Canada's (DFAIT) mandate.

DFAIT

DFAIT manages Canada's international trade and diplomatic and consular relations. Their mandate includes:

- Ensuring that Canada's foreign policy reflects true Canadian values and advances Canada's national interests;
- Strengthening rules-based trading arrangements and expanding free and fair market access at bilateral, regional and global levels; and,
- Working with a range of partners inside and outside government to achieve increased economic opportunity and enhanced security for Canada and for Canadians at home and abroad (verbatim, DFAIT, 2013, n.p.).

DFAIT determines Canada's foreign policies, and through strategic planning and prioritizing, identifies priorities that directly impact the CSC and its activities. CSC involvement in corrections reform activities in Kosovo reflected the strategic priorities that DFAIT identified for the 1999 to 2000 fiscal year. In their *1999-2000 Reports on Plans and Priorities,* DFAIT (1999, p. 6) acknowledged the changing international environment in the aftermath of the Cold War, and how globalization would further impact Canada and its international relations. DFAIT (1999, p. 19) recognized that human security for Canadians in Canada, Canadians living abroad, and human security for all of the world's citizens, would be contingent on international coordination and collaboration in crisis resolution, peacebuilding, and conflict prevention. DFAIT's (1999, p. 19) report mentioned the political instability and conflict in the former Yugoslavia, and in particular, identified Kosovo as a problematic hotspot. DFAIT's (1999) strategies and

key activities to promote international security and cooperation throughout the 1999 to 2000 fiscal year reflected these realities, and included:

- Using Canada's non-permanent seat on the UN Security Council;
- Supporting peacekeeping, and enhancing the UN's capacity for effective and rapid peacekeeping response;
- Promoting Canada's human security agenda through multilateral and bilateral channels;
- Fostering sustainable human development through multilateral and bilateral mechanisms and organizations, by promoting democratic development, good governance and the development of a vigorous civil society; and,
- Fostering regional security and conflict prevention, through support for regional security bodies and security dialogues with key partners, as well as by elaborating means to prevent conflicts (verbatim, pp. 20-24).[98]

By focusing on these strategies and key activities to promote global security and cooperation, DFAIT (1999, pp. 25-26) anticipated Canada would make contributions throughout 1999 to 2000 to promote democracy, human rights, and good governance abroad. DFAIT (1999, pp. 25-27) also anticipated that Canadian contributions would enhance conflict prevention, peacekeeping and peacebuilding activities, and further, combat terrorism, transnational crime, and drug trafficking abroad.[99]

DFAIT's priorities for the 2012 to 2013 fiscal year suggest it is likely the CSC will continue to engage in technical assistance and capacity development projects, and engage in peacebuilding and reconstruction missions in the near future. Throughout 2012 to 2013, DFAIT will continue to promote human rights, democracy, and the rule of law abroad, as the organization believes their existence enhances global governance,

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[98] Other strategies and key activities were identified in DFAIT's (1999) report; however, only those relevant to the CSC's involvement in Kosovo have been included. For further exploration of the other strategies and key activities, see http://publications.gc.ca/collections/Collection/BT31-2-2000-III-52E.pdf last retrieved 11 March 2013.

[99] Additional projected results were identified in DFAIT's (1999) report; however, only those relevant to the CSC's involvement have been included. For further exploration of the projected results, see http://publications.gc.ca/collections/Collection/BT31-2-2000-III-52E.pdf last retrieved 11 March 2013.

international security, and economic opportunities.[100] To meet their goal of promoting democracy, human rights, and the rule of law abroad, a variety of activities are planned for the 2012 to 2013 period, including providing assistance to promote peace, stabilization, and democracy in Arab states. Another activity to achieve this priority for the 2012 to 2013 period is to promote peace, security and stability in fragile environments (DFAIT, 2012, p. 4).

Canadian International Development Agency (CIDA)

Since 1968, CIDA has played an integral role in Canada's activities at the international level. CIDA is the agency that manages Canada's official development assistance (ODA) to achieve Canada's desired development objectives. CIDA is responsible for managing Canada's development assistance in an effective, transparent, and accountable manner to achieve sustainable results.[101] CIDA also has a role in national and international policy development to ensure Canada meets its development objectives (CIDA, 2012a, n.p.). CIDA funded projects to promote peace, stability, and prosperity in the Balkan region for over twenty years. From 1990 until 2010, CIDA participated in over 800 ODA projects at a cost of $540 million (CIDA, 2012b, para 1, para. 5). In the two years following the conflict in Kosovo, CIDA invested $200 million in humanitarian ODA to post-conflict Kosovo alone. CIDA's focus shifted over the years to reflect the realities in the region; as the region became more stable, there was a transition from security-focused assistance, to economic and social development activities (CIDA, 2012b, para. 2).

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[100] For further information about priorities that do not pertain to peacebuilding activities, see DFAIT's (2012) 2012-2013 Reports on Plans and Priorities http://www.tbs-sct.gc.ca/rpp/2012-2013/inst/ext/ext-eng.pdf last retrieved 11 March 2013.

[101] See CIDA's website for further information about their plans, priorities, results, commitments, programs, and projects: http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/NIC-5313423-N2A last retrieved 11 March 2013.

The CSC in Kosovo

In the late 1990s, the importance of reforming corrections systems to operate in accordance with international human rights standards, as part of larger criminal justice peacebuilding activities to promote stability and democratic reform, was recognized. This recognition created a larger role for the CSC in Canada's peacebuilding activities in PCEs. The CSC's involvement in peacebuilding activities in PCEs reflects their membership in various multilateral organizations (CSC, 2011b, para. 2). The CSC has two primary objectives with respect to their international activities:

1. To strengthen effective correctional practices through international relationships and information exchange; and,
2. To support Canadian foreign policy objectives which promote the rule of law, respect for human rights and international development (verbatim, CSC, 2011c, para. 3).

The CSC's international activities are designed to contribute to international security and stability, as the organization engages in activities designed to promote "good governance, the rule of law, respect for human rights and democratic development" abroad (CSC, 2011c, para. 6).

Through a joint CIDA-CSC initiative – CIDA typically funds CSC's technical assistance and peacebuilding activities (CSC, 2011a, para. 2) – CSC employees engaged in peacebuilding and reconstruction efforts in Kosovo from 1999 to 2003. The objective was to develop a professional correctional service that respects and follows international human rights prison standards, respects the rule of law, and provides humane and fair imprisonment (CSC, 2009, para. 4). CSC employees involved in the KCS reconstruction efforts were pioneers in the field because the CSC had not previously been involved in a project of the same scale and magnitude. CSC's involvement in Kosovo has been said to have "laid the groundwork for [the organization's] future international involvement" (Redpath, 2009 as cited in MacLean, 2009, p. 14). CSC employees were seconded from the Government of Canada on three-month deployment cycles to work for UNMIK; the Canadian government paid their salaries, as they were gratis personnel for the UN. These CSC gratis personnel were not allowed to perform operational duties for the KCS, and reported to their own CSC team leader in Kosovo, rather than to the UN. In addition to CSC personnel fulfilling gratis

personnel positions to assist the KCS, CSC officials also took unpaid leaves of absence from the CSC. During this time, CSC employees went to Kosovo on initially three-to-six month UN contracts (many contracts were extended), hired as UN employees (Rankin, 2002, p. 4). As of 2002, the following three KCS institutions were being run by on-leave CSC officials working as UNMIK employees: Mitrovica/Mitrovicë, Gnjilane/Gjilan, and Lipljan/Lipjan for women and juvenile offenders (Rankin, 2002, p. 4).

CSC officials were some of the first international corrections advisors to go to Kosovo, having conducted the needs assessment in the summer of 1999 (CSC, 2009, para. 1). In their initial two years of assistance, the CSC focused on two primary tasks; first, actions were geared towards building an independent KCS through the development of a solid strategic plan and accompanying policies. Second, CSC officials were highly involved in developing and implementing the process to recruit, select, and train the KCS staff (CSC, 2009, para. 3). CIDA provided a $1.7 million budget over the first two years of the project (Rankin, 2002, p. 4). In the third and fourth years of assistance activities, the CSC's focus shifted towards strengthening the facilities they had helped rebuild. In this phase, CSC officials were heavily involved in training and mentoring facility directors and deputy directors, and providing basic training for KCS staff, including staff employed in high-security institutions (e.g., Dubrava/Dubravë prison) (CSC, 2009, para. 3; Rankin, 2002, p. 6). The CSC also conducted activities at the administrative level, external to prison facilities, by providing executive support to the PMD, and facilitating coordination among the various international and local actors involved in corrections reform activities (CSC, 2009, para. 3).

CSC officials played a major role in working towards the goal of recruiting and training more than 850 new correctional officers between the beginning of 2001 and the end of 2002 (Rankin, 2002, p. 6). KCS personnel were recruited from the local villages with the permission of village leaders. After the village leader gave their permission for recruitment to occur, notices were posted, which included the date and time of the written and physical tests. After passing the two tests in their villages, recruits went to the KPSS for six weeks of training (Rankin, 2002, p. 7). These training arrangements were made possible because of the relationships that were built between CSC officials and the Director of the KPSS and his staff members. Reflecting on the presence of CSC officials using the Centre, American Director Steve Bennett explained to Rankin (2002):

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> Canadians *are* the corrections training program here. All I did was open the door to allow them to use the venue. The program has been developed and run by the Canadian officers and the credit belongs largely to the Canadians. I have great kinship for the correctional side of the operation. In my experience, corrections is sometimes relegated to some kind of second-class status in many situations…This could have happened in Kosovo but for the presence of very strong professionals from Canada. (p. 7)

This quote once again highlights the lack of status, attention, and priority that corrections reform activities are given in peacebuilding missions. The challenges and dynamics that CSC gratis personnel and on leave CSC personnel hired by UNMIK experienced while conducting corrections reform activities in Kosovo will be explored in Chapters 10 and 11.

Conclusion

In many respects, peacebuilding in Kosovo was an experiment in social engineering; the UN had no prior experiences that could assist them in meeting the challenges of administering an entire territory (Søbjerg, 2006, p. 57). Although it is beyond the purview of this dissertation to explore the overall success of peacebuilding in Kosovo, it is safe to say that criminal justice reform activities have produced questionable results. The environment remains unstable, there are continued threats of ethnic-based violence, and segregation persists. Serbians in the Mitrovica/Mitrovicë municipality continue to restrict basic rights, such as "freedom of movement and movement of goods" (U.S. Department of State, 2011, p. 1).[102] Furthermore, a 600-person NATO Operational Reserve Force battalion was deployed to Northern Kosovo in August of 2011 to address violent incidents that were occurring in the area (NATO,

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[102] Tensions remain high in certain parts of Kosovo; as of May of 2013, the British Foreign and Commonwealth Office (2013; http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/europe/kosovo last retrieved 24 May 2013) has advised residents not to travel to the municipalities of Zvečan, Zubin Potok and Leposavic, as well as the northern part of the city of Mitrovicë/Mitrovica due to tensions and ongoing ethnic-based clashes.

2012, n.p.). The results of a 2008 HRW report highlighted various issues that were occurring within the Kosovo criminal justice system nine years after UNMIK was established, including:

- Poor cooperation between police officers and prosecutors;
- Lenient sentencing;
- Poor understanding of the applicable law (although this appeared to be improving);
- Poor local capacity among national judges and prosecutors who are excluded from sensitive cases due to international advisors' lack of confidence in their abilities;
- Inadequate witness protection services;
- An absence of an electronic case management system, which contributes to a backlog of cases; and,
- Inadequate independent oversight mechanisms of the police, judges, and prosecutors (pp. 1-2).

A report published by the European Commission in 2012 highlighted additional concerns with the judiciary in Kosovo, suggesting it needed to strengthen its judicial independence and impartiality, as it was subject to multiple allegations of corruption (European Commission, 2012, p. 9). Further, the report identified the need for the judiciary to improve upon its effectiveness in providing access to justice for all, tackling the perception of continued impunity, and developing the capacity to prosecute trafficking cases (which it was lacking) (European Commission, 2012, p. 13, p. 33). Given continued threats and intimidation towards the judiciary, it is not surprising that judges are hesitant to conduct trials with well-known defendants. Greater protection mechanisms need to be put in place to provide security for the judiciary, witnesses, complainants, prosecutors, and court staff (European Commission, 2012, p. 9). A 2011 report also identified judicial inefficiency as a human rights concern in Kosovo, in addition to many other human rights violations that were occurring, which included:

- Societal discrimination against minority communities, persons with disabilities, and members of the lesbian, gay, bisexual and transgender (LGBT) community, as well as domestic violence, particularly against women;
- Allegations of prisoner abuse, corruption and favouritism in prisons;
- Lengthy pretrial detention;
- Intimidation of media by public officials and criminal elements;

- Limited progress in returning internally displaced persons (IDPs) to their homes;

- Government corruption;

- Trafficking in persons; and,

- Child labour in the informal sector (verbatim, U.S. Department of State, 2011, p. 1).

Given that Kosovo received greater levels of overall investment than other PCEs, it is concerning to see such human rights problems persist.[103] These issues should not however, be viewed as indicative of the UN's absolute failure to reform criminal justice institutions in Kosovo. Discussion throughout this chapter has highlighted some positive achievements, such as increased institutional capacities in the corrections and police services, which suggests some improvements were made. The aforementioned persistent issues may in fact suggest that a deeper exploration of criminal justice reform activities conducted during peacebuilding missions needs to be undertaken to understand *why* reform activities are failing. Is it for example, due to Western ignorance to recognize that market democracies are not suitable in every environment? Is it due to Western-imposed timelines and demands for change that are simply unattainable in societies emerging from conflict? Or, perhaps, is it because peacebuilding is in fact social engineering, and the international community has simply failed to get it right? The case study of the CSC's corrections reform activities undertaken in Kosovo will shed light on these very questions, among others, by illustrating the dynamics and challenges involved in engaging in these activities, and, the international corrections advisors' unique insights about the appropriateness of implementing UN and Western-developed standards in Kosovo, and other PCEs in general.

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[103] This is not meant to suggest that the amount of resources contributed to PCEs purely dictate their success: high levels of resources are necessary, but the manner in which the resources are provided is even more important (Barakat & Zyck, 2009, pp. 1070-1071).

CHAPTER NINE: RESEARCH DESIGN

Chapter Overview

This chapter presents the methodology that was used in conducting this dissertation project, including the research philosophy informing the work, the research questions, and the research design. The project is situated within an interpretive constructionist framework, described at the beginning of the chapter. Throughout the remainder of the chapter, I discuss the research decisions I made in collecting, analyzing, and presenting my data, including sample selection, and the advantages and disadvantages of using *NVivo* for qualitative data analysis (QDA).

The purpose of this case study was exploratory in nature, as I sought out to "gain familiarity with or to achieve new insights into a phenomenon" (Palys & Atchison, 2008, p. 39). I chose to conduct a case study about corrections reform in Kosovo to explore the dynamics and challenges of conducting corrections reform in a post-conflict environment (PCE), learning directly from people who participated in this process and accompanying activities. Furthermore, I sought to explore how these individuals came to view the use of UN and Western-developed frameworks in Kosovo and other PCEs following their time abroad. The research questions were designed to gain knowledge, understanding, and new insight about the aforementioned topics, through flexible data collection activities to ensure extensive coverage, as recommended by Palys and Atchison (2008, p. 41).

Research Philosophy

The research methodology utilized in conducting the study was guided by the interpretive constructionist approach, which is generally associated with qualitative depth and observational interviewing research (Rubin & Rubin, 2005, p. 20). Interpretive constructionists are interested in learning how individuals view objects and events, and the subjective meanings they attach to them (Rubin & Rubin, 2005, p. 27). Meaning is viewed as being highly subjective, as every individual develops meaning through the

experiences, interactions, knowledge, and opinions they come to view an event or object through. Thus, subjective meanings are created through a process of social interaction and experiences with others, reflecting both the cultural and historical norms that impact people's daily lives (Creswell, 2013, pp. 24-25).

The primary objective of interpretive constructionist research is to elicit participant views on objects and events to seek "the specific and detailed and try to build an understanding based on those specifics" (Rubin & Rubin, 2005, p. 28). Constructionist researchers gather the in-depth information they collect from their participants and combine it to form a single explanation of an object or event, having taken into consideration the multitude of subjective meanings their participants' attributed to the object or event, and the cultural lenses through which the various participants viewed it (Rubin & Rubin, 2005, pp. 27-28). An inherent part of the interpretive constructionist research process, therefore, is that researchers develop an understanding of the cultural and historical contexts within which their participants exist. To obtain their participants' subjective meanings of an event or object, researchers have to engage in interactions and discussions with their participants (Creswell, 2013, p. 25). Hence, I took the approach of conducting in-depth interviews, asking open-ended questions to elicit the participants' subjective meanings about their experiences conducting corrections reform in Kosovo, and their opinions about the use of UN and Western-developed frameworks in Kosovo and other PCEs.

Knowledge and reality are "co-constructed between the researcher and the researched and shaped by individual experiences" (Lincoln et al., 2011 as cited in Creswell, 2013, p. 36) within interpretive constructionist research. Engaging in reflexivity helps the constructionist researcher understand their role in the interpretation of the information they gather, by acknowledging how their personal, cultural, and historical experiences influence how they engage in the research process and interpret the data (Creswell, 2013, p. 25; Rubin & Rubin, 2005, p. 29). The researcher is the primary "'instrument' of data collection and analysis, [therefore], reflexivity is deemed essential" (Watt, 2007, p. 82) within qualitative inquiry. Researchers must thus identify the lenses through which they view their research and determine where their biases and opinions lie in order to see how their personality, ethnocentrism, and behaviour may influence their project (Creswell, 2013, p. 47, p. 215).

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Being reflexive forces researchers to ask themselves two primary questions: "To what extent do we reconstruct ... [participants] experiences according to a narrative that is comfortable to us as individuals? [and] What silences do we reproduce?" (Burman, Batchelor, & Brown, 2001, p. 452). These questions highlight how within the constructionist framework, a researcher's interpretation of his or her findings may be highly influenced by their own personal experiences, especially when the research topic resembles similar interactions or experiences in the researcher's life (Morris, Woodward, & Peters, 1998, p. 222). Due to concerns about how my "personal lived experiences" (Burman et al., 2001, p. 451) could potentially impact the research, I engaged in reflexivity throughout the research project. I was concerned with accurately, honestly, and openly sharing the data I collected. Therefore, I constantly questioned my work; scrutinizing my techniques, analysis, and presentation, as well as questioning what I knew and how I came to know it, as recommended by Berg (2004, p. 154). This on-going dialogue involved writing memos and field notes and making audio recordings during and immediately following the interviews, as well as throughout the data analysis process. Through this process, I constantly reflected on what I knew and how I came to know it with respect to the interpretation of my data and the themes I identified.

Without reflexivity, there is a risk that researchers will impose their own opinions, motivations, and beliefs on to their participants' experiences (Burman et al., 2001, p. 452). The role of the constructionist researcher may therefore be challenged because of a lack of objectivity due to their intrinsic bias in the collection and interpretation of the findings. It should be noted however, that the credibility of qualitative research should not be assessed by how well it measures up to the following positivist, conventional criteria: internal and external validity, reliability, and generalizability. Rather, the quality and effectiveness of qualitative research is most appropriately measured using criteria that reflect knowledge acquisition and methodologies employed during naturalistic research, as "the language of positivistic research is not congruent with or adequate to qualitative work" (Ely, Anzul, Friedman, Garner & Steinmetz, 1991, p. 95). In developing alternatives to these traditional criteria, Lincoln and Guba (1985; 2000) propose that qualitative research studies should be evaluated based on their trustworthiness and authenticity, as measured by their credibility, transferability, dependability, and confirmability (Lincoln & Guba, 1985, pp. 301-319; Lincoln & Guba, 2000, pp. 170-171).

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Therefore, it is important to reframe the discussion away from focusing on the lack of objectivity constructionist researchers' exercise, to one pertaining to the confirmability of this study (Lincoln and Guba's, 1985, p. 300) In seeking to demonstrate confirmability, participants' stories and insight were shared through the use of lengthy quotes to reflect their 'voice,' demonstrating how the findings were grounded in the data, and thereby providing the reader with the opportunity to evaluate the analysis undertaken in this project (Shank, 2006, p .115). In 'making sense' of the data and exercising 'privilege' in its presentation, I was careful not to lose my participants' 'voice' in the final research product by ensuring that the data – "thick descriptions" (Geertz, 1973, p. 6) – were used as evidence to support the interpretation of the data (Palys & Atchison, 2008, pp. 212-213).

Interpretive constructionist research may also be criticized for lacking rigorous analysis that meets the criteria of studies conducted within a positivist framework. My research was designed to explore the dynamics and challenges individuals experienced while conducting corrections reform in Kosovo, and their opinions on the use of UN and Western-developed frameworks in Kosovo and other PCEs. As such, I believe I chose the correct research framework and methodology to ensure rich data could be collected to provide "thick descriptions" (Geertz, 1973, p. 6) and illustrate the realities, intentions, emotions, thoughts, perceptions, and relationships experienced by my participants (Ponterotto, 2006, pp. 542-543).[104] I did not think this was feasible through quantification within a positivist framework, as I agree with Rubin and Rubin (2005) who explain that "boiling down answers into numbers strips away the context, losing much of the richness and complexity that make research realistic" (p. 2).

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[104] Denzin (1989) elaborated upon "thick description" to explain how "a thick description…does more than record what a person is doing. It goes beyond mere fact and surface appearances. It presents detail, context, emotion, and the webs of social relationships that join persons to one another. Thick description evokes emotionality and self-feelings. It inserts history into experience. It establishes the significance of an experience, or the sequence of events, for the person or persons in question. In thick description, the voices, feelings, actions, and meanings of interacting individuals are heard" (p. 83).

It is important for researchers to "position themselves" (Creswell, 2013, p. 47) during qualitative research, as readers are privy to understand why the researcher is interested in the topic they are investigating, the audience of the researcher's work, and how the researcher can benefit from conducting the study (Wolcott, 2010, p. 36). During the third year of my Bachelor's degree, I took courses on restorative justice and correctional practice issues and during this time, I decided to apply for graduate school to write an M.Phil thesis in the area of corrections. It was not until the fall of 2009, when, as a Ph.D. candidate, I completed a three-month internship with the United Nations Office on Drugs and Crime (UNODC) Integrated Programming Unit (IPU) in Vienna, Austria, that I became interested in criminal justice and corrections reform in PCEs. During my three-months with the UNODC IPU, I became more aware of the austere realities for many people living in PCEs, learning how peacebuilding activities and reform efforts undertaken by the UN may help to alleviate some of these issues. Upon my return to Canada, I sought out a research project that would allow me to combine my interest in criminal justice and corrections reform with UN peacebuilding activities. The Correctional Service of Canada's (CSC) work in peacebuilding and reconstruction missions provided me with the perfect opportunity to further explore both of these practices for my Ph.D. dissertation project. Over the past three years, I have read more about peacebuilding missions and developed a deeper understanding about the nature of these missions and the activities they entail. As I have become more informed, I have come to question the effectiveness of intervention activities, as financial and resource output has not always materialized in positive change in the recipient countries. Therefore, the lenses through which I view peacebuilding activities are tinted with scepticism about the appropriateness of using UN and Western-developed frameworks in PCEs, and the effectiveness of criminal justice reform activities in these environments. Although I remain sceptical of these activities, I believe they are well-intentioned efforts put forth by individuals and organizations seeking to achieve positive change.

Research Design

Research Questions

Having decided I wanted to combine my interest in criminal justice reform and corrections reform with UN peacebuilding, I needed to learn more about these topics. During my preliminary exploration of the literature investigating peacebuilding activities, I realized that despite the international community's continued involvement in peace operations, there is a paucity of research on certain aspects of these missions. First, it became obvious that corrections reform has not received as much academic attention as other criminal justice sector reform. Further, I recognized that little academic research has been conducted to explore the personal realities of international corrections advisors who work on the ground in peacebuilding missions. I therefore identified a need to incorporate their experiences and knowledge into the literature about the dynamics and challenges of conducting corrections reform activities in PCEs. I also believed I could make a significant contribution to the literature by including international corrections advisors' insights and perspectives about the appropriateness of implementing UN and Western-developed frameworks in PCEs, as I did not locate any literature on this topic. Based on my results from exploring the existing literature – including the lack of literature investigating corrections reform in comparison to other criminal justice sectors in Kosovo (as discussed in Chapter 7) – I decided to conduct a case study of corrections reform activities in Kosovo.

At the beginning of the research process, I identified the specific objectives of my study by developing research questions informed by my understanding of the existing body of literature. The research project was structured to address the following questions:

- What are the dynamics of engaging in corrections reform activities within PCEs?
- What challenges arose while implementing corrections reform activities within Kosovo?
- What are the participants' perceptions about the use and applicability of UN and Western-developed frameworks within Kosovo? And in PCEs in general?

My goal in asking these questions was to explore my participants' personal experiences and insights to develop an understanding of the subjective meanings they attributed to the processes they were involved in while conducting corrections reform activities in Kosovo. I knew participants would see the events and situations they had experienced in Kosovo through different coloured lenses based on their experiences, interactions, and knowledge, prior to, during, and after their time in Kosovo. My participants provided a diversity of opinions, insights, and conclusions to inform my exploration of corrections reform activities within PCEs. The overall goal of the study is to advance research in the areas of corrections reform in PCEs, including the 'voice' of practitioners who conduct corrections reform in PCEs, and, to promote research about the use and applicability of UN and Western-developed frameworks in PCEs.

Sample and Sampling Procedure

Data for this project were collected during interviews conducted with international corrections advisors who participated in corrections reform activities in Kosovo while acting as CSC gratis staff during the years 1999 to 2003, on-leave CSC personnel hired by the United Nations Interim Administration in Kosovo (UNMIK) from 1999 to 2006, and CSC personnel who did both. Participants were identified based on the research questions focused on understanding the dynamics and challenges of conducting corrections reform activities in post-conflict Kosovo, and on understanding the participants' opinions about the use of UN and Western-developed frameworks within Kosovo and other PCEs.

Sampling Procedure

I relied on two non-probabilistic sampling methods – purposive sampling and snowball sampling – to conduct the research project.[105] I was unable to use probabilistic

[105] Researchers use purposive sampling to select participants who possess the attributes they are studying and represent the population of interest. Researchers use snowball sampling to identify several participants who possess the characteristics they are interested in studying. By way of initial contact with these participants, for example, during an interview, the

sampling methods to carry out my research, as a sampling frame of all of the international corrections advisors who participated in corrections reform activities in Kosovo, was not available. Purposive sampling was used to select CSC personnel – forty-two (42) employees who participated in corrections reform activities in Kosovo – as the sampling units in this study. These individuals were an accessible, convenient research population because the CSC's website provided a list of forty-two (42) employees who had participated in corrections reform activities in Kosovo as gratis staff, a CSC gatekeeper had been obtained, and a research request could be submitted to CSC's Research Branch for approval. Snowball sampling was also utilized during the course of the research, which is typical in situations when the research target population is not "particularly well defined or accessible" (Palys & Atchison, 2008, p. 124).

Prior to submitting an ethics application to the Simon Fraser University Office of Research Ethics (also commonly referred to as the Research Ethics Board (REB)) and the CSC's Research Branch for approval, I wanted to assess the feasibility of conducting my research. To do so, I met with an acquaintance that works for the CSC and asked if he would be willing to act as the gatekeeper for the project. I knew the success of both my application for research approval from the CSC's Research Branch, and the research project itself, rested on identifying a gatekeeper within the CSC who was willing to 'support' my research endeavours in providing access to my population of interest. Thankfully, my acquaintance was willing to act as the gatekeeper; he assisted by emailing as many of the forty-two (42) participants as he could,[106] providing them with my Study Information and Informed Consent form (Appendix A).[107] This document

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researcher broadens their sample size by asking participants for the names of other people who share the same characteristics (Berg, 2004, p. 36).

[106] The gatekeeper did not have contact information for all forty-two (42) employees on the list, as some had since retired and some had left the organization.

[107] The gatekeeper emailed two retired CSC officials after the SFU REB gave ethics approval for the project, whereas he waited until the CSC Research Branch provided ethics approval prior to contacting current CSC employees.

identified the research goals/objectives, what was required of participants if they agreed to participate, ethics-related issues (including their rights to refusal, the risks/benefits associated with the research, issues related to confidentiality and anonymity, and data security), examples of questions they would be asked during the interview if they agreed to participate, and how the findings would be distributed in dissertation format. The gatekeeper sent two follow-up emails excluding those individuals who had replied to him indicating they were not interested in participating, or who had already contacted me asking to participate.

Snowball sampling was used for the retired CSC personnel, as the gatekeeper did not have all of their email addresses. He contacted two retired CSC employees he knows, providing them with the Study Information and Informed Consent document. These two retired officials contacted me to say they were interested in the research and after speaking with me on the telephone, agreed to participate in the project, and set up a date, time, and location to conduct the interviews. One of the participants said s/he would forward the document to another retired CSC official, who also expressed interest in participating in the research, and consequently participated in an interview. The first three participants I interviewed mentioned the name of one ex-CSC employee although none of them had her/his contact information. Through a process of Internet exploration, I found her/his contact information and emailed her/him a copy of the Study Information and Informed Consent document and shortly thereafter, I received a response asking to participate in the project. Through the process of further Internet exploration, I identified another ex-CSC employee, to whom I sent the document. I received an email almost immediately and the individual indicated s/he would like to share her/his experiences with me.

I anticipated using snowball sampling to access retired-CSC employees; however, I had not anticipated I would rely on snowball sampling when current CSC employees indicated they had friends (retired or current CSC employees) who had gone

to Kosovo with UNMIK rather than the CSC.[108] By using snowball sampling not envisioned at the outset of my research, three additional interviewees were added. Due to this unanticipated snowball sampling, my sample population expanded to include CSC employees who were on leave from the organization while working for UNMIK.[109] One prospective participant and current CSC employee forwarded the Study Information and Informed Consent document to a fellow CSC employee who worked in Kosovo as an UNMIK employee.[110] This individual requested further information about the study by contacting me directly. After a series of emails and telephone communications, s/he agreed to participate in the study and offered to forward the document to a retired CSC member who also worked for UNMIK. This individual contacted me and asked to set up a date to participate in an interview. The person who referred the last-mentioned participant also sent the document to a current CSC official who worked for UNMIK but did not do so until after her/his interview was complete. This current CSC employee also agreed to participate in the study and participated in the fourteenth, and final, interview that I conducted.

There are certain weaknesses associated with nonprobabilistic sampling, such as a lack of representativeness and ability to generalize one's findings. Note that while representativeness is a significant feature of some research projects, representativeness should not be the guiding feature of a project if it will impede achieving the research objectives and hinder exploration and understanding (Palys & Atchison, 2008, pp. 122-

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[108] Prior to conducting my initial interviews, I was unaware that CSC employees had worked for UNMIK while on leave from CSC.

[109] At the very beginning of the research project, I hoped to interview both CSC gratis staff and international corrections advisors from other countries who worked in Kosovo. Despite countless hours spent exploring the Internet for names and organizations, followed by long-distance telephone calls, unsuccessful Skype meetings, and emails, I was unable to locate any of these individuals. When I spoke with my participants, many acknowledged that they did not have the contact information of other international corrections advisors, and further, they said they were not surprised I was having a hard time locating these people. As I will discuss in Chapter 10, it is not atypical for people who work for these organizations to 'mission-hop' and therefore, be difficult to track down due to their constantly evolving job status and location.

[110] This prospective participant contacted the researcher and expressed interest in participating in the study and despite two attempts by the researcher to set up an interview date and time, an interview did not occur due to the individual's busy schedule.

124). In this project, the research objectives were best met by utilizing non-probabilistic sampling techniques, especially considering generalizability of the findings was not one of the goals of conducting this research. However, by providing thick descriptions and engaging in purposeful sampling, readers are provided with adequate information to make informed transferability decisions to assess whether the results from the study can be appropriately transferred to different populations or settings (Lincoln & Guba, 1985, p. 316).

One advantage of nonprobability sampling techniques is that they can be used when a sampling frame of the full population of interest is not available. Furthermore, the technique is advantageous in research projects where the population of interest may be difficult to research, or the research topic is sensitive (Berg, 2004, p. 34). The population of interest in this project was difficult to research in that I could not identify the entire population of sampling elements I wanted to study across jurisdictions and international organizations. Although the CSC had a list of employees who engaged in corrections reform in Kosovo, I could not locate similar lists for other jurisdictions and organizations.[111]

There are certain weaknesses associated with the snowball sampling procedure. Primarily, concern about how the initial contact may highly influence the shape of the final sample given that "people are more likely to know people who have similarities with them" (Palys & Atchison, 2008, p. 126). To counterbalance this weakness, I located participants who occupied different niches whose views reveal diverse perspectives – current versus retired CSC staff, and CSC gratis staff versus UNMIK staff. Locating participants in niches who possess different perspectives is also important in increasing the credibility of the research findings. The credibility of research findings does not increase with the number of interviews a researcher conducts. Credibility increases when the researcher has interviewed people who possess different perspectives and whose combined insight offers a thorough description of the event or object under study

[111] As of mid-2012, the list of employees who participated in corrections reform activities in Kosovo was no longer available on the CSC website.

(Rubin & Rubin, 2005; p. 68). As mentioned above, the reader is also provided with enough information to make an informed assessment about the transferability of the results.

Sample Description

Every participant had been to Kosovo on at least one occasion for a period of approximately 10 days to 4 years. In total, forty-two (42) potential participants falling into the category of CSC gratis staff were identified for inclusion in the study; the CSC gatekeeper contacted thirty-one (31) via email communication, and twelve (12) expressed interest in the research although only eleven (11) subsequently participated in an interview. An additional three (3) participants fell into the category of having been UNMIK employees who were on leave from their jobs with the CSC. Two (2) participants fall into both categories, as they had an initial role with CSC as gratis staff and chose to apply to work for UNMIK while on leave from the CSC. Of the fourteen (14) interviewees, twelve (12) were males and two (2) were females. Five (5) retired CSC officials, seven (7) current CSC officials, and two (2) ex-CSC officials employed by other organizations, were interviewed.

Ethics

During the design stage of the research process I was concerned that having participants discuss their experiences living and working within a PCE might cause them psychological harm. However, upon further investigation into the qualifications of participants, it appeared as though they were pre-screened by their organizations for suitability in working in PCEs. These individuals were typically employed in middle-and upper-management positions with the CSC, and had years of experience and training dealing with dynamic situations in challenging, stressful environments. Based on this information, my supervisor and I believed there were no foreseeable risks – psychological stress and/or physical harm/stress – to my research participants, third parties, or society. The Simon Fraser University REB granted ethics approval on 24 June 2011, deeming the project minimal risk. Shortly thereafter, I applied for ethics approval from the CSC and I received approved from the Director General Research on 30 November 2011. Interviews with retired and non-CSC employees began in August of 2011 whereas interviews with current CSC staff members began in January of 2012.

Participants were informed – through written documentation when their participation was requested, and orally prior to the beginning of the interviews – about what their participation would entail, the duration of their participation, the proposed methods, any potential costs or benefits they may experience, any potential risks, and the objectives of the research, as recommended by Palys & Atchison (2008, pp. 74-75). Participants gave their informed consent voluntarily and were informed that they were allowed to withdraw from the research process at any time without facing negative consequences. Furthermore, I clarified with the participants that they could withdrawal from the research at any point during or following the interview, upon which time any written or electronic data from their interviews would be destroyed.

Written consent was obtained from current CSC employees who participated in corrections reform activities in Kosovo as CSC gratis staff. Oral informed consent was obtained from the remaining participants. I originally proposed to obtain oral consent from all of my participants, as I was worried people would be less inclined to participate if they were asked to provide more than oral consent due to concerns about confidentiality.[112] This decision primarily targeted participants who are still working for CSC, as I thought they might be wary of participating if they felt as though their participation could compromise future employment opportunities with the organization.[113] It appears this was an unfounded concern, as the majority of the interviewees expressed that they did not have a problem being identified as having participated in my research.

I informed participants that I would make every effort to keep the information they provided confidential. Although absolute confidentiality is the 'gold standard,' "watertight

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[112] The Simon Fraser University REB granted me permission to conduct all of my interviews without written informed consent, as I proposed oral consent to decrease potential concerns about anonymity/confidentiality. The CSC Research Branch requested I obtain written consent forms and after discussions with my supervisor, I decided written consent would only be obtained from current CSC staff members who went to Kosovo as gratis staff, as this would satisfy the requirements of both ethics applications.

[113] Because I was interested in exploring the dynamics and challenges of conducting corrections reform activities, rather than evaluating organizational policies and procedures, it is believed there are no risks to the participants' personal or organizational reputation if confidentiality were breached.

confidentiality has proved to be impossible" (Christians, 2000, p. 139); however, researchers can employ a variety of methods to protect participant confidentiality to varying degrees. Researchers can protect participant confidentiality by not collecting identifying information, by removing identifying information from the data as soon as possible (for example, by transcribing and destroying interview tapes at the earliest possible date), or by anonymizing their records (e.g. with pseudonyms) (Palys & Atchison, 2008, p. 77; Israel, 2004, p. 719). To protect my participants' confidentiality, I deleted the interview recordings immediately upon transcription, and the transcribed interviews were anonymized using pseudonyms. The list of real names was kept separately from the transcribed interview materials, as well as the list of pseudonyms. To further protect the participants' confidentiality, results are reported at the aggregate-level, presented as general themes.

Data Collection, Entry, and Coding and Analysis

Data Collection: Interviews

Though ordinary life roots you in one position, when you are interviewing, you see life in the round, from all angles, including multiple sides of a dispute and different versions of the same incident.

(Rubin & Rubin, 2005, p. 4)

Semi-standardized qualitative interviews were used to answer the research questions to capture in-depth data reflecting the participants' constructed realities. Interviews allow for the greatest degree of exploration and information gathering, as the interviewer can probe for in-depth responses when answers are given, clarify any misunderstandings regarding the questions, and during in-person interviews, rely on non-verbal cues to probe for further responses (Palys & Atchison, 2008, p. 157). My interviews were flexible, informal, and designed around a variety of open-ended questions, which resulted in data that provide "thick descriptions," as recommended by Geertz (1973, p. 6). Although I relied on a pre-determined interview schedule comprised of twenty-two questions, I was committed to engaging in responsive interviewing with my participants, responding to my interviewees "as partners rather than treating them as

objects of research" (Rubin & Rubin, 2005, p. vii). I also recognize that interview schedules should be viewed as a "free-hand map to the conversation, pointing out the general direction but not specifying which nooks and crannies [may] be explored" (Rubin & Rubin, 2005, p. 150). When necessary, the order and wording of questions changed throughout the interviews, as I probed my participants for further information and asked questions as the interview was taken in new directions. Because I was engaged in data analysis throughout the duration of the project, I frequently asked participants to provide further elaboration in answering the questions, hoping they could provide their insight about the concepts and themes that were emerging as the interviews unfolded (Rubin & Rubin, 2005, p. 56).

The interview questions were designed to capture "thick descriptions" (Geertz, 1973, p. 6) from my participants to explore the dynamics and challenges of conducting corrections reform in Kosovo, and explore their perceptions about the appropriateness of utilizing UN and Western-developed frameworks within PCEs (See Appendix B). Note that questions were slightly re-worded to reflect the different activities the interviewees completed while in Kosovo. For example, if an individual did not implement reform activities in Kosovo, questions pertaining directly to implementation challenges (in particular, questions 7 through 9) were re-worded to reflect the diverse roles participants performed. I modified these questions and instead asked if there were any cultural or language challenges, or challenges due to different cognitive lenses, that they experienced in conducting their particular tasks. Every interview concluded with simply asking participants if they had any additional stories, information, or knowledge they would like to share. Note as well, that on one occasion, every question on the interview schedule was not asked, as this interview was time-restricted. Rather than obtain surface-level descriptions in response to all of the questions, I chose to sacrifice asking all of the questions in exchange for receiving rich descriptions on the questions the participant indicated s/he could really elaborate on given her/his experiences.

Prior to getting together to conduct each interview, I communicated with my participants at least once (usually on the telephone) to build trust and rapport. I scheduled multiple contacts – both telephone and email – with participants who were interviewed over the telephone, as recommended by Rubin and Rubin (2005, p. 125). When I travelled out of town to conduct interviews in another province, two participants

asked if I would like to join them for dinner the night before we conducted the actual interview as a 'Meet & Greet" to become comfortable with one another. These initial communications, including the three-hour dinner, provided the opportunity for participants to ask me questions about the research and questions that we would explore during the interview, ask me about my background and interest in the topic area, and talk about common experiences or interests we share. These conversations were important in building trust and rapport prior to the interview, and in demonstrating to my participants that I was familiar with the subject area and accompanying issues and would not be wasting their time.

In addition to building trust and rapport when conducting telephone interviews, it is also important to establish legitimacy (Berg, 2004, p. 93). I felt that having the support of a CSC gatekeeper gave me legitimacy with all of my participants; but in particular, when it came to conducting the telephone interviews. Participants were likely more at ease and felt I was a safe person to talk to given my relationship with someone they knew and/or worked with, an assertion supported by Rubin and Rubin (2005, p. 125). In conducting the telephone interviews, I was careful to ask participants if they were comfortable with some of the more sensitive topic areas we covered, as I did not have the ability to watch for nonverbal cues to indicate s/he was uncomfortable. To illustrate, here is an example of my communications with James: "I'm not sure if that's something you feel comfortable discussing? I'm uncertain about the incident you're referring to, do you feel comfortable sharing that experience with me?"

I started each of the interviews, whether they were conducted face-to-face or over the telephone, by asking participants to tell me their 'stories' about how they became involved in the CSC and later, in corrections reform activities in Kosovo. Starting the conversation with less sensitive topics and topics that were 'easy' for the participants to answer, was a way for me to establish a comfortable environment for my participants. Furthermore, as Rubin and Rubin (2005, p. 114) indicate, these initial questions foster trust and participant confidence in the research process. When I felt as though rapport and confidence were established with my participants, I was able to ask them more sensitive questions, asking the more "emotionally or intellectually difficult questions" (Rubin & Rubin, 2005, p. 114).

In total, I conducted nine (9) face-to-face interviews with participants from across Canada, one (1) Skype-assisted computer interview where we were face-to-face with one another but not in the traditional manner, and four (4) telephone interviews. While not preferable, due to resource constraints, I was unable to travel to the locations of each of the participants when there was only one person to interview in the destination city. I did however, travel out of province to interview multiple participants on one occasion, in addition to driving to another region within British Columbia to conduct multiple interviews. Despite resource constraints, I was able to interview participants from the East to the West Coast of Canada because of the aforementioned trips I made, as well as the personal travel schedules that brought participants to my city of residence. I asked each of the participants if they would be willing to have their interviews audio recorded to ensure I captured exactly what they said so I could produce "precise transcriptions" (Rubin & Rubin, 2005, p. 204). All fourteen (14) of my participants agreed to have their interviews recorded and each participant was offered a copy of their written interview transcripts in case they wanted to remove something s/he had said. Only one (1) of the fourteen (14) participants requested her/his interview transcripts and s/he did not make any revisions and/or retractions.

Fourteen (14) participants completed interviews ranging from 60 minutes (Michelle/Rick) to 220 minutes (Brad) in length, answering approximately twenty (22) questions from the interview schedule (See Appendix B). The nine in-person interviews were held in various locations. Six (6) were held in the participants' personal residences, one (1) was held at a participant's hotel, one (1) was held at a restaurant, and one (1) was held in a coffee shop. Each of the in-person interview participants was given the choice of where they wanted to conduct the interview. I offered to book rooms at local universities or libraries, and suggested we could also conduct the interview in another public space, such as a restaurant or coffee shop. Participants were asked to pick the most convenient location for themselves, which dictated where the interview was held. The interviews held in participants' personal residences were conducted both in the Lower Mainland and when I travelled out of town to interview participants. The interviews held at the coffee shop and participant's hotel were conducted with individuals who were in town, visiting the Lower Mainland. The Lower Mainland restaurant interview location

was chosen due to convenience because of its accessibility for the participant, who was travelling home following her/his day at work.

Disadvantages: Interviewing

Interview disadvantages include reactivity, interviewer bias, participant concerns with anonymity, and memory fade (Palys & Atchison, 2008, p. 158, pp. 234-235). Reactivity refers to how subjects respond to the presence of the interviewer and may behave or speak in the manner they think the interviewer wants them to, by being attentive to the signals the interviewer puts out (Palys & Atchison, 2008, p. 158). In attempting to address reactivity, I reminded participants at the beginning of the interview (and on occasion, mid-interview) that I was interested in learning about their experiences, thoughts, and perceptions based on their expertise status. I emphasized that there was no right or wrong answer that I was looking for, as suggested by Rubin and Rubin (2005, p. 115). Each of the twenty-two (22) questions I asked were designed to extract the interviewees' personal stories and/or examples, which again, as Rubin and Rubin (2005, p. 115) suggest, signals to participants that their experiences will be the focal point of discussion.

As discussed in the ethics portion of this chapter, several steps were taken to alleviate concerns about anonymity and confidentiality, including replacing identifiers in the interview transcripts with pseudonyms, deleting interview recordings immediately upon transcription, and reporting themes at the general level. According to Palys and Atchison (2008; p. 158), although participants may feel surveys have more anonymity than interviews, if a researcher can develop great rapport with their participants, this may minimize some of their concerns about anonymity during the qualitative interviewing process. As previously discussed, I made an effort to utilize initial communications to build rapport with my participants prior to the actual interview, which may have served to reduce participant concerns with anonymity. The day after I completed an interview, I emailed each participant to thank her/him for participating in my research and sharing their time and experiences with me. In response to one follow-up email I sent, I received the following reply, which may speak to my interviewing technique and ability to establish rapport with my participants: "I really enjoyed reliving the wonderful experiences I had

during my time there. You have a very comfortable interviewing technique, making it easy to open up" (Dean).

Memory fade occurs when participants forget events and therefore, these events are not shared with the researcher (Palys & Atchison, 2008, pp. 234-235), meaning potentially important events are overlooked in the analysis. Although not all of my participants could do so, four of my interviewees were able to look back at the journals they wrote, the photos they took, and/or the books they purchased while in Kosovo, or those that were provided to them by the CSC or UNMIK. One participant chose to begin the interview by reading through the journal he kept preceding and during his time in Kosovo, elaborating on each of his journal entries as the interview progressed. While sharing his experiences, he also referred to the photos he had taken while in Kosovo, pulling these photos out of a pile to show me the residence he stayed at, the institution where he worked, and the state of the physical infrastructure at various locations within Kosovo. Another participant also used this approach, as she made constant reference to the photos she had in the materials she purchased and those that were given to her. Two other participants shared their personal photos prepared as PowerPoint slideshow presentations prior to beginning their interviews, making references to the photos they showed me as they talked about their experiences in Kosovo. I believe these strategies were helpful in addressing memory fade for these four participants. It is more challenging to speak to the degree of memory fade that existed for the remainder of the participants.

In an attempt to address this issue and jog my participants' memories, I probed participants by asking them about stories and events I either read about in official documents and reports, or heard about through other participants. I was hoping to hear more about these events, or perhaps, remind participants about events they may have previously omitted. When possible, to address concerns about memory fade, I relied on official documentation and reports (such as those published by the CSC or UNMIK) to check for conflicting accounts or discrepancies in the participants' stories, as recommended by Rubin and Rubin (2005, p. 73).

Data Entry

Data entry began after I completed my first interview, as I followed Rubin and Rubin's (2005, p. 203) recommendation to transcribe the interviews as soon as possible. I found this practice was highly beneficial in writing notes to identify codes and concepts as they emerged from the data, as I was constantly engaged in the iterative interpretation of my findings. The transcribed notes from the audio recordings are very detailed, referred to as "precise transcriptions" (Rubin & Rubin, 2005, p. 204), as I indicated such things as hesitations ("ummm" and "ahhh") and outbursts of laughter, being careful not to exclude anything from the interviews.[114] I wrote short, quick field notes to myself during interviews and wrote notes or taped audio recordings when I was no longer with the participant, documenting my thoughts and feelings about the interview as a whole.

Although I knew I would encounter challenges in transcribing the interviews; I had no idea just how challenging the process would be. First, transcribing took far more time than I anticipated despite using the Mac application, "Transcriptions," to facilitate the process. Transcriptions allows you to operate your audio playback and text functions simultaneously. Two features that were particularly beneficial were the playback rate feature and the automatic time stamping feature. The former allowed me to slow the audio recording to a speed that I could easily understand and hear, so I could transcribe without constantly having to stop, pause, or rewind. The latter allowed me to stop transcribing mid-interview and easily click on the time stamp when I next opened the document to take me back to where I had stopped. Despite these timesaving features, it still took me approximately twenty-four minutes to transcribe ten minutes of audio, and with one particular interview, the participant spoke very quickly and it took me twenty-seven minutes to transcribe every ten minutes of her/his interview recording. I did not document the exact amount of time it took me to transcribe all of the interviews but one

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[114] I wrote "precise transcriptions" (Rubin & Rubin, 2005, p. 204) for personal reference and data analysis purposes; these distractors have been removed in the presentation of the findings in Chapter 10 and 11 for clarity purposes.

can grasp the enormity of this task by the sheer number of transcribed pages I produced by the end of the process. In total, there were 612 single-spaced Microsoft Word pages.

During the design phase of my research project, I did not anticipate that participants would share stories about traumatizing events they experienced while in Kosovo. Additionally, I did not foresee that qualitative interviewing would be such emotional work. As the interviews progressed however, I recognized the naiveté of my assumptions, as some participants shared stories about traumatic incidents they experienced either directly or indirectly while abroad, or upon their return to Canada. Furthermore, I learned both during the course of my own research, and during subsequent independent reading, that qualitative researchers who undertake sensitive research may often find themselves in "emotion-generating situations" (Dickson-Swift, James, Kippen, & Liamputtong, 2009, p. 65).   Although it is well known that qualitative research is an inherently emotional endeavour because of the connections that develop between researchers and participants, and "to be human is to be emotional" (Denzin, 1984, p. x), little research has explored how qualitative researchers experience emotion in conducting their work (Dickson-Swift et al., 2009, pp. 64-65). This is why I think it is important for me to reflect on some of my personal experiences in the field, while engaged in qualitative interviewing.

The second challenge I experienced during the transcription phase of my research project was revisiting the interviews and re-feeling immense sadness when I listened to primarily grown men, relay with great emotion, distressing events they experienced while in Kosovo, or upon their return to Canada. The sadness I experienced is not surprising because as Warr (2004) reflects, individuals who transcribe interviews are "absorbing the voices and stories of research" (p. 586). I also experienced this sadness during the interview process on the few occasions when my participants became "choked up," or when I could see the participants' demeanour shift to reflect a heavy heart when relaying stories about violence and/or death in Kosovo. It was during these times that I found it hard to assess what an appropriate emotional response was; do I fight back my tears and simply acknowledge their pain by nodding and voicing my condolences? Or do I share my emotional vulnerability as they express their own? Although challenging and difficult to do, I held back my tears with a lump in my throat and dug my fingernails into the palms of my hands to try to control my emotions. I

nodded as my participants shared their stories, offering my condolences when it was appropriate to do so, by verbally acknowledging the pain they must have felt in experiencing the events they were sharing. It was not until I was in a private space by myself, that I cried when I reflected on the interview and the experiences my participants shared with me. To date, I am not sure if this was the appropriate response, or whether I should have been openly emotional during the interview process.

Throughout the research process, I have continually questioned why I was so concerned about sharing my emotions with my participants. Why did I view this as being problematic? Was it because I interviewed primarily middle-aged men and I would feel foolish crying in front of them? Was it because I wanted to be viewed as professional given my age and gender? Is it because I thought my participants expected me to mask these emotional reactions? Although these thoughts may have factored into my concerns about openly expressing my emotions, ultimately, I feared that being emotional during the interviews and admitting my emotional reactions in this report, would leave my work subject to criticism. Because qualitative research is often criticized for lacking the rigour and objectivity of quantitative research projects, I do not want to subject my research to undue criticism. I thus questioned whether emotional vulnerability would compromise the strength of my research findings in the eyes of my peers. This reflects a concern voiced by a qualitative researcher interviewed in Dickson-Swift et al.'s (2009) study who "felt that showing the emotional side of his work would in effect make him more vulnerable and open to judgments from his colleagues (mainly male quantitative researchers) about the scientific value of the knowledge that he was creating" (p. 66).

As recommended by Dickson-Swift et al. (2009, p. 68), I acknowledged both the physical and emotional toll my research was taking on me and I recognized that I needed to take care of my well being throughout the process. I recognized very early on that I was carrying my participants' stories and the emotions from the interviews home with me. When I conducted many interviews in the course of a few days, I found it difficult to sleep at night because my mind was racing as I attempted to process the information I learned earlier in the day. I also found that following an interview, or after spending a period of time entering and analyzing data, I had violent nightmares. I experienced emotional exhaustion from the intensity and duration of the interviews. I rarely wanted to speak to anyone when I got home from interviewing, and I felt as

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though even memoing field notes when I left the interview, required too much thought. I chose to speak to my supervisor to debrief following particularly emotional interviews, which assisted me with processing the information and relieving anxiety, as it was very cathartic to express my own emotions and how the research process was impacting me.[115] Although I experienced temporary sleep deprivation and emotional exhaustion as a consequence of undertaking this research project, I did not experience some of the more serious symptoms of vicarious traumatisation that have been documented in the literature, which include symptoms of post-traumatic stress disorder (PTSD), social withdrawal, disconnection from loved ones, generalized despair, and no time and energy for oneself.[116]

Data Coding and Analysis

NVivo is a qualitative computer program designed to assist researchers with the analysis, management, organization, reporting, searching, and reliability of their data, as well as the graphic presentation of their data (Bergin, 2011, p. 7; Buchanan & Jones, 2010, p. 4; Creswell, 2013, p. 204). I made the decision to use *NVivo* 10 to analyze my data given the sheer number of transcripts I had to analyze – 612 single-spaced pages of Microsoft Word documents. Furthermore, I chose *NVivo* 10 due to the security features (my files and database were stored in one file rather than multiples files), the graphics features (the ability to visually represent codes) (Creswell, 2013, p. 204), and because more seasoned researchers in my department had recommended *NVivo* to increase my efficiency and effectiveness in analyzing my data. Another more pragmatic reason for choosing *NVivo* 10 was the fact the license was available at my university graduate computer lab, and I was able to download a student version on my home computer. To familiarize myself with the program, I spent approximately four days working through the online tutorials available through the QSR International website (http://www.qsrinternational.com/support_tutorials.aspx). Although at times it was

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[115] For more on qualitative research as emotion work, see Dickson-Swift et al. (2009).
[116] For further reading about vicarious traumatization that may impact researchers conducting sensitive research, see Canfield (2005), Pross (2006), Trippany, Kress, and Wilcoxon (2004), and Tabor (2011).

frustrating to watch and re-watch the *NVivo* 10 tutorials, it was time well spent, as I felt confident in my abilities to use the program by the time I began the open coding process.

I began open coding by reading through all of the transcribed notes to assess what I could infer from the data (Berg, 2004, p. 281). Codes naturally emerged from the data during open coding when I went through the transcripts interview-by-interview and created labels for categories by "identifying a chunk or unit of data (a passage of text of any length) as belonging to, representing, or being an example of some more general phenomenon" (Spiggle, 1994, p. 493). This process has been referred to as *in vivo* coding wherein the researcher uses the data to code itself without relying on a pre-determined coding list (Buchanan & Jones, 2010, p. 3). The 'drag and drop' feature in *NVivo* allowed me to move excerpts from each interview to the appropriate node throughout the open coding process.[117] By the time I finished open coding, I had identified 93 codes that I believed were relevant and meaningful in exploring my research questions. Using this coding list, which encapsulated many of the themes previously identified in the literature, I went through each excerpt contained in the codes again to first, ensure the excerpt accurately represented the code and second, to assess whether I could collapse and combine codes with one another to avoid redundancy. At the end of this process, I had eighty (80) codes (nodes in *NVivo)*. The number of references located in each node varied from two (2) to fifty-seven (57).

During the next stage of data analysis, axial coding, I went beyond simply describing the data to grouping together codes to develop concepts. It was during axial coding that concepts were created and interrelationships appeared by establishing connections between the categories that had emerged during open coding (Moghaddam, 2006, para. 33). Themes – "statements that explain why something happened or what something means" (Rubin & Rubin, 2005, p. 57) – were identified as I read and re-read my data during selective coding until I felt as though no further themes could be identified. Note that themes also emerged naturally in the data when

[117] *NVivo* refers to codes as 'nodes;' there are many types of nodes in *NVivo* including, "free nodes, tree nodes, case nodes, relationships nodes and matrices" (Bergin, 2011, p. 8).

participants used specific figures of speech to explain an event, object, or process, which Rubin and Rubin (2005, p. 213) suggest is typical in qualitative interviewing. For example, Rick questioned the viability of imposing UN and international human rights standards and principles in PCEs because of cultural and social differences, explaining that the practice is akin to attempting to grow roses in the Arctic. This figure of speech wound up being the title for Chapter 11, which discusses the participants' opinions on the appropriateness of applying UN and Western-developed frameworks in PCEs.

The individual nodes I created during open coding in *NVivo* were transformed into tree nodes during axial and selective coding; tree nodes are organized hierarchically and go from general to more specific categories. After having identified eighty (80) nodes during open coding, I collapsed these into forty-two (42) themes (or tree nodes) during axial and selective coding, and I discussed twenty-four (24) of these. Despite having conducted only fourteen (14) interviews, saturation was achieved because I was beginning to hear similar stories, events, and insight towards the end of the data collection stage of my research. I do not believe interviewing additional individuals would have provided new data or insight, although if other diverse participants had been included, saturation may have occurred at a different point in the process.

There are many benefits of using QDA software packages, including increased efficiency in managing considerable amounts of data, single location storage of data, increased consistency in data analysis (Bergin, 2011, p. 6), the ability to explore interrelationships among categories, and the ability to present graphics to illustrate relationships (Creswell, 2013, pp. 205-206). There are ongoing debates about the disadvantages of using QDA software when conducting qualitative research, including for example, the space these programs put between the researchers and their data, and concern that researchers may use short cuts during data analysis (Bergin, 2011, p. 12). Bergin (2011, p. 12) suggests qualitative researchers using *NVivo* remain vigilant during data analysis to ensure they are not rushing their analysis, selectively coding their data, or relying too heavily on certain data sources. Although valid concerns, supporters of the use of QDA software in qualitative research remind opponents that the researcher continues to be the primary tool in data analysis. The researcher is actively involved in collecting, coding, and conceptualizing the data, as I was throughout the data collection and analysis process. QDA software merely makes it easier to code, analyze, and report

findings, serving to increase the effectiveness and efficiency of analysis in comparison to traditional "'paper and pen' methods" (Buchanan & Jones, 2010, p. 4). As previously discussed, familiarizing myself with *NVivo* 10 was not extremely time-consuming or difficult, as there were online tutorials to guide me through the processes I required. Furthermore, I refrained from taking short cuts during the data analysis stage because this would be unethical and would prevent me from adequately exploring and presenting my participants' 'voice' in the final report.

Establishing Trustworthiness and Authenticity

Qualitative researchers are concerned with presenting an accurate, credible account of their data. As previously discussed, the value of qualitative research is most appropriately evaluated using alternative criteria to the conventional, positivist principles known as validity, reliability, and generalizability (Shank, 2006, p. 114). In following Lincoln and Guba's (1985, pp. 301-319; 2000, pp. 170-171) standards, qualitative research can be evaluated according to its authenticity and trustworthiness (ultimately reflecting the validity of the research project), which is characterized by the study's credibility (rather than internal validity), transferability (rather than external validity), dependability (rather than reliability), and confirmability (rather than objectivity) (Guba, 1981 as cited in Lincoln & Guba, 1985, p. 219).

In assessing the trustworthiness and authenticity of their research as characterized by credibility, transferability, dependability, and confirmability, qualitative researchers can use a diversity of validation strategies during the design, collection, interpretation, and presentation of their findings. Creswell and Miller's (2000, p. 126) two-dimensional framework influenced the selection of the validation strategies I employed. Their framework is based on two differing perspectives: the "lens researchers choose to validate their studies and researchers' paradigm assumptions" (Creswell & Miller, 2000, p. 124). Because the design of this research project was guided by the interpretive constructionist approach and because I am concerned with having a credible study, as viewed by myself as the researcher, and external reviewers, I chose to use the following validation strategies: negative case analysis, thick, rich descriptions, and prolonged engagement in the field (Creswell & Miller, 2000, p. 126).

In conducting negative case analysis, I went through the data to determine whether I could locate disconfirming examples. When there were disconfirming examples, these were reported in the results to provide a realistic, accurate portrayal of the themes. Negative case analysis assists in establishing the credibility of a qualitative study (Lincoln & Guba, 1985, pp. 309-313). As mentioned throughout this chapter, whenever possible, rich, thick descriptions have been provided, so readers have "the feeling that they have experienced, or could experience, the events being described in a study" (Creswell & Miller, 2000, p. 129). When given rich, thick descriptions, readers can assess whether the results are transferable to other situations (Creswell, 2013, p. 253; Creswell & Miller, 2000, p. 129). In addition to relying on rich, thick descriptions while presenting the themes that emerged from the data, connections were made to the existing literature, which further strengthens the transferability of the research project.

Creswell and Miller (2000) recommend researchers use the validation strategy of "prolonged engagement in the field" (p. 125) to increase the likelihood that their participants will view the research as valid. Prolonged engagement in the field was achieved throughout the data collection and extensive coding process. To establish dependability and confirmability – as recommended by Creswell (2013, p. 246) and Shank (2006, pp. 114-115), I produced an audit trail that encompasses some of Halpern's (1983) audit trail categories, including: "raw data" (e.g., audio recording transcripts); "data reduction and analysis products" (e.g., theoretical notes documenting concepts and ideas as they arose); "data reconstruction and synthesis products" (e.g., the final dissertation that illustrates connections to existing literature and the interpretation of the findings); "process notes" (e.g., methodological notes, including sampling strategy and process); and "materials relating to intentions and dispositions" (e.g., prospectus) (as cited in Lincoln & Guba, 1985, p. 319).

Conclusion

I started this chapter by introducing the research philosophy that guided my research, continuing on to discuss my research questions and research design, including the sampling procedure and sample, ethical issues, and data collection, entry, and analysis. Throughout the duration of the chapter, I highlighted the research

decisions I made, including the weaknesses associated with these decisions, and when possible, how I addressed these weaknesses. Despite the existence of certain weaknesses and limitations in the project, the results make a valuable contribution to existing knowledge.

As explained in earlier chapters, stability, security, and good governance are promoted in PCEs when the rule of law exists and there is widespread respect for human rights and human dignity (International Corrections and Prisons Association (ICPA), 2002, p. i). Corrections reform plays an instrumental role in re-establishing and strengthening the host jurisdiction's justice system to uphold the rule of law. Therefore, understanding the dynamics and challenges involved in engaging in these activities is important. The dynamics and challenges CSC personnel experienced while conducting corrections reform activities in Kosovo are explored in Chapter 10.

CHAPTER TEN: THE DYNAMICS AND CHALLENGES OF CONDUCTING CORRECTIONS REFORM IN KOSOVO

Chapter Overview

As discussed in Chapter 8, the Correctional Service of Canada (CSC) was involved in conducting an initial needs assessment in Kosovo. The assessment mission was conducted in August of 1999 and its purpose was to assess the overall landscape within Kosovo (e.g., conditions, communication abilities, and economic situation), assess the correctional needs (e.g., training, infrastructure support, and current cell capacity), and identify areas where Canada may want to consider investing human and financial resources (e.g., recruitment, training, and policy design). It was on the basis of this assessment that the CSC's role in Kosovo was identified and established.

Fourteen (14) current, former, and retired CSC members completed interviews ranging from 60 minutes (Michelle/Rick) to 220 minutes (Brad) in length, answering approximately twenty-two (22) questions from the interview schedule (see Appendix B). Note that CSC gratis personnel, on-leave CSC personnel hired by the United Nations Interim Administration in Kosovo (UNMIK), and individuals who fulfilled both roles, were interviewed. On-leave CSC personnel hired by UNMIK fulfilled roles set out in the strategic framework that was developed by CSC gratis personnel. Discussion throughout this chapter highlights the dynamics and challenges that CSC personnel experienced while conducting corrections reform activities in Kosovo.

Prior to answering questions about the challenges and dynamics involved in conducting corrections reform activities in Kosovo, participants were asked more general questions about the realities in post-conflict Kosovo, and how they define corrections reform. Recall from Chapter 6 that corrections systems must be viewed in light of their larger social environment, as offender populations reflect the wider social situation in which prisons are situated. Given that the larger social context impacts corrections reform activities, this chapter begins with an overview of the common themes that emerged from the data with respect to the realities in post-conflict Kosovo. This provides

the reader with an understanding about the environment the corrections advisors' were working in, and the context in which corrections reform activities were being undertaken. Following this discussion, attention turns to the dynamics and challenges of conducting corrections reform activities in post-conflict Kosovo, which begins by answering the question, "What is corrections reform?"

"It certainly sunk in that you weren't here for a picnic"[118]

Participants spoke about their immediate impressions of Kosovo in the post-conflict period, and their initial feelings upon having arrived in the post-conflict environment (PCE):

> You get a little bit of the jitters – butterflies in your stomach – because you see an incredible presence of military on the roads. In Canada, as you know, we're not used to seeing tanks rolling down the road, convoys of fuel trucks being escorted by the military, and helicopters in the air. The reality sets in at that point, when you see that, and that's something orientation can't get the point across in terms of the realities on the ground. It was then that it really sunk in that this is truly a post-war country that is still very unsettled … Those first few days, it certainly sunk in that you weren't here for a picnic. It certainly was a reality; that there was a real security situation in the country. (Steve)

> We got picked up at the airport and it was – the tanks, the blown-up tanks, and stuff was still there, and the garbage! The garbage everywhere – just incredible! And then the chaos – what seemed to be chaos at the airport – although they told me it was much better than it had been. That was actually the amazing thing about Kosovo; was that you could watch the change on a daily basis as they just got better, and they cleaned things up, and they would pave a road that in the morning, you'd drive down it – it was dirt road, and come the next morning, it was paved. It was very fast how things changed. (Michelle)

Similarly, Dean, James, and Ann spoke about the basic day-to-day realities they experienced in post-conflict Kosovo, which reflect transportation infrastructure issues, and the state's inability to provide basic services to its citizens:

[118] Steve

Many days the computer service would go down, so it wasn't a matter of merely sending something electronically, or sending comments back electronically. You'd have to try to organize things face-to-face, and so just the logistics. It took a long time to drive anywhere because the roads were in disarray, and there were controlled stops. I remember one time we were driving and there was a bridge that had been blown out, so we were fording a river in a UN Jeep and a trip that would normally take an hour, took all day. (Ann)

When we first got over there, the power would come on and it would just go off; there was no set time. There were nights when we went to bed at 8 o'clock at night, fully clothed, just to try to stay warm. There was no rhyme or reason to the power, so the living conditions, and the water – you couldn't drink the water – we weren't really prepared for what we received on the ground. (James)

They'd have rolling power outages; only a certain segment of the city would have power at any one time. So like I said, some nights you'd be – -29 was the coldest it got in my bedroom – double-sleeping bag with your sweats on, a hat, mitts, and wool socks. (Dean)

In contrast to the cold weather at night during the winter months, the power issues also created uncomfortable working conditions and logistics issues during the hot summer months:

We worked through a heat wave and I'd be sitting there working at my computer, the sweat's just rolling off my body, and you can't pull the curtains aside because they're bomb curtains, so you have to keep them down. So there's no way to get the air in and you can't have fans because the building wasn't designed for that kind of electrical overload, so all the breakers would go if you plugged in fans, and you'd lose power. So then you have no power. (Ann)

Participants noted that one of the most defining features of post-conflict Kosovo was the ethnic polarization that existed between Kosovar Albanians and Kosovar Serbians, as hostilities continued even after UNMIK took over as the transitional administration. Participants often spoke about the intensity of the hatred between the ethnic groups, which created challenges for them in conducting their work (which is explored further in the next section of this chapter):

At mention of the other – whether they were Albanian and somehow the Serbians came up – the hatred would spark from their eyes, and it would drip from their tongues. The saying was "that the hatred was in the mother's milk"… for thousands of years they've been fighting for

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that land, so for us to think that the United Nations, or us as individuals, were going to change that – that deep-seeded hatred – was a bit of an irony really. (Ann)

I've always said this, "We do not understand hatred." I hear people saying, "I hate that person," or, "I hate those people." No you don't; you don't tolerate them. There's something about them you can't tolerate, but you don't understand what hatred is until you go to another place in the country, in the world, and see what they would do to each other.... (Dean)

As was discussed throughout earlier chapters, PCEs are fragile, hostile, and unstable environments, which means safety is often an issue. Participants shared their thoughts about the widespread insecurity in post-conflict Kosovo:

You go over there and you get subjected to stuff; you know you're going over to a place where there's a risk of something happening because of the conflict, but you're never quite prepared for that type of stuff. (James)

In the first couple of weeks, I was in what they called the UN Hotel (see Image 10.1) – a fleabag place – on the eighth floor. I remember being waken up in the middle of the night by an explosion, and we were evacuated. There was another explosion – a car bomb across the street. In the middle of the night you'd hear a loud explosion and you'd go down, and see that someone had taken out a house with a rocket launcher the night before. This type of thing was going on; there was still retaliation between the remaining groups. So clearly still, a very unstable situation at that time. (Tom)

Being a post-war environment, there was still a lot of conflict taking place, and there was no disarmament program in place … So, everybody had a saying, they asked if there were lots of guns there, and they said, "Well, even the dogs had guns." (John)

We went out and checked out the sights and the town; we … went to one of the military places, which was downtown. I heard what I thought was fireworks, but it wasn't: it was guys shooting AK-47s and there were bullets going all over the sky. (Rick)

Image 10.1   The UN Hotel

Note.   Helgi Eyjolfsson; used with permission.

Participants spoke about the importance of being self-aware to avoid creating additional dangerous situations. Strategies to circumvent danger included never talking about local politics, never picking up hitchhikers, and pretending like you did not understand Serbian if you did. The latter reflects an incident where an international was shot and killed by Albanian youths after answering their question in Serbian. Participants also reflected on how easily they became desensitized to the surrounding violence, as it became a natural part of their daily lives:

> I was never threatened by anybody but was always very mindful about the way I conducted myself, and what I did just in terms of not wanting to upset the applecart or piss people off… I recall a few experiences where we came in very close contact with exposed firearms – not directed at us, but in a situation where things could've gone wrong. There were firearms out and ready to use, god knows

how that would've gone … We were driving through one of the main streets … which is terribly congested with traffic, and we were in the little Nissan pickup truck sitting in traffic, and all of the sudden there was a burst of automatic gunfire very close to our vehicle. Now I'm not sure where it came from, but it was very close to us, and even though it wasn't directed at us, it was one of those situations where you know … we could have easily been caught in the crossfire or a situation like that. So again, just looking back and even that day, at that time … I'd become so accustomed to the gunfire that it shook me a little bit but in the end, it was like, "You know what, it's just another day of gunfire and we didn't get hit this time either." (Steve)

Not all participants felt as though their safety was at risk; some participants spoke about feeling safe in post-conflict Kosovo, which they suggested reflected how soon after the North Atlantic Treaty Organization (NATO) intervention they were there. This is highly likely given that some participants were in Kosovo in the immediate aftermath of conflict (August of 1999), whereas others were there as late as 2006. As Michelle observed, changes happened very rapidly in Kosovo, so it is possible feelings of safety and security reflect when the participants were there. Dean spoke about having the freedom to explore Kosovo, which he noted fellow CSC personnel were unable to do in the earlier months immediately following the NATO intervention:

They had done a great job of clearing a lot of areas so more and more of the country, or countryside I should say, had opened up. So I made a trip to a ski resort and did some skiing, and then we went deep into the countryside to this great restaurant … So we were able to do that but I know teams before us couldn't because a lot of the country or province was closed… So we did that, and I went to a recital because even the arts were trying to come back, so they had this recital with different instruments, like the cellos and that type of stuff, which is really nice to hear. The art museum opened up, so we went to a couple of art shows. One of them was really disturbing though; it was a lot of the images from the war and the genocide, the big ditches, and the people. So yeah, every day we could go do something if we wanted.

The findings presented in this section are consistent with what the existing literature says about the characteristics of PCEs during the "open moment" where the future of the PCE is set in motion (Ghani as cited in Galtung & Tisné, 2009, p. 93). As the participants explained, after the NATO intervention, Kosovo was characterized by fragile peace, and like other PCEs, continued to witness violence despite the presence of international peacekeepers, which is not uncommon in these situations (Baglione,

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2008, p. 123). Additionally, and similar to the findings presented in the existing literature, participants provided examples to demonstrate how Kosovo was characterized by insecurity (the prevalence of guns), physical devastation (damage to the transportation infrastructure), human suffering (the state's inability to provide basic services), ethnic hostility (the need to protect oneself from being perceived as Serbian, or siding with Serbians, due to incidents of revenge violence), and high rates of criminal activity (participants explained how there were multiple murders in Kosovo in the initial aftermath of conflict) (Jones et al., 2005, p. 28; Nussbaum, 2002, p. 51; O'Connor et al., 2007, p. 4; Strohmeyer, 2001a, p. 48; United Nations Development Group (UNDG), 2001, p. 15).

The Dynamics: Conducting Corrections Reform in Post-Conflict Kosovo

Prior to discussing the dynamics involved in conducting corrections reform activities in Kosovo, corrections reform is defined from the perspective of the participants. This definition has been included given the multitude of definitions and meanings attached to post-conflict peacebuilding activities (as discussed in Chapter 2); it is important to highlight what corrections reform entailed within this specific context. The discussion that follows illustrates the unique dynamics that characterized participants' experiences conducting corrections reform activities in post-conflict Kosovo. Unsurprisingly, participants spoke at length about the local context, and how their activities were shaped by the legal framework, local buy-in, corruption, gender based issues, and insecurity. Participants also spoke about their most rewarding experiences while abroad, and the importance of establishing relationships to get reform activities done.

What is Corrections Reform?

Participants defined corrections reform in a similar fashion, referring to the "R's" they associated with reform: rebuilding, reengineering, realigning, re-establishing, reconstructing, restructuring, rehiring, and refurbishing. This is a much more expansive, and yet basic, definition than Bastik's (2010, p. 7) definition of correctional reform that was presented in Chapter 4. Participants' definitions are more expansive in that they

encapsulate larger systemic issues (e.g., building new facilities, restructuring the organizational hierarchy) whereas Bastik's (2010, p. 7) focuses more exclusively on the individual level (e.g., treating prisoners with respect, preparing prisoners for their eventual release into the community). However, Bastik (2010, p. 7) did note that penal reform in PCEs might involve extensive reform and reconstruction given the realities in these environments. Therefore, the difference in definitions reflects the operational realities that characterized Kosovo's corrections system in the post-conflict period. As is common in PCEs, corrections reform in Kosovo started at a basic level – building and refurbishing facilities to provide safe, secure confinement for prisoners – although it eventually evolved to include the design and implementation of policies that reflected best practices. Some participants suggested that how activities were labelled varied depending on what stage of the mission they were involved in, and the activities they were tasked with. In the early stage, the immediate priority was rebuilding and refurbishing the Kosovo Correctional Service (KCS) facilities to make them safe to hold prisoners, which is a typical starting point when conducting corrections reform activities in PCEs (United Nations Office on Drugs and Crime (UNODC) & United States Institute of Peace (USIP), 2011, p. 95). Strategic planning and policy development commenced shortly thereafter, which was followed by recruiting, training, and mentoring activities:

> There was no way we were rebuilding – well like, in a physical sense, obviously. I mean you go out to – it was one of the last prisons that was bombed – and you can still see the holes where the missiles went right through (see Images 10.2 and 10.3)… You could see where the UN missiles had hit: big, gaping holes. So in terms of that sense, they had to rebuild. But in terms of the actual system, the whole philosophy had to change because we weren't going back to the way Serbs ran it. There was no way; the whole political scheme of it had to change. So to me, that was reform, you had to reform that. (Dean)

Image 10.2   NATO Bombing Damage at One of the KCS Prisons

Note.   Helgi Eyjolfsson; used with permission.

Image 10.3   NATO Cluster Bomb Damage at a KCS Prison

Note.   Helgi Eyjolfsson; used with permission.

Note that Dean reflected on the importance of moving forward, and developing a new system, rather than simply returning to the old system. As discussed in Chapter 2, post-conflict peacebuilding activities are not as simple as re-establishing the system to its previous state of existence, as pre-existing structures may have directly or indirectly contributed to the conflict (Albrecht & Buur, 2009, p. 398; Brinkerhoff, 2005, p. 11). Many participants indicated that reform is about promoting a change in values from the past:

> Reform to me means a restructuring or realigning of processes in relation to a changed value system. … We are not just trying to reconfigure the lineup of the ducks; we're trying to come up with a new target to shoot at. (Chris)

Corrections reform activities in PCEs are designed to promote good governance and the rule of law, which involves developing a transparent, accountable and ethical prison system that provides safe, secure, and humane prison conditions, and operates in accordance with international human rights standards (Department of Peacekeeping Operations (DPKO), 2006, p. 1; DPKO, 2012, p. 1; International Corrections and Prisons Association (ICPA), 2002, p. 18, p. 23). Unsurprisingly then, participants indicated that corrections reform, in addition to requiring a change in values, requires a change to make the system 'better,' and by better, the sentiment was to bring it in line with international human rights standards. For example, Steve noted that:

> Reform … means making changes, making different changes, and in my mind, when I say that, I also hear myself saying making changes for the better, making changes that are different from what was there before, but for the better.

Similarly, James acknowledged that reform:

> Would be changing the conditions, kind of bringing it up to international standards that would make the environment in the prison more conducive to better training for the staff, better living conditions for the inmates, better healthcare for the inmates, making sure the inmates got treated fairly, making sure that staff got looked after, and giving them all the tools that we could, to make their lives and the inmates' lives better, and in doing that, also making it safer for everybody.

Introducing international human rights standards into the KCS was a priority due to concerns with previous prison practices:

> Our goal was very noble in terms of developing training that was based on a more modern model respective of human rights, and training staff to work under such a model. Because prior to that, the story we heard when we were there was that it wasn't a very fair model, it wasn't very respectful of human rights, it was an old Yugoslavian format that quite frankly, was very corrupt. So, our intent was to introduce them to something that's more modern, and I think that we did what we could to lay the groundwork for those changes. (Steve)

Ann, Tom, and Rick provided some very specific examples of the above-mentioned model:

> In one of the prisons we went into, there was a torture chair in the basement. There was the armrest with the straps and the stainless steel tray with the tools and instruments, electrodes, and this is how they would interrogate prior to the UN coming in. (Ann)

> In the old system in Kosovo, COs carried guns and it was very hard to convince the COs that they didn't require guns to do their jobs and that it was undesirable to carry guns. They were allowed to carry batons but they needed to be instructed that the use of batons was only to take place in self-defence and not to harm prisoners 'just because.' They were therefore educated about the appropriate use of force as per human rights standards. (Tom)

> They wanted to know why they couldn't have weapons and a CSC member said, "Well, what do you want weapons for?" They said, "Well so the inmates will respect us" and he says, "What do you mean?" They said, "Well if you beat them, they respect you" and he replied, "Well no, no, no, you have to earn respect." But it's sort of; it's really a foreign concept to them. (Rick)

These findings are consistent with the existing literature that highlights the prevalence of criminal justice personnel abusing their power and failing to respect human rights standards prior to and during periods of conflict (Albrecht & Buur, 2009, pp. 397-398; Office of the United Nations High Commission for Human Rights (OHCHR), 2006, p. 1).

Understanding the Local Context

Throughout earlier chapters, particularly Chapter 5, the importance of understanding the local context, and developing assistance based on the unique country

and political context was identified as a best practice in conducting rule of law reform activities. This section highlights a variety of themes that emerged from the data, which illustrate the defining features of the local context in post-conflict Kosovo. This section begins with a brief discussion about how participants learned about the local context.

Each of the participants explained how they had conducted their own preparation, received organizational (typically referred to as minimal) preparation, or had both, prior to departing Canada for Kosovo:

> When I found out that I was going to Kosovo, I began doing a little bit of research on my own because I like knowing what I'm getting into. My learning was partly what had been in the media, and I picked up a few books along the way; just to kind of get a background on Kosovo, a little bit of history on Kosovo. So I did a lot on my own, and the orientation that we took part in immediately before deploying, kind of tied everything together for me and was more than sufficient… I don't think we could've been better prepared for the damages of war. (Chris)

Multiple participants described how their understanding of the situation changed when they arrived in Kosovo:

> I find in those situations, an orientation will prepare you but it's not always accurate 100 percent in terms of what's happening on the ground because situations are forever evolving. We had basic knowledge; but when you get there, you just learn things from a different perspective. When you get an orientation, you try to set it up so that it's a neutral perspective. But when you get there, and you live with Kosovar Albanians who've been repressed in their minds – and not just in their minds, but also in reality, for many years – you get a very different perspective on things. (Steve)

Tom's understanding about the local situation also evolved when he arrived in Kosovo, and differed from the knowledge he had gained following his meetings with members of the Royal Canadian Mounted Police (RCMP) and Department of Foreign Affairs and International Trade Canada (DFAIT) (these meetings focused primarily on security issues in a warzone):

> We were under the impression that the Serbs were the enemy and the Albanians were the victims; it didn't take long in Kosovo to realize that was far from the reality – it takes two to tango. There were definitely

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issues on both sides, as there's long term hatred between the ethnic Albanians and the Serbs that goes back hundreds of years.

The above comments demonstrate the importance of developing a holistic understanding of the local context; both information learned during pre-deployment preparation sessions, and knowledge learned on the ground, should inform the design of reform activities. These findings provide support for engaging with the local residents during the capacity development process, which is step one of the United Nations Development Programme's (UNDP) Capacity Development Process (see Figure 5.2; UNDP, 2008, p. 8). By engaging with the local residents and assessing their needs, participants were able to develop a holistic understanding of the operating environment, which meant they were more informed in developing strategies to address the local realities. Ball (2007, pp. 100-103) recommends international advisors engage with the local residents during security sector reform (SSR) because they can gain a greater understanding about the political context and local incentives and disincentives for change. The findings from this project support this recommendation, as participants learned more about the ethnic conflict in Kosovo when they engaged with the local residents, and how the ethnic hatred created disincentives for change (for example, Kosovar Serbians' lack of interest in participating in a multi-ethnic criminal justice system).

It's not "Canada's way or no way"[119]

Multiple participants discussed how they had to learn quickly about the local correctional context in Kosovo to develop and implement successful corrections reform activities. Similar to the literature presented in Chapter 8, the findings from this research project illustrate the unique local correctional context in Kosovo. Participants identified organizational and cultural differences between the CSC and the KCS, and worked towards developing policies and practices that as much as possible, respected the local processes and values. Many participants used the following two examples to

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[119] George

demonstrate the differences between the CSC and the KCS, and how they respected the local context in conducting their activities:

> One of the first things I noticed there, that made me go, "Huh?" They had lots of single cells but they also had lots of communal cells – 8 and 12 bunk beds together – and I asked, "What the hell is that?" Then a couple of international guys and a guy who was sort of tied to us, said, "In this culture, men would rather communally eat and communally co-exist." I'm like, "Oh" because here, our system is completely anti-double-bunking, so you think, "Okay, remember that, don't forget that."… Because I don't think that we can heap everything on somebody else, that is ours, and expect them to just choke it down because we walk in waving the Canadian flag going, "We know what we're doing and we're good!" (Brian)

> In Canada, our ideal is single-bunked accommodation, one cell per inmate. For us it's a concept that is well understood in our world, and it's a concept that's served us well organizationally both from a security frame and human rights frame. In Kosovo, it was quite reasonable to see twenty fellas to a cell; to them, that was their norm. To put a guy into a single cell was absolutely torturous for them. So, I mean, you abandon that concept, put it aside, but you don't abandon the concept of ensuring these men are fed, that they're given water, that they're given the opportunity for exercise and some fresh air. So it's never as pure as saying, "We're going to instill these values," as you have to work within the existing culture, you have to work with the existing parameters, recognizing that at the end of the day, your support to Kosovo is to build their own systems that serve their interests, with as many principles of human rights into it as you can… So you know, cultural aspects, societal norms, whatever word you want to use, those are some of the things you want to contextualize to the environment, and not adopt a position that is "Canada's way or no way." (George)

Similar to the findings reported above, McVie and Rankin (2001, para. 17) also discussed how Kosovar Albanians perceived single cell accommodation as punishment, akin to segregation in Western prison systems, because of the communal family living arrangements they have in the outside free community.

> DFAIT put something on – we got like a half a day before we flew out –and the one thing that stuck with me, and it was so interesting that they told us, was that in Kosovo, it's very normal for men to hold hands. If they hadn't told me that – see, in Canada, for guards and inmates, there's no contact – so it was very strange because over there, you would see the guards with their arms around the inmates, or the guards sitting having tea on the grass. We had to change that, we had to be respectful of the culture, but we had to explain that they

were still criminals, and you still had to have boundaries. But what we still had to understand though, was that for the guards themselves, you'd see them walking, holding hands, or linking arms through. So that was interesting, so it was just that cultural thing you needed to be aware of. (Michelle)

The above comments demonstrate the importance of engaging with the local residents, and learning about their cultural values and practices to ensure Canadian values are not inappropriately forced on them.

Legal Framework

As discussed in Chapter 4, law reform activities are often the starting point in conducting reform activities in PCEs. Identifying and reforming the existing legal framework is important so that criminal justice personnel have a legal basis to operate within, and so that reformers can develop criminal justice personnel training policies and strategies based on the appropriate legal framework (O'Connor, 2005, p. 235). Given UNMIK's uncertainty about what the appropriate legal framework was in post-conflict Kosovo, it is not surprising that a defining feature of corrections reform activities in the immediate aftermath of conflict, was determining the applicable legal framework:

> What was complicated in Kosovo was that even though – it's kind of a dichotomy – it was a simple system, it could be a complex system in the amount of rules we had to consult to arrive at policies. You had to make sure you were respecting any expectations of 1244, there was the old Yugoslavian laws that were still actually on the books, and then there was the UN charters that you had to respect. So, there was a lot of consultation and terms of arriving at the final clause. (Steve)

> The biggest challenge was in finding or establishing what applicable law was. As far as I'm concerned, you have to work within the law of the land, and you can't impose anything if it doesn't respect the law of the land. The UN was busy throwing out laws; they went with the pre-conflict one but as we were developing policies, there were discussions about whether it was pre-conflict or pre-Milosevic that was applicable law. I was still at the point of putting policies on paper when agreement was reached that it was pre-Milosevic. So I would check what Canadian policy says and then I'd look at UN standards and say, "Okay, it's in-line with UN standards," and then I'd say, "Okay, what's the applicable law that supports this?" So, every little piece of policy was a long, labourious process in research and trying to sort out what should be relevant. (Ann)

We had to make sure anything we developed was respectful of local policies, Kosovar policies, and international policies. So right from the get-go, you have to engage them and you have to support them, but don't be a bull in a china shop and don't think, or don't force it down their throats, that, "We're Canadians, we're experts, we're going to show you, tell you how it's done," that's not quite what the purpose was. It was to set some groundwork, and then it was to work with local people to understand that groundwork, then to accept it, and then to be able to take over eventually. It's a long process and it's just got to be taken in small steps. (Steve)

As discussed in Chapter 8, UNMIK's uncertainty about the applicable legal framework created issues for those responsible for rule of law reform activities, and resulted in severe criticisms of UNMIK because a culture of impunity developed. As the above excerpts reveal, CSC members who were responsible for developing policy, operational processes, and training curriculum experienced uncertainty in interpreting the applicable law. Previous reports documented the challenges judges, prosecutors, lawyers, and police officers experienced in attempting to interpret the applicable legal framework in light of international human rights law (Organization for Security and Co-operation in Europe (OSCE), 2000, pp. 15-16). The findings from this project reveal that one of the defining features of conducting corrections reform activities was assessing and interpreting the applicable legal framework, and whether policies were in-line with international human rights standards and principles. The findings from this dissertation provide further support for the need to start peacebuilding activities with law reform activities that clearly state the applicable legal framework.

"They were like a sponge, they wanted to soak it all in, they wanted to make changes"[120]

As discussed in Chapter 5, the success of capacity development activities is contingent on local participation, ownership, buy-in, and responsibility (Türk, 2009, p. 34). Dandurand et al.'s (2004, p. 127) review of justice and security sectors in the Caribbean found that local support and buy-in creates an environment that is amenable to prison reform. Thus, one of the questions that participants were asked was whether

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[120] Steve

they believed local actors were genuinely committed to the reform activities, or if they were faking their commitment to achieve independence, and subsequent membership in the European Union (EU). The majority of the participants believed the local residents were committed to the process without concern for long-term gains:

> I felt it was sincere and I say that for two reasons. First, there was very little talk about independence at the time and second, the locals would have very little input into it anyways, and also knew that we would have very little input into it. They knew I'm just there as a representative of Canada, helping them with their correctional system, I'm not involved in the politics of whether they're going to join the European Union. (Dean)

> Was the environment amenable to reform efforts? Was the environment amenable to try and get something done? They want to get something done, yes. Get something done, and make the prisons work kind of like they do in the West. (Chris)

Although the community and local actors with whom the CSC personnel worked closely with exhibited buy-in for reform processes, a few participants indicated that there were some individuals amongst the group who were less inclined to commit to the reform process. This finding is consistent with existing research that explains how local actors may be against externally imposed change, and may discourage technical assistance and training interventions (Dandurand et al., 2004, p. 108; Dandurand et al., 2008a, p. 57). Although it is hard to speculate the exact reasons for this resistance to change, it is possible (as Ann suggests) that some (but not all) of the local actors were attempting to protect the status quo because they did not want to share their power and privileges, which is a finding supported by existing SSR and governance literature (Brinkerhoff & Brinkerhoff, 2002, p. 518; Brzoska, 2006, p. 8; Dandurand, 2005, p. 7):

> Some of them were really keen on trying to learn, better themselves, and others had the mentality that we, as internationals, we were just there for the money and that we really didn't care what happened to the country after we left. Some of them looked at us as just another kind of an occupier. But there were a lot of locals that really wanted to learn things, really wanted to make things better for themselves, and the conditions in the prison. You could almost see the two groups just by the way they acted when you walked in the room. For example, just the look they gave you, or if they came over and tried to engage in conversation. Or, when you give them tasks to do as a mentor, whether they're going to follow-up on it, or whether they're just going to do a half-hearted job on it. (James)

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I sense that at the people-level, they were very ready for change. At the more senior levels, there was still elitism, a protectionism of, "I've got this much and I want to protect it, and therefore, I'm not going to allow this to develop." But within that, there are still some very highly motivated individuals who were very respectful of individual rights and while democracy may not be their preferred way of maintaining control, they recognized how that would serve their communities. So you know, there are always those individuals who simply want to maintain control regardless of the cost to others but there are some very idealistic, politically driven individuals who took on responsibility at a huge risk to them, right down to assassination attempts and threats to themselves and their families. (Ann)

In contrast to the experiences shared above, two of the participants spoke about the challenges of securing local buy-in when it came to Serbians living in the community of Mitrovica/Mitrovicë. Recall from Chapter 8 that the Kosovar Serbian population was developing parallel structures in Mitrovica/Mitrovicë, so they were generally not interested in participating in UNMIK's institutions, and they were not supportive of an independent Kosovo. As one participant reflected, it certainly did not help that the NATO-led Kosovo Force (KFOR) had tanks pointed at the community. Serbians living in Mitrovica/Mitrovicë did not buy into the system, and were known to intimidate internationals that crossed the bridge into Mitrovica/Mitrovicë:

The Serbs didn't buy in at all; they had their own parallel structures. The more you meet the people; you understand what's going on behind the scenes, and how powerful they are. There were secret police in our community where we lived, and the Bridge Watchers, they were very well connected, too, and to Belgrade and beyond, I think. (Brad)

For the Love of Money

As discussed throughout earlier chapters, corruption is a common feature in PCEs, and it often increases throughout the "open moment" (Galtung & Tisné, 2009, p. 93). The current research findings provide support for the existence of corruption among local corrections officials in post-conflict Kosovo. This is problematic given that existing research findings demonstrate how corruption among criminal justice personnel may lead to increases in violence and criminal behaviour in PCEs (Le Billon, 2008; pp. 353-354). Participants shared their sentiments about how corruption existed in the general community, and with respect to the criminal justice system in particular. Participants indicated corruption was one of the most defining features of post-conflict Kosovo, which

impacted corrections reform activities, and was at times, said to be fuelled by the UN's decision-making practices:

> When necessity is the mother of invention, I mean, you're in Kosovo, you brush your teeth every morning in the sink and you spit grey, there's a coal-fired central heating plant, and everyone's driving Mercedes. I say, "I didn't see a Mercedes dealership; where did the Mercedes come from?" And then a UN guy looks at me and says, "Oh Jesus, that shit's all stolen out of Germany. They're just bringing it back by the bucket-load." They know how to kill ducks and cook them, and they also know how to strip serial numbers off of vehicles and get them back because necessity is the mother of invention. They're selling diesel fuel in 2L pop bottles – hmm, I didn't see a gas station but they've got it. So while you're trying to do all of this warm and fluffy stuff, you have to be mindful of the level of corruption, the level of necessity that is corruption, because you know the costs, … and you know how much your correctional employee is making, and you know he's not going to keep a family of four alive on that, so is his wife doing their laundry in the hotel? Are his kids stealing cars? I don't know. (Brian)

> My most frustrating, and let's put it that way, one of my most frustrating … one of the real heartbreakers, eye-openers, jaw-dropping moments in my life, that I have never really been the same since, was the day we were told that we were going to pay our wardens 300 Deutschmarks a month. I said, "Three hundred Deutschmarks a month? Why would we pay somebody $300 a month?" "Well, that's what the Police Chief is getting." And I'm going, "Oh, really? I can tell you this right now; this will not even cover the Police Chief's Mercedes payment!" We actually managed to track down one of the previous Police Chiefs, and … we eventually worked him to the point where we go, "Tell me, factoring *all* of your income in, approximately how much money did you make?" It was around $110,000 a year, which would've been standard fare for Police Chiefs in Europe, Eastern Europe. Well if you're going to pay the guy, if the guy expects to make $110,000 a year, and you are paying him in essence, $4,000 grand a year, where are the remaining $106,000 going to come from? Well, from creative management. That's when I realized, "Wait a second; this is wrong. This isn't just wrong; this is designed, intentional, stupid wrong." There is something that is just – I'm searching for the right word – there is something toxic about this thinking and to say, "Well we have to do it this way here" is to simply say, "I guarantee we're going to build in the same level of incompetence and corruption." (Chris)

These findings are troubling given that existing research findings suggest that facilities with poorly remunerated staff have higher rates of violence (Penal Reform International (PRI), 2012c, p. 32), which is particularly concerning in an environment

where providing for the safe confinement of ethnic minorities was challenging enough. The findings in this study are consistent with what has been learned following police reform activities in PCEs. Broadhurst and Bouhours (2009, p. 188) found that the combination of low salaries, poor training, and ineffective leadership contributed to bribery and corruption among the police service in post-conflict Cambodia. Low salaries, or a complete absence of pay for police officers in post-conflict Sierra Leone led to corruption and demoralization among police officers (Baker, 2006, p. 37). The current findings suggest that similar to their police counterparts, corrections officials may be swayed to engage in corrupt practices due to poor compensation. Therefore, the salaries paid to corrections officials in PCEs should be carefully considered to decrease the likelihood that corrupt practices will develop.

Although agreeing that corruption occurred and was likely influenced by the UN's salary choices, a couple of the participants said they thought corruption actually reflected the culture in Kosovo – years of corrupt practices – and it would not be quickly and easily thwarted:

> In my opinion, they were all underpaid, doesn't matter if you were a warden or a corrections officer. If you were a corrections officer, you made only 100 Deutschmarks a month and it's not sufficient. It's not sufficient and it's ripe for corruption … I think that it had a big influence on corruption because again, corrections officers, we knew that some were taking unauthorized things into the prison for inmates and getting paid for it. So, we knew that was happening, and I wouldn't be surprised quite honestly, although I don't have any proof, that wardens knew that it was happening as well, and probably got a cut of that. So the money, the low salaries, probably didn't do anything to stop corruption or to curb it, but again, I go back to, well I don't care in my mind, if you pay them $100,000/year like you do in Canada, it's part of who they are, it's part of their society, and people do corrupt things not just for money, but they do it for other reasons as well. I think you would continue – if they had been paid those big salaries – I think you would continue to see corruption happen on a certain level. (Steve)

Interestingly, as discussed in Chapter 8, findings from a 2011 report suggest that corruption continues to persist in the KCS, among allegations of prisoner abuse, and favouritism (U.S. Department of State, 2011, p. 1). These findings support Steve's assertion that corrupt practices within the KCS would not be easily changed, as the corruption reflected larger systemic and cultural issues. This finding highlights the

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importance of targeting capacity development activities at the individual level and organizational level, as well as towards the enabling environment (see Figure 5.1; UNDP, 2008, p. 6). As discussed in Chapter 5, individuals and organizations function in environments that may encourage positive change and capacity development (enabling environments), or in environments that may impede capacity development activities due to environmental constraints (OECD, 2011, pp. 6-7). Thus, capacity development activities should target the larger enabling environment to address social norms and power dynamics that may encourage corrupt practices.

John spoke about corruption within the KCS, and provided an example of how it worked. The below excerpt describes a conversation between John and a local KCS officer:

> He said, "Well, it's on merit, yeah. You do get the job but you have to pay the supervisor x amount of dollars because you got the job." I'm going, "Hold it here," and I'm trying to sort this out in my head. I said, "Hold it, we ran the competition, they do all of the stuff, they want it, and then they come in and ... they have to pay to keep their position? They're circumventing us!" He says, "That's just how we do business." So, I talked to some of the local staff and I'd say, "Do you have to pay?" And because they knew they could talk to me, they said, "Yeah, but look at it! We only pay for this amount of time." … They don't just rake them clean; it's just a little bit of gratitude. "But we've got a job for the rest of our life, like it's paying bills and stuff, and when I become a Supervisor, I'll get mine; that gives me the little bump." I said, "Get out of here!" But everybody's happy and like everybody, the locals, the guy you're paying, they're not like, "You Bastard!" I've seen that in other cultures, like when I was in a country in Asia, the same thing; there were people that just go, "Okay, here's what you give for this guy, and here's what you give..." We look at it like a graft, you know, or that it's not fair, but it's just a different system, it's a homage that you pay.

"Go make us coffee!"[121]

As illustrated in Figure 4.1, gender is a crosscutting issue requiring attention during SSR activities, as women are typically underrepresented among SSR actors. The

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[121] John

findings from this study actually suggest that beyond being underrepresented, women were not allowed to work in the KCS prior to the CSC becoming involved in KCS reform activities. Therefore, the findings from this study support existing recommendations in practitioner manuals and toolkits that advocate for the promotion of gender equality and mainstreaming during corrections reform activities in PCEs (DPKO, 2006, pp. 4-5; UN Secretary General, 2008, p. 1). Some participants spoke about the cultural differences in Kosovo with respect to how Kosovars view women, and their role in society. The Canadian recruitment initiative allowed women to become correctional officers for the first time in the history of the KCS, a change that was met with some resistance:

> The thing that really bothered me was trying to mentor females because in that culture, the female is kind of a subservient, and is expected to walk behind the man, they don't eat at the same table, that type of thing. In our service, you know females are as equal as the males, so as part of the reform we tried to do that; mentor females. We met a lot of resistance, particularly from the locals, and if we were there going through the duties in the institutions with the females, we could see a little hesitation. Then we found out that after that, if we weren't there, and if the female went in as a supervisor, they wouldn't talk to her, they wouldn't do things for her, they'd make comments to her, and that type of thing. (James)

A few participants shared stories about being told by local, male KCS staff members that once the internationals left; female officers would lose their jobs:

> He told me right to my face that, "Yeah, once you guys leave, we'll" – we had one female, she was a very good, very smart girl – "as soon as you guys are gone, she's going back to just being an officer, and she may go back to not even having a job." It's really frustrating because you're working with that person and I'm looking at her thinking, "Man, when I leave, am I doing her any favours?"… So you kind of question yourself a little bit there. Is it worth making that effort with her? Where you're going to put her in a place where she's going to lose her job, or be given a hard time? But at the end of the day, you have to think, "Well, it has to start somewhere," and you just don't give up because of those types of beliefs. (James)

> We had women that were supervisors but when I walked in and sat down on break... They would go and make the coffee, and I'd say, "No, I'll get it" but they go get the coffee in those groups…They were good at their job and they didn't just show up, or whoever hired them or put them through the process didn't just go, "Okay, we need 50 percent women and 50 percent something." They were in there and they were assertive, they were able to do all of the stuff, but when

they were in groups – because it's their culture – the men were like "Get the coffee" and … we come in and we say to the women, "Just pull rank!" Well, women could get a beating for that in certain situations. And when I talked with the locals … they said, "You know, like when you're gone, they're gone." (John)

Cultural beliefs also impacted the roles female internationals could perform in conducting corrections reform activities in Kosovo. One female CSC employee relayed the difficulties she experienced in attempting to design and implement new policies for the KCS:

Some of the cultural barriers around the role of women were difficult to break through, and that became evident in meetings. Through trying to influence – you know policy framework development, approvals of policies – I very quickly identified who I would seed ideas with to then have them become the voice. A male voice articulating the concept was more likely to gain approval, rather than a female voice. So then I would just be like "Oh yeah, well, can you explain that a little bit more?" And so we would play a tag-team to get it pushed forward… I think that was the biggest shock; I had become very accustomed to simply being accepted in the CSC … and then I was plumped into an environment where I was nothing, and a woman to boot. (Ann)

"You're always dealing with wild cards"[122]

Participants who went to Kosovo in the immediate aftermath of conflict explained how buildings and prison compounds were searched for unexploded war ordinances, such as cluster bombs. Those involved in later stages of reform activities mentioned or described critical incidents that occurred in KCS facilities, or as a consequence of their involvement in corrections reform activities. Participants shared their own experiences, those they heard about through fellow CSC staff members, and one provided official documentation describing the incidents. These critical incidents highlight the unique characteristics that exist in PCE corrections systems. The first incident demonstrates the availability of weapons in Kosovo, and possibly, reflects corrupt practices, as it raises

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[122] George explained how "you're always dealing with wild cards" when working in PCEs and how it is similar to "the risk you assume when you walk into all maximum-security prisons," which means you need to understand the local context and take the necessary precautions.

questions about how an inmate gained access to a grenade while residing in a secure institution. The story involves a juvenile offender who had been imprisoned for killing a Russian soldier with his own rifle; the story was that he walked up to the Russian who was smoking a cigarette, grabbed his rifle, and shot him dead. Participants explained that while the CSC personnel were preparing paperwork for their routine disciplinary hearings, the juvenile offender:

> Comes in, runs in, and takes one of the guys into the back … and he has his arm above his head, and he has something silver in his hand, and they think he's got a knife. So the other grabs him and puts him against the wall, the other guy turns around and grabs him by the other hand. They've got the interpreter standing there and they're looking at his hand, and it's not a knife he's got, he's got a grenade! Yeah, with the pin pulled out of it! So they go, "Oh, oh!" They talk to the interpreter and say, "Ask the inmate if that's a real grenade." And he goes, "Yeah, it is." So they've got this young kid there, six foot two or something, eighteen years old, trying to drop this grenade, and they've got their hands wrapped around his. They were trying to figure out how they were going to get out of there, so the two of them told the interpreter to evacuate the building, and just kind of leave them there and see how they can try to work it out. So they evacuated everybody out, and so it was just the three of them left. (James)

> They fought with this guy for a long, long time and then they finally – I mean they were tired – and so they both just made up a plan. He couldn't speak English, and they said, "On three, we're going to throw him against the far wall, and run out the door," and so they did. They threw him against the wall, and they ran out. But they both went through the door at the same time, so one of them broke his arm… The guy held the grenade, so they then negotiated, so they're negotiating from a distance, with this guy, with the grenade. So the kid, they said, they finally got him to – he wasn't going to because there was nobody left to kill, and who knows if he really wanted to? Because he probably could have, maybe could have gotten his hand out? But they said they had a pretty good grip on his hand, they said he couldn't, but anyway…scotch tape. They got him to tape – because that was all that was in there – because nobody would go close enough to give him anything to put the grenade in. So scotch tape – they made him wind it around, and around, and around, and around, and put it on the windowsill and leave. And that's how… (Brad)

In addition to experiencing risk in the institutions, participants also made reference to safety issues that arose as a consequence of their involvement with the KCS reform activities, which occurred in community settings:

One night I was stopped somewhere to pick up something … to take home, and so I was stopped and all of the sudden, all four doors of my vehicle opened and it was four or five guys that I had just, we had just released from the institution, Serbs. And they, "Hi, …" But they were letting me know that I knew all of the time that they could get me at any time. But luckily, I had treated them well because they could just, they could do whatever they wanted … they were letting me know that they could. They were bad guys. They were *really* bad guys (Brad).

Multiple participants I interviewed spoke about the threats a Kosovo Liberation Army/Ushtria Clirimtare e Kosoves (KPC/TMK) Commander made against a CSC member who was highly involved in the KCS recruitment and training process. The CSC promoted and implemented a recruitment strategy for the KCS that was fair, transparent, and based on qualifications, competence, and merit. Unfortunately, this system did not appease the local KPC/TMK Commander, who wanted specific people (ex-KLA/UÇK members) hired to work for the KCS. The Commander provided the CSC member with a list of ex-KLA/UÇK members he wanted hired in the KCS; none of these individuals were recruited given the above-mentioned recruitment strategy. After this was revealed, the Commander approached the CSC member, asking him why he did not recruit any of the men from the list he provided. During this interaction, the Commander physically grabbed the CSC member and attempted to take him to an awaiting car (the attempt only failed because the Commander's fellow KPC/TMK members stopped him from doing so). In the ten days that followed, verbal, veiled threats were passed along from the Commander and his subordinates, to the CSC member from his Kosovar Albanian subordinates. Additionally, written threats were made towards the CSC member and one of his subordinates. Based on the seriousness of these incidents, and the Commander's previous actions (he was known to engage in violent, unlawful behaviour), the CSC member was repatriated to Canada in the interests of his safety, that of his subordinates, and all of the associated family members.

These findings illustrate how some international corrections advisors in Kosovo were involved in life-threatening situations as a consequence of the reform activities they were involved in. Further, these findings suggest that feelings of insecurity characterized the work done by some CSC personnel. These findings reflect general characteristics in PCEs that were discussed earlier in this chapter and include insecurity and violence. However, these findings differ from existing academic literature in that they refer to the

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interpersonal dynamics that result from conducting corrections reform activities in PCEs.[123] As discussed throughout earlier chapters, there is a limited amount of academic research investigating corrections reform in PCEs, and it does not address the interpersonal level dynamics experienced by international advisors. Corrections-specific manuals and toolkits highlight the larger operational dynamics and challenges international advisors may experience in conducting their work (e.g., corruption, untrained personnel, resistance to change, and an absence of resources) but neglect the interpersonal level dynamics and challenges that may arise. These findings provide invaluable insight about the interpersonal-level dynamics international corrections officials may experience while conducting corrections reform activities in PCEs.

Most Rewarding Experience: "That's easy, the people; it was just amazing having the opportunity to work with both Serbs and Albanians"[124]

Participants were asked what their most rewarding experience in Kosovo was. The findings reveal the significance participants attached to establishing relationships with the local residents, facilitating countrywide change, and helping the local residents, and in particular, the women. As frequently mentioned, there is a scarcity of literature examining corrections reform activities in PCEs. Thus, these findings are unique in that they capture the interpersonal dynamics involved in conducting corrections reform activities in Kosovo, and possibly, reflect dynamics that may exist in other PCEs. These findings shed light on the positive aspects of participating in corrections reform activities in PCEs, which is in contrast to existing literature that typically focuses on the obstacles

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[123] It is important to note that these findings reflect an experience shared by a CSC employee who worked as a gratis staff member, as well as an on-leave CSC member hired by UNMIK. In a short article produced by the CSC, Muise described one of the few occasions when he was actually scared in Kosovo. This occurred when Muise and his fellow employees were transported to work on military vehicles because the Bridge Watchers in Mitrovica/Mitrovicë were protesting a UN sanction. The military vehicles dropped them off 600 meters from the detention centre, leaving them to walk the remainder of the way along an open roadway where they could have easily been shot by Bridge Watcher snipers (Muise & Rankin, 2002, para. 15).
[124] Dean

that may arise during these activities, and the recommended strategies to successfully complete reform activities.

Almost all of the participants identified working with, and helping, the local residents, as the most rewarding experience they had while in Kosovo:

> Being in a position where I could help people, not only the country as a whole, but actually seeing people that needed help, and then actually being qualified to do the job, and being in a position to say "You're able to do the job, so here's a job for you." So, getting their lives back on track because a lot of them have big families back home and there were no jobs to support their families and the unemployment was through the roof. So being in that position – to actually help people – was just amazing. That was the best experience, I'd say of my life. (Erik)

> Nine years after I had left Kosovo, somehow this guy I mentored, he'd gotten my email address, and sent me an email in rather broken English, which was thanking me for essentially taking the chance on him. He'd gone on to become the person in charge of the prison system… So those are just kind of those very nice things – aside from the overall country development – that you play a part in. You somehow have touched the life of a complete stranger and basically gave him back his own sense of self-worth, for lack of a better word. (George)

> The most rewarding experience looking back was getting to work with the locals, to live in the community, to understand exactly what their problems were, and what they needed, and to also, for me, one of the very rewarding things was helping to mentor a female supervisor. I thought that because of the country, and their religious beliefs, and all that, I thought that was an incredible opportunity to start them off in kind of the right direction. Where you know, women have some equality, and show them that women are smart, and can do the job. So, that was probably one of the most rewarding things for me, was having the opportunity to mentor a female as a supervisor. (James)

Similar to James, Ann considered her experiences with the local KCS women personnel to be the most rewarding aspect of her work in Kosovo, as she enjoyed being a positive role model, and interacting with the women:

> Sharing their appreciation for being given employment, and how much they hadn't realized until I had arrived, that women could hold senior positions in an environment with work like this, and to not only get respect, but also expect respect. I think it was really the interaction with the women that I found most satisfying and rewarding. (Ann)

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A couple of participants noted that in addition to being the most rewarding part of their time in Kosovo, working with the local residents in Kosovo was the most rewarding experience in their entire careers with the CSC:

> My most rewarding experience, well, I just think it was the best experience of my career bar-none. I've been with the federal corrections service for over two decades now and I think my time in Kosovo was the most rewarding experience. I think it was the experience of working with the locals in Kosovo, and I've always had it in my mind, that our goal was to make things better for them, to help *them* make things better. Again, I know everything over there happens in baby steps but I honestly believe – and maybe I'm naïve, but I don't think I am – that the groundwork we laid there, and the work I did there, and the work other Canadians did there, made a difference and made things better. Maybe not immediately, but I really think in the long-term, the work we have done there is going to help Kosovo go forward as an independent country, and I really believe we've made a difference. So, that is probably number one; the experience of teaching, mentoring, and leading the locals in terms of acquiring the skills and what they needed to move forward into the 21st century. (Steve)

It's Not What You Know; It's Who You Know

As discussed in Chapter 5, effective coordination and partnerships are vital to the success of criminal justice reform activities. The findings from the current study provide support for the assertion that coordination during rule of law activities is made possible when individuals and agencies work together and towards a common strategy (UN Secretary General, 2008, p. 4). It is important to note that the examples provided below describe relationships developed by CSC personnel through their own efforts and initiatives, and not due to the UN's efforts to coordinate their activities. This is an important distinction to make, as participants spoke about the challenges of conducting corrections reform activities due to the fact that the UN is a giant bureaucracy (which is discussed in detail in the next section of this chapter). Participants reflected on the importance of establishing relationships and coordinating with others to make progress while implementing corrections reform activities in Kosovo:

> In these types of situations, the vast majority of movement gets done through the establishment of relationships, as opposed to government structures. You've got to remember, it's complete chaos; you've got people coming in, trying to take over, trying to build up a whole country where all civil records are gone, and who's who is not known.

So, much of it becomes building up relationships with the people when you first arrive on the ground, about trying to get a read of the landscape in fairly quick time. (George)

I found a lot of what you did was – you had to have nerves of steel – and you couldn't be shy. You could not be shy! The one place where we ate often was right across from the compound; I guess if you will, a little restaurant. There were long tables and you may be sitting here, and they clunked two or six people down beside you, "Hey, how are you?" There were uniformed guys, you'd look at the country on the uniform or whatever, "What do you do?" "Corrections? Oh, we have a guy who does…" "What building is he in? What's his number?" Then you'd literally, you got off your ass, you went over, you found the guy, and you just wheeled in, "Hi, I'm from Canada and I'm doing corrections stuff. I met one of your soldiers and he said … Can you do one of the ... Can you do that for us?" "Absolutely." It was crazy. (Brian)

Donais (2004, p. 958) explained how poor coordination, in combination with an absence of a common strategy, could result in scarce resources being inappropriately allocated (such as a police service receiving computers when they really need paper and pens). The coordination that characterized corrections reform activities in Kosovo provides support for Donais' (2004, p. 958) assertion that proper coordination and a common strategy can lead to the appropriate use of resources, and furthermore, cost savings. CSC members developed relationships with individuals from another international organization, which was the key to establishing the corrections training program at the local police college. This was accomplished when CSC members heard about an American at the police college who was developing the local capacity of the Kosovo Police Service (KPS). CSC gratis personnel met with the American and the following transpired:

I said, "So you're going to be training the police and a lot of the fundamentals – at least in some of the self-defence capabilities, the utilization of firearms, managing from a legal standpoint human rights issues – they are pretty cross-pollinated here. Would you consider joining together here for resourcing – for savings, for cross-pollination, for all those things?" Well, the answer was yes, that would be great… So this is just how things grow and build… So that became the contact person. So as I say, what I had done in a very simple meeting was basically establish the capability for a shared curriculum along the same lines of police and correctional support, a shared utilization of resources for training needs, a shared curriculum development design, and a shared spacing requirement because the people that you trained

from time-to-time need accommodation. That's how things build. (George)

As other participants noted as well, this process of coordinating resources was accomplished in a very short period of time, through making contact, and building relationships with others:

> What we in the government would call a Memorandum of Understanding between two organizations, to do that much in the real world would have taken about six months to do, and I did it in two and a half days. It truly was, "What do you want? What do you need?" And when you found the guy who could fill the need, you went to him and asked, politely, and in most cases, it was done. (Brian)

For the most part, participants spoke about relationships as operating as a positive dynamic; however, concerns were also voiced about negative relationships that developed:

> You were in a position of power and I found that I was, I guess not overly surprised – but surprised – that being in that position was intoxicating to certain people because they could … in certain ways, they weren't accountable, and so they would just interact like it wasn't a partnership. They were on this level (*indicates high level with left hand*) and the locals were on this level (*indicates low level with right hand*), and that of course doesn't sit well with anybody. (John)

John's reflections reveal larger concerns in the existing literature about the behaviour of UN personnel in mission, which are discussed in detail in the next section of this chapter, and in Chapter 11.

The Challenges: Conducting Corrections Reform in Post-Conflict Kosovo

> *They kind of throw you into the fire and you work with what you've got on the*
> *ground.*
>
> *(James)*

Recall from Chapter 6 that there are many common challenges that plague corrections systems in PCEs, although each system experiences a unique mix of

challenges and to varying degrees. The challenges described in this section stem from common issues that are identified in Figure 6.1, including financial resource, safety and security, and human resource issues (UNODC, 2010, p. 13). The first challenge discussed in this section is the lack of attention and resources devoted to corrections reform activities in post-conflict Kosovo. In the second section, participants describe the challenges they faced in trying to provide safe and secure confinement for prisoners in an environment characterized by intense ethnic hostilities, and in prison facilities that were staffed by police and military personnel. The next theme also encompasses the challenge of providing safe and secure imprisonment for prisoners. However, in this section, participants describe how human resource issues, primarily the incapacities of UNMIK employees, and their inappropriate motivation for being in Kosovo, created challenges for CSC personnel seeking to implement successful corrections reform activities. The next section also reflects issues with human resources but speaks in particular to the language barriers that existed between internationals and the local residents. The final theme discussed in this section, job shrink, reflects the interpersonal challenges that some participants experienced upon returning to Canada.

"There's nothing sexy about corrections"[125]

As discussed in Chapter 8, CSC gratis personnel were responsible for developing the strategic framework and policies to establish the KCS. CSC gratis personnel developed a strategic plan, which included the human and financial resources that were required to open the facilities – beginning with just one facility – over a period of three years. CSC gratis personnel were responsible for securing UN funding for corrections reform activities in Kosovo, which was a huge feat given that corrections reform activities had not previously received funding as part of UN peacebuilding activities. (Recall from Chapter 4 that the missions in Kosovo and East Timor marked the first time corrections officials were asked to become involved in peacebuilding activities (ICPA, 2002, p. 4)). A common theme throughout the interviews was that the UN had not

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[125] Michelle

given adequate attention and resources to corrections reform activities, which is consistent with existing literature that similarly states corrections reform is rarely identified as a priority during SSR, and it is poorly funded when it is (DPKO, 2013c, para. 2; OHCHR, 2006, p. 18):

> The biggest problem we had was the fact that the UN had *no* idea about corrections whatsoever. They basically thought this little ragtag team could somehow, within a couple of months, open all of these prisons, and they didn't have any conception of what was involved. (Tom)

As mentioned by Strohmeyer (2001a, p. 58), UN member states were hesitant to provide funds for prison reconstruction activities in Kosovo. The findings from the current study support this observation, as participants spoke about how the international community preferred to engage in reform activities that would benefit the non-offending public, so their efforts were focused on those areas instead:

> The sexier areas were the ones countries wanted to do: to rebuild a hospital, rebuild a school, rebuild the infrastructure, rebuild housing, you know? The correctional one isn't one that's exactly too sexy because you know; *well*, these are the bad guys, why would we be putting money and the support into them? (Tom)

Participants described how even in comparison to the police and judiciary, corrections system reform was not on the "giant radar screen" (Tom), despite being the third piece to complete the rule of law puzzle. Participants spoke about how the lower status afforded to corrections reform, and corrections officers, created operational challenges for them in terms of recruiting and retaining corrections officers, and contributing to corruption among corrections officers:

> When the UN came in and committed, they brought in policing experts. There was a delay though – they were behind the game in that way – in bringing in correctional experts. Also, salaries differed between a correctional officer and a police officer – the difference was quite stark… You have to pay these people equivalent because you'll never be able to maintain correctional officers if people see the opportunity for a government job over there, with similar training, but making more Deutschmarks a month than this guy… Everybody's going to leave. (George)

> If you look at the correctional officers, they were making 150 and up to 200 Euros a month, and then the KPS, they were 500 plus, so the correctional officers were made to look like a non-important part of the justice system. The locals that were getting say, 150 dollars a month, when they looked at the wages of the police service, who were making say 500, they're all supposed to be part and parcel of the justice system, they go well, "They don't care about us, we're not as important as them," so did it lead to corruption? Sure. (James)

Providing Security in the Midst of Insecurity

As discussed in Chapter 8, one of the primary objectives of criminal justice reform in Kosovo was the creation of a multi-ethnic system. The ethnic hatred between the Kosovar Serbians and Kosovar Albanians created challenges for those responsible for reforming the corrections system, as they struggled to safely confine offenders, and hire correctional officers from each ethnic group. Participants explained the importance of understanding what these individuals had done to one another:

> You need to accept and understand that these people have come from a period of time where trust has been broken, and their sense of personal safety has been shattered, as well as their sense of sanctity under the laws. They were attacked in their churches, people they had socialized with previously were now their enemies, and they were spat upon by the elderly and by children. Now we're asking them to set all of that aside and work with these people – either as fellow officers, or as prisoners – respecting their rights, when their own rights haven't been respected. So it's a *huge* challenge for the people, and it's easy to lose patience if you don't keep that in mind. (Ann)

This finding reflects a story Hehir (2010b, p. 190) shared, which involved an informal conversation he had with a legal advisor to the President of Kosovo. The advisor told Hehir (2010b, p. 190) that asking Kosovar Albanians to work closely with Kosovar Serbians and respect their human rights was the same as asking Jews to work with those responsible for the Holocaust. This illustrates the enormity of the task the CSC was asked to undertake in reforming the KCS to become a multi-ethnic corrections system.

CSC gratis personnel played a huge role in recruiting and hiring corrections officers for the KCS. They were extremely thorough and careful in their selection process when hiring Kosovar Albanians, as they feared Albanians might retaliate against Kosovar Serbians for their wartime losses:

A guy can stand there and say please and thank you, do everything you tell him to do in a training program, and he can graduate and be a good correctional officer. But he still knows potentially, that some of the people he's holding in the jail, are some of the people who a year ago, killed his family. So, you have to be mindful, "Is he the right person, or is he not?" So you can turn 'em out and you can send 'em, but the system needs to have some sort of self-awareness and some form of self-assessment to evaluate it. If we're going to try to hold to the ideals of these international standards … somebody has to be watching what's going on. (Brian)

There were a variety of considerations that had to be made as the Penal Management Division (PMD) balanced their aspiration for a multi-ethnic justice system with the need to safely, humanely, and legally incarcerate prisoners. Questions arose about how to interview applicants to recruit only suitable candidates. Participants spoke about the extensive interviewing they conducted with the applicants to assess their attitudes and determine their suitability for working with prisoners from the other ethnic group:

We were really selective in terms of whom we allowed in. So, depending on how you responded, if I challenged you on the fact your brother was killed, and how you reacted to that, what you did about that, if I didn't like your answer, you're not coming in. Or, if I thought that you're going to take advantage of the situation and just because a Serb might disagree with something you said, are you going to turn your gun on him then? (Dean)

Two of the on-leave CSC personnel employed by UNMIK reported that Kosovar Albanians staffed all of the institutions except for Lipljan/Lipjan, where Kosovar Serbians made up approximately 20 percent of the corrections officers. This reality meant that Serbians could not be detained in most of the KCS institutions. Although some Serbian prisoners were held in Lipljan/Lipjan, the majority was held in Mitrovica/Mitrovicë. The prison population at Mitrovica/Mitrovicë – recall from Chapter 7 that Mitrovica/Mitrovicë is a Serbian enclave – was approximately half Kosovar Albanian prisoners, and half Kosovar Serbian prisoners. Mitrovica/Mitrovicë was a challenging facility to manage given that some of the Kosovar Serbians detained on the bottom floor of the institution were being detained for war crimes against Kosovar Albanians, who were detained above them. One participant relayed a story about how prisoners from competing ethnic groups would taunt one another, and how he had to address this situation:

One of the most interesting things that I dealt with when I first got there… was every night I heard this singing. It was the whole second floor that would sing down below – they would yell and sing and then yell – and it was going on and on. Guys were really affected by it and so I got interpreters, "Come to my office and listen." But they knew what the Serbs were doing; they were singing nationalist songs. They were singing songs, "Let's kill the Albanians" and the Albanians were singing their Liberation Army stuff. They were mentally torturing each other all night, and some of them couldn't sleep because you got a guy who is crying in his cell, and the Serbs are right above him singing these songs about how "We're glad we killed your family." What I started working on was getting them to respect each other enough – because you're living in the same building – it took a couple of weeks but finally, I had agreement from all of them. (Brad)

To manage the unique situation at Mitrovica/Mitrovicë – the multi-ethnic prisoner population, and the location of the facility – the decision was made to post International Civilian Police (CIVPOL) officers to act as corrections officers at the institution. There were a variety of reasons precipitating this decision; first, there were concerns about the safe and secure confinement of offenders in Mitrovica/Mitrovicë given hostilities between the ethnic groups. Second, the environment was too volatile to allow Kosovar Albanians to travel into Mitrovica/Mitrovicë to reach the institution to staff the prison. Third, there were concerns that local Kosovar Serbian officers would be sympathetic to Serbian prisoners. The decision to post UNMIK CIVPOL officers as corrections officers created unique challenges to providing humane imprisonment, as acknowledged and discussed by participants in the next section of this chapter.

The intense ethnic hostilities and continuing violence in Kosovo impacted criminal justice reform activities directed by UNMIK. Extant literature reveals how the riots in March of 2004 negatively impacted the police and judiciary in Kosovo; however, the existing literature does not provide information about how the riots impacted the KCS. The findings from this dissertation project illustrate how the riots of March of 2004 impacted the KCS. Participants talked about how the riots led to insecurity and operational – albeit temporary – challenges for those working in Mitrovica/Mitrovicë. As discussed in Chapter 8, during the riots of March of 2004, Kosovar Albanians engaged in attacks against Serbians, other ethnic minorities, and UN, KPS, and KFOR personnel and equipment. Thus, there was concern about attacks against the institution, and attacks between competing ethnic groups within the prison walls. A grenade was thrown

over the fence at the institution, there were grenades going off nearby in the city center, and Albanian prisoners were threating to harm Serbian staff members. Many challenging decisions had to be made during the riots. Do you send staff members home to keep them safe from prisoners? Do you allow weapons inside the walls of the institution? As a staff member, do you stay and risk your own safety? Do you evacuate the prison if it's under attack? The riots of March of 2004 demonstrate how the larger societal context within which corrections systems exist, impact operations within the system.

"I'm happy to put up with … nothing to eat or drink, but I hate putting up with incompetence."[126]

One of the problems that typically plagues corrections systems in PCEs is unskilled personnel, or an absence of personnel, as identified in Chapter 4 (OHCHR, 2006, p. 20). Staffing issues arose in the KCS, as experienced Kosovar Serbians who held criminal justice positions throughout the 1990s fled to other countries after the NATO intervention (Goddard, 2004, p. 687). As mentioned above, due to an absence of suitable local corrections personnel, KFOR and CIVPOL took on correctional responsibilities. Participants voiced concerns about the abilities of both KFOR and CIVPOL to provide humane imprisonment, which reflects existing literature documenting this problem. The concern was that KFOR and CIVPOL did not possess the requisite skills and knowledge of international human rights prison standards to fulfill these duties (Strohmeyer, 2001a, p. 58). Therefore, one of the challenges for both CSC gratis staff and on-leave CSC employees working for UNMIK was providing humane and safe confinement for prisoners. In the immediate aftermath of conflict, soldiers were staffing prisons, including makeshift military prisons that were nothing more than military tents. Thus, one of the main priorities in the early days was developing a strategy to take over from the soldiers, so they could do soldier work, and so prisoners could receive appropriate supervision:

[126] Bill

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Generally speaking, young soldiers are very poor jailers. The skillset it takes to run, to be an effective correctional officer in a prison is diligence, patience, calmness, steadiness, and that's not what an infantry guy is about. (Chris)

The troops were guarding, I think it was around 250-some prisoners and you have to remember when the military goes into these particular types of situations, guarding prisoners isn't their kind of work, number one. Number two, it's not their training; they're trained to be soldiers, and any time you take soldiers away from their role, you lessen your true capabilities to do real work. (George)

Later on, CIVPOL officers became involved in staffing KCS institutions until local residents could safely take over; this practice created challenges for providing safe and humane imprisonment. Participants explained how CIVPOL officers arriving in Kosovo had to do 3-month stints with corrections, which some international police officers did not want to do. This practice created challenges for on-leave CSC employees managing KCS facilities:

Just working with police in general, never mind what country they are from, police, they make bad correctional officers. They don't really get that part of the justice system … Also, when you're talking about reform, how can you do a lot of reform when you're dealing with staff rotating all of the time? They're the worst police officers that show up in the country, they're assigned to a prison, they hate it, and they only have to stay three months. So can you imagine? Seventy officers, every day, officers were coming and going. (Brad)

Different stories were shared to illustrate participants' concerns with CIVPOL officers acting as corrections officers. One of these incidents involved the escape of thirteen Serbian prisoners from Mitrovica/Mitrovicë, which was an institution managed by CIVPOL. Another incident involved the cell extraction of a mentally ill offender. This incident made John question their skills as corrections officers, and to him, demonstrated the cultural differences in the practice of cell extractions:

There's these police officers from all different countries, the prisoner's banging on the door, … so they go open up the slot, they say, "Step away from the door," and I could kind of see the guy's face, like you can tell when people don't hear you, when they're in shock … he was shell-shocked; they had bombed wherever he was and he just went, he was mentally ill. So, they opened up the slot and he was writing on the cell doors, writing stuff … I could see the guy looking, like he couldn't even see the officer who said, "Step away!" … The police

officer opens up the door, and just grabs a hold of him, right to the back, against the wall, boom, and the other officers they grab hold of him, and they turn him around and put him in an arm lock. And to me, he's under control … he doesn't even know what's happening. I mean, one boot on, one boot off, a sock off, and he's twisted up; he's secured. The guys go in there and they toss the cell ... and then they turn him around, and they say, "We told you! Stop writing on the walls and kicking on the door!" …"Do you understand? Do you get that? You're going to be chained up for awhile." So anyways, they throw him on the bed … they've got chains, extra chains, not leg irons, so they wrap it around, it's like a hospital bed, wrap it around an ankle and chain him up like this (*motions to indicate they chain him up in the shape of a star*) and so I'm looking and I go (*shakes his head and pulls a face of disbelief*).

Similar to the criticisms voiced by Human Rights Watch (HRW; 2004, p. 14), John and other participants criticized UNMIK for accepting CIVPOL officers from countries that did not practice international human rights standards and principles, as their lack of understanding of human rights was evident in their work. Although participants did not complain about corrections advisors arriving from countries that did not practice human rights standards, Bastik (2010, p. 66) noted that it is not uncommon for international corrections advisors to be deployed to mission from countries with less-than-desirable human rights prison practices. The current findings are consistent with existing literature exploring police reform in PCEs; international advisors have arrived in PCEs from countries that do not practice the human rights standards they are supposed to teach the local residents (Baker, 2006, p. 27; Donais, 2004, p. 955).

Participants explained how throughout their time in Kosovo, correctional officers were requested from donor countries to ensure appropriately trained individuals were supervising prisoners. In 2004, a group of twenty-one American correctional officials were sent to Kosovo to assist at Mitrovica/Mitrovicë. Unfortunately, most of these officers did not have the opportunity to work in the KCS. These corrections officers were shot by a Jordanian police officer while waiting in UN vehicles in the sally port of an institution following a day of training activities. Two female officers died, as did the Jordanian police officer, and eleven people were injured, including an Austrian correctional officer.

Least Rewarding Experiences: "It was dealing with them, the UN"[127]

When asked about their least rewarding experience while conducting corrections reform activities in Kosovo, many participants identified working within the UN's bureaucratic structure as their least rewarding experience. Police officers often return from deployment abroad feeling similarly frustrated with the bureaucratic structure of the UN, and its poor management of peace operations (Dupont & Tanner, 2009, p. 145):

> It was dealing with them: the UN, and the lack of progress… It was very difficult to accomplish anything there. (Rick)

> The biggest challenge I had was dealing with the UN bureaucracy… The UN seemed to be very chaotic and disorganized once you got down to the justice level. I found that my biggest disappointment and frustration was trying to work within the system. I think a lot of that may have been because of the different nations that are involved, trying to implement ideas from different countries, and then the approval process… the other thing was that nothing was easy. We tried to implement something and I had to go up through a continuous chain of command and to come back, changed or turned down, with no justifications. So the bureaucracy and the disorganization to me, was the biggest hindrance. (James)

The existing literature explains how coordination is a challenge for the UN at many levels, which hinders the implementation of peacebuilding activities (United Nations Peacebuilding Support Office (PBSO), 2010a, pp. 16-17). The experiences Rick and James share likely reflect the lack of coordination and integration that plagues UN peacebuilding activities, and the challenges the UN experiences in trying to coordinate and integrate activities across agencies and organizations that may have competing mandates, organizational cultures, funding, and governance structures (Barnett et al., 2007, p. 53; Campbell & Kaspersen, 2008, pp. 478-482).

As Ann reflects below, it appeared as though UNMIK did not know what they expected of the corrections personnel. This is entirely possible because the UNMIK mandate was the most extensive mandate the UN had ever undertaken, which meant in

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[127] Rick

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many respects, the UN was learning as they went along (Bernabéu, 2007, p. 73). Furthermore, as discussed above, Kosovo represented the first time corrections personnel were involved in peacebuilding activities, so it is likely the UN did not have clear expectations of them:

> The UN was really re-writing their rules for a new world and it's such a bureaucracy…. Bureaucracies are slow and so that slowness of change really hampered our ability; we were there for six months before we got any money. Well a lot of work could've been done in six months! The UN wasn't really clear on what they expected from us; I don't think they knew themselves what it would look like, or what their expectation was. So really … to a large degree, it felt like I was singing solo in a choir and on many days, we were on different pages. I forget her name but she said, "Well that's because they hadn't really finalized what the song should look like." They didn't know and there were certainly competing agendas. (Ann)

One participant had so little faith in the UN system following his time and experiences with UNMIK personnel in Kosovo that he said:

> My kids are all grown up and married, working but if I had young kids now, I wouldn't let them donate to UNICEF; that's how they impressed me. It was that bad. In fact, when I see them collecting for UNICEF, I let my wife answer the door because I don't want to get involved. (Rick)

"I didn't meet too many experts..."[128]

Although participants spoke about the challenges of working in the large bureaucracy, the most intense criticism was directed at the personnel employed by UNMIK. The existing literature explains how international advisors may arrive in host jurisdictions with little or no understanding of the criminal justice system's operational issues, needs, and institutional capacities, and may lack knowledge of the local language (Dandurand et al., 2008a, p. 60). Advisors have also lacked experience with, or knowledge of, comparative law or comparative analysis of criminal justice systems to develop strategies that are appropriate and workable for the local context (Dandurand et

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[128] Dean

al., 2008a, p. 63). Participants in this study voiced similar concerns as those described in the existing literature. Many participants noted the lack of expertise among international advisors, who were also referred to as "experts." The frustrations reflected the fact that CSC personnel were there, wanting to make a genuine difference, and develop the local capacity, and they felt as though UNMIK "experts" were hindering the progress of their reform activities. Participants voiced concerns about the UN's selection process for hiring "experts." The process was said to reflect equal opportunity hiring practices, which meant people were deployed to Kosovo from systems and countries that were vastly different from the PCE, and that experts came from countries that did not necessarily practice good corrections (as noted in the previous section). Participants voiced their frustrations about international "experts:"

> I'm happy to put up with no electricity, no washrooms, nothing to eat or drink, but I hate putting up with incompetence. (Bill)

George offered insight about the definitional problems associated with the word, "experts:"

> When you use the word "experts," there are different definitions; across different jurisdictions, across different countries, about what constitutes an expert, and the view in the eyes of someone else. It's a loose definition ... I'd never really say anything untoward about anybody who basically is giving up their time, capacity, and their talent to do the things they need to do. But at the same time, some of the people that I saw, if they were even seen to be classified as experts, they wouldn't fit my frame of reference for an expert, and I'm sure in the eyes of some that met me, I wouldn't meet their definition.

Similarly, Steve shared similar sentiments about seeing people who did not fit his personal definition of "expert." He suggested that perhaps "experts" – referring to both CSC and other international staff – might be selected to participate in mission for reasons that do not reflect their capabilities and expertise:

> I think some people were sent there for the wrong reasons. I think some people were late in their careers and needed a little bit of a break from their own correctional service, or were owed a little favour from their correctional service. So they were sent to Kosovo where they may not have been the best person to send over for the job at hand. I saw that repeatedly and probably saw more people that were not experts than people who I would have considered experts.

Participants described how other international corrections advisors seemed to lack concern for developing the local capacities, and improving the environment for the local residents. Participants were concerned about this, as they recognized that sustainability is fostered through capacity development activities and tailoring reform activities to the local environment, which is a best practice identified from previous engagement in criminal justice reform activities (UN Secretary General, 2008, p. 1). International advisors' hesitancy to genuinely involve local actors and thus, develop their capacities, may reflect their beliefs that they could complete the tasks quicker and easier than the local residents could, which has happened in previous missions (Belloni, 2007, p. 106). James reflected on how frustrating it was that some "experts" were going through the motions of developing the local capacity, rather than genuinely developing local capacities:

> I've known experts over there that were in the mentoring process and the skills that they were trying to pass on, or the way they were mentoring the locals, wasn't really doing 'em any good. They would basically go through the motions; they didn't care whether the locals that they were mentoring understood what they were trying to do. A lot of them had the mentality that they're not well educated, they're not the brightest, and that type of thing, and so they didn't put a lot of effort into it. But they went over there as mentors and they failed in not doing what they were sent over there to do. That was kind of an injustice to the locals and we saw that quite a bit, and it was very frustrating. I know when we worked with the locals, we spent a lot of time with them, and we were really interested in making sure that they grasped what they needed to do as a Director or a Supervisor. We spent a lot of time with them going over different policy, and how to deal with the inmates because they came from a different culture. When the Serbs were in charge there, it was kind of a lock-up and shut up type of thing, and we're trying to get away from that.

The existing corrections reform literature documents incidents of inappropriate training initiatives. Jefferson (2005, p. 489) observed that the selection of host country corrections personnel for training-the-trainers activities conducted as part of Nigerian prison reform was based on seniority within the service. The findings that emerged in this dissertation project reflect similar concerns about the nature of the training activities that international advisors used in Kosovo. These findings suggest that greater consideration should be given to how local capacities and local ownership are fostered through corrections reform activities. Rick spoke about the inappropriate training

methods that were used by international experts that were responsible for training local residents and developing their capacities:

> The PMD's idea of involving the locals in management was we'd have these monthly management meetings and we'd all sit around the table. All the ones that were allegedly being trained to take over from us would sit around the back of the room, and someone would translate for them what was being said. To me, that wasn't a very big step forward. That was the extent of what I saw of involving them in it.

Various participants described how international actors are still involved with the KCS, but cautioned that it may not reflect the local residents' lack of desire to improve their skills and take control of the system, so much as it reflects the internationals' desire to maintain their positions and relevance. Michelle described how the younger generation of Kosovar Albanians wanted to learn, be in control, and own the reform processes but some of the UN staff were reluctant to give this up:

> I found a refusal frankly of people, of the UN staff: they didn't want them to have it. I mean they're *still* there! There are still people there that were there before I went there in the early 2000's. That are still sucking at the teat, and now it's the EU, but they are still there, and I guess the question I would have is if it has taken you that long, if you have been unable to train people, there's something's off. Who is taking a look at that? Who is taking a look and saying, "My god, all of those hundreds of thousands of dollars, millions that we've invested in that correctional system, and you international people still haven't been able to get something? That these people can't take care of themselves?" There's, I don't know. I find that really wrong, really, really, wrong.

Although there was some suggestion that international advisors may intentionally undermine reform efforts to secure their long-term relevance in Kosovo, John expressed his belief that it was unintentional:

> What struck me was that the people I had to deal with, they didn't have to potentially try to sabotage anything to stay longer, they were causing, reeking such havoc, just themselves. If they were stalling things, it was just because of how they were dealing with situations.

Participants attributed the lack of expertise among international advisors to two characteristics of the UN infrastructure. Some participants suggested it was the result of

nepotism, while others suggested it was the result of the hiring processes undertaken by the UN:

> One of the biggest things I found, and I was really disappointed with, was that there was the sense of the Old Boy's Club; looking after your buddy. The people in charge of the corrections mission were British and what they would do – because they know friends from their penal system – is they would go to bat for them to get them over. They'd be on the interview hiring panels, and they'd get selected, and come over... That was a fairly common thing: the nepotism, the looking after their buddies, and coming over because of them. Some of them, they didn't really care what happened in Kosovo; they were there for the money because the money was fairly good. (Michelle)

The participants were not supportive of the UN selection criteria; most participants spoke about the incompetence of senior leaders within the UN PMD. Leadership issues were present in the immediate post-conflict period, as the Head of the PMD had substance abuse issues, sometimes disappearing for days at a time, or winding up in the local police lock-up. It was not long before he was repatriated to his home country, and a replacement was found. Unfortunately, the replacement had issues of his own, and thus, was subject to unfavorable criticism:

> He had an attitude towards the people; he we was very demeaning towards the Albanians and the Serbs. (Ann)

Dean shared this sentiment and acknowledged the multitude of activities and responsibilities senior PMD personnel had to balance, but who nonetheless highlighted the importance of addressing the needs of the local residents:

> I don't personally think he had the Albanians' interests at heart. He was there to do a job on behalf of the UN and he was under a tremendous amount of pressure … I totally see how he was under a lot of pressure but on the other hand, I think he forgot about the people part.

Participants voiced their frustrations with the UN selection process, suggesting that the UN has so many countries under its umbrella that pay into the UN, that they are obligated to send a certain number of personnel to each mission. Participants spoke about their lack of skills, as they came from systems that did not nurture the values that the PMD was trying to establish within the KCS:

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> You get a guy from South Africa who, I mean, before apartheid, they ruled with brutality in their prisons. I mean some of the things like the way he had of managing, I was horrified. But that was his management, so how are you going to get him to have some empathy and respect, dignity, and all that kind of stuff? (Brad)

Another telling example of the problem actually comes from the police sector. James shared a story an American police commander told him, which involved a Major from the Indian military. To determine the most appropriate post for the Major, the American Commander asked him what his responsibilities involved back home; he was shocked to learn the Major was responsible for looking after the royal elephants. He did not have operational experience, or an education, so the Commander was left to figure out what to do with him.

A few participants explained how many internationals posted in the KCS could not drive, had poor writing skills, and some could barely speak English. When you receive these individuals – say as CIVPOL officers who arrive to fill posts as corrections officers – "you weren't going to get anything out of them; they were filling a post and basically, that was it" (James). This finding is consistent with extant literature investigating the challenges involved in conducting post-conflict police reform. Interviews conducted with western police officers that had participated in international policing missions revealed their frustrations with poorly trained officers arriving from developing nations who may not speak English, and may be unable to drive (Donais, 2004, p. 955).

Despite multiple reflections about negative experiences with internationals, and concerns about their abilities, there were also many positive comments. Multiple participants reflected on their time in Kosovo, and the relationships they built while there, as being one of the best experiences of their lives, or careers (as was discussed in the "Dynamics" portion of this chapter). Michelle spoke about the camaraderie among corrections staff, although recognizing her concerns with the UN as a whole:

> It was probably one of the most positive experiences of my life; it was just fantastic. Working in the institution, there's just such a – as negative as a prison can be – it's like a fraternity, there's a closeness and a bond, and there's a culture, there's a sense of humour, it can be really fun, and it was great having that. But again, with the UN, I was really disheartened with it.

In moving forward, participants spoke about the need to establish accountability mechanisms to ensure financial resources are appropriately utilized, and experts are coordinated and behaving in an appropriate manner:

> The UN threw lots of so-called "experts" into the field, and threw millions and millions of Euros at the problem, but it was very disorganized, it wasn't structured properly, so we didn't actually have the experts on the ground that we needed. The money wasn't going to all the right places; there was a lot of corruption. They need to get people on the ground that offer some sort of oversight where they can monitor exactly what's happening with the internationals because that wasn't done. (James)

"Mission Hoppers"[129]

John used the term "mission hoppers" to describe people he characterized as being more interested in the money they were making from being deployed in Kosovo, than addressing Kosovars' needs and improving Kosovo for the people. John explained how the UNMIK officials he worked with would sit around their desks, talking about their experience level, and how their employment status in Kosovo would benefit them in applying to work on the next mission:

> I've got this experience here, that means I can apply for this, I can go from a P1 to a P2 to a P3 … and they put on their cape and they flew away to another place.

Although the term "mission hoppers" only came up in that interview, many participants referred to the allure of money as a motivator for the UNMIK corrections officials. Rick referred to individuals who were motivated to participate in missions because of the money as "mission junkies." As mentioned in the previous section, some CSC staff believed other internationals were selfish in their reasons for participating in mission, and were not actually interested in fostering the local capacity:

> Many of the people hired by the UN were there for the wrong reason; I found a lot of the people were going just for the money; their

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[129] John

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motivation was the money. I found that sometimes, I didn't believe that they had the best intentions for the Kosovars. It was about, "As long as the Kosovars are incompetent, we need to be here." Even though we were supposed to be having the locals working in all of the positions with us, shadowing us, and even at NHQ, there was arrogance from some of the senior people that, "These stupid Kosovars could never do it." (Michelle)

These findings are consistent with existing PCE policing literature. Heinemann-Grüder and Grebenschikov (2006, p. 49) explained how UNMIK CIVPOL officers are rarely motivated to participate in missions for altruistic reasons (e.g., challenging work environment, to obtain international experience). Rather, more often than not, the pay motivates these officers – especially officers from poorer countries. The current findings suggest that these findings are cross-sectional, as lucrative salaries appear to entice international advisors in the corrections sector. Existing findings also suggest that poorly motivated CIVPOL personnel negatively impact organizational performance (Heinemann-Grüder & Grebenschikov, 2006, p. 49), and the current findings suggest this was also the case in the corrections sector. Participants suggested that in addition to hindering local capacity development, there was also a risk that individuals who were working for the money were teaching the local staff poor practices. As Dean discussed:

A lot of them just seemed to me, that they were in it for the money. But you also have to understand if you're in a correctional system in Africa, and you now have this opportunity, where at home, you're barely making ten grand a year, and now you come and work for the UN and you can make $60, 70, 80, 100,000 dollars a year? But they and too many of them, they brought their experiences from home with them, and I don't think it was conducive to what the overall goal was.

Participants spoke about how disappointing it was to learn that not everyone was involved in corrections reform activities in Kosovo for the 'right' reasons:

The biggest negative for me was the indifference of some of the internationals that were hired to go over there to help this country rebuild, and they went over there for all of the wrong reasons, and didn't actually make an honest effort to help the people. To me, that was probably the most disappointing thing that I saw in Kosovo, or bothered me the most. (James)

The "Dark Side of It"[130]

A few of the participants spoke about the behaviour of internationals outside of their official duties. Although it does not directly reflect the challenges that CSC personnel experienced while conducting corrections reform activities in Kosovo, it reflects personal challenges they experienced while in Kosovo for this purpose, and ties in with the overarching criticism towards the UN, which warrants inclusion. Participants of each gender spoke about what they perceived as inappropriate conduct by UNMIK personnel. Michelle brought attention to the power differentials operating between UNMIK officials (primarily men), and the local women, who were seeking a better life:

> It was kind of like men were back in college. Suddenly they had lots of money, you would see them out drinking in the bars, and picking up the local girls, and there was that real dark side to it. I struggled with it, a lot. Older men suddenly had these young girls that you know – saw the lure of the money and the hope of getting out of the country… There were middle-aged men, or older men, who may have been fooling around on their wives and taking these young girls and this is whom they're going out with … I mean these are folks suddenly getting lots of money and certainly, you get people who are middle-aged whose working life has been supporting a house, a family, and you've got all of these tasks. You know you're taking your kids here, taking your kids there, and you're working 9 to 5, and now you come to this place where you've got no responsibility, none. You're getting lots of money and there are lots of young girls, and the booze is cheap. It's, it can be a really, really, really bad mix. I found that really hard. I found that very hard and disgusting.

Michelle did not exclusively say that men were the only source of the problem; however, it was noted that the number of men far outnumbered women in mission, so it was harder to identify in the female population of internationals. John voiced concern that some male UN personnel took advantage of young local females, who he believed were seeking an opportunity to get out of Kosovo by becoming involved with international personnel (who were often quite a bit older than they were). John explained how he believed some male UN personnel took advantage of the women by engaging in intimate relationships with them, without necessarily having any intention of continuing these

[130] Michelle

relationships beyond their time in Kosovo. John spoke about the term, "UN Beautiful," and what this meant in Kosovo:

> I don't know if you've heard this term, but we called it, "UN Beautiful." Kosovo is a very patriarchal place, and … they have certain ways that they view women and it's a poor country, so certainly, guys there were seen as an opportunity…So, if they're going to get out of that spot, if they could hook up with somebody, that's great. So there were certainly, for certain people there, what I'm saying is, they were "UN beautiful." The guys coming there … there were lots of young guys there, but there were also middle-aged guys there, and in Europe, in that type of culture, you could be 50 and you could be with a 23 year-old. Remember, you need language assistance, so here's your language assistant, so yes that certainly happened.

Inappropriate behaviour committed by UN personnel in mission is not uncommon, so these findings are consistent with the existing literature. Although the above excerpts do not reveal allegations of sexual assault, or utilizing the sexual services of trafficked women – as documented by Groves et al. (2009) and Godec (2010) – they reveal the "dark sides of humanitarian intervention" (Godec, 2010, p. 258), and suggest how easily internationals can abuse their positions of power, status, and authority while abroad. These findings may suggest that the problem is cross-sectional, as previous literature documents the misbehavior of peacekeepers (Amnesty International, 2004; Godec, 2010; Groves et al., 2009) and the current project suggests these issues may also arise among international corrections advisors.

Lost in Translation

Participants spoke about the importance and value in having an Albanian-speaking CSC gratis personnel member on their corrections team. This individual was born in Kosovo (he relocated to Canada as a young adult), and he had an extensive understanding of the local context, and could speak one of the local languages. This individual was actively involved in the recruiting and training process, and was able to translate job postings, training materials, and testing materials from English to Albanian. These tasks were invaluable given that CSC gratis personnel learned that there are certain corrections terms you cannot translate directly into Albanian. The remainder of the CSC personnel had to rely on interpreters while conducting corrections reform

activities, which created challenges for them. They often reflected on whether they could trust UN translators, and the information they were given:

> The UN had a bank of interpreters who they recruited, so they were available, but there was always uncertainty about whom you could trust. (Tom)

Participants also noted that the prevalence of corruption in Kosovo led to issues with interpreters:

> Some of these prisoners you have are very high-risk people with a lot of connections in the community, so it was very hard for the interpreters. It must've been hard for them because of all they had to do, and it happened lots of times, they'd threaten them. (Brad)

> There was always that overarching thought that you never knew exactly what was going on because of language barriers; they let you know what they wanted you to know … I had this confirmed some years later because I became very close with one of our translators, with our language assistant while I was there. I recall one day we were sitting in on interviews … and at one point he said, "Maybe we should leave, let's go take a break." We'd been there for a while, so I didn't think anything of it … but quite some time later he said, "I gotta tell you something … Remember that time when I asked you to leave? When I suggested we leave? It was because one of the interviewers at that point had asked me in the Albanian language to take you out of the room. They knew that the person that was being interviewed wasn't going to do well during the interview and wanted him to pass anyways." So basically, I was shuffled out of the room so that I wouldn't know what was going on because they didn't want to put the translator in the position where he'd have to lie about the translation; they just thought it would be easier if I wasn't there. So the language barrier was definitely something that was a challenge. Knowing that you never got the full picture all the time was also something that was difficult to deal with, with the local people. That's something that ties into corruption that's been going on for many years and is still part of their society, and probably will be for some time to come. But other than that, the experience was very positive working with the locals. (Steve)

Participants also reflected on how at times, poor translation was not intentional, or a reflection of corrupt practices, but rather, a lack of understanding of meaning:

> Words are words but trying to tell them different thoughts or reasons for why you would do something. The interpreter couldn't really explain that to them, whether it's that their language didn't have that

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kind of wording, or thought process to pass it along. So that was kind
of frustrating because sometimes you'd think the way they were
looking at you after you'd spoke through the interpreters – the deer in
the headlights look, really confused – that they had no idea of what
you were saying. (James)

These findings suggest that similar to how the Afghan language has no
equivalent concepts to "buzzwords" such as corruption, tribalism, and democracy
(Stewart & Knaus, 2011, p. 11), some corrections-related words and meanings did not
always translate well into the Albanian language and culture. These findings may also
reveal that similar to Nigerian corrections officers in Jefferson's (2005) study, the
principles and meaning internationals were trying to convey were contradictory to the
cultural ethos of the organization, which made it difficult for officers to understand the
message the interpreter was sharing. These findings provide support for assessing the
local context and capacities, and developing an understanding of how – or *if* it is
possible – to implement Western values and practices into environments with different
cultural norms and practices (which is explored in Chapter 11). Steve explained how
translation became easier over time, as increased exposure to the terminology meant
that the local residents' understanding increased:

Some of the challenges were asking them to interpret or translate
terms that were never part of their vocabulary before … So it was a
challenge but it's one of those things you worked through, and the
more you worked with a group of people with certain terminologies,
the sooner they'd grasp it.

Living Life in the Fast Lane to Watching Paint Dry[131]

Up until now, the findings presented throughout this chapter have reflected the
dynamics and challenges participants experienced while deployed abroad, rather than
those they experienced prior to, and following, their time in Kosovo. The frequency with
which "job shrink" was experienced by participants interviewed for this project

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[131] This title combines phrases that Erik and John used to describe their experiences with job
shrink upon returning to Canada.

necessitates its inclusion in the findings, despite not being a challenge participants experienced while conducting corrections reform activities abroad.

International personnel who have difficulty readjusting to their pre-deployment positions are said to experience "job shrink," a term Canadian police officers have used to describe the challenges they experience when they return to their home positions after serving abroad (Muise & Rankin, 2002, para. 19). Job shrink reflects the reality that international advisors abroad are often given greater authority and responsibility than they have in their positions with their regular organizations. Upon return, they have trouble adjusting to their old, slower-paced employment routines that lack the challenges that were present throughout their deployment (Dupont & Tanner, 2009, p. 144). The findings from the current project are consistent with existing literature documenting the reintegration experiences of police officers that have served abroad. Many participants took on leadership roles while in Kosovo, possessing authority and responsibilities far above what they had in their respective positions with the CSC. Given this reality, it was not surprising that approximately half of the participants in the case study reported experiencing job shrink upon returning to Canada. Both CSC gratis personnel and on-leave CSC personnel hired by UNMIK described their experiences with job shrink.

John spoke about the challenges he experienced in reintegrating back into the CSC at his old post. He had been running a unit in the KCS, and returned to a lower authority position in the CSC, which made it difficult for him to return to his old duties:

> The stuff I'm doing at work, it's like, man, it's like watching paint dry because your adrenaline is just going crazy … You're still wired up.

Similarly, when asked if he experienced job shrink, Erik said "Oh yeah, absolutely. It's 100 percent true," and he explained how difficult it was for him to go to back to the CSC in a position far lower than he held overseas. Ultimately, the mundane and unchallenging work inspired him to go after new career opportunities. This finding is consistent with research exploring the experiences of Canadian police officers that experience job shrink when they return from being deployed abroad. In Dupont and Tanner's (2009, p. 144) study, a provincial police manager explained how officers return and view their old posts as boring and not challenging, which ultimately results in officers applying for other positions or resigning.

James also experienced job shrink upon returning to Canada; this was a consequence of losing the autonomy and authority he held in Kosovo:

> You're working your position where you have a set of duties that you do and your authority is very limited, your input is very limited, then all of the sudden you go, "What's different here? I could do this over there, and I did it well, and then you put the blinders on me again, and I'm very limited as to what I can do"… So it became very boring.

Steve experienced job shrink upon his return, feeling much less important in the job that he did in Canada given the large number of responsibilities he held in Kosovo. Self-admittedly, Steve said that when he returned to Canada, he thought he could "run the whole bloody joint." With the passing of time, Steve acknowledged his naivety in believing he could run the CSC, and said he was in the right position upon his return:

> I came back in a position that I needed to be in, and I truly wasn't qualified to do anything more than what I was doing at the time. But in my mind, based on what I'd gone through, I really thought I could probably run the entire correctional service. That lasted for a while but as you re-acclimatize yourself to your job in Canada, you slowly come to realize that you don't know as much as you think.

The experiences described throughout this section suggest that CSC corrections advisors, similar to the police officers surveyed in Dupont and Tanner's (2009) study, have unique needs and skillsets upon returning to Canada. Further consideration should be given as to how corrections advisors are welcomed back by the CSC, how the officers' new skills are utilized by the organization, and how the CSC facilitates the officers' transition back into their old posts.

In contrast to the experiences shared above, the remainder of the participants did not report experiencing job shrink upon their return to Canada:

> It was just the opposite; I take a certain level of small pride in the fact that I helped – along with others – kind of chart the course in "getting into the business." There were so many lessons learned that were considered and consumed into the way we do business now. (George)

These participants also spoke about the benefits they derived from their time in Kosovo, including personal growth:

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> The Kosovo experience enabled me to realize that I wasn't fulfilling my own capacity as an individual or within my work environment; I was kind of treading water a little bit, so I applied for a more senior position. (Ann)

> I also learned some valuable personal lessons about myself when I was over there, about what we have in Canada, about what we take for granted; the freedom that we have. Before I went, I remember hearing about how lucky we were and all that, but when you place yourself in a situation like Kosovo, and see how other people live in other countries, you come to realize there's more to those messages than the words; there's a lot of truth to them. So personally, it was a significant personal development experience for me, one that I've never forgotten. (Steve)

Similarly, participants discussed how their time in Kosovo changed their perspectives towards their work for the CSC. Ann said her time in Kosovo helped her develop a more positive perspective towards her responsibilities:

> When I'm moaning about workload or finances, I can remember that there are other environments where they're doing far more with a lot less and we really are spoiled here in Canada.

This finding is consistent with the findings from Dupont and Tanner's (2009) study. These researchers found that police officers often return from mission and feel "lucky to be members of well-resourced organizations whose management was supportive, and [these officers] were quick to admit that they were more reluctant to complain after having experienced extremely chaotic situations" (Dupont & Tanner, 2009, p. 145).

Conclusion

As noted throughout earlier chapters, international advisors encounter and experience a variety of dynamics and challenges in conducting rule of law reform activities in PCEs, which may undermine the success of reform activities. Participants identified a variety of dynamics that impacted the corrections reform activities they engaged in while in Kosovo, including the peculiarities of the correctional context, the applicable legal framework, extensive local buy-in, widespread corruption, gender inequalities, and insecurity within the KCS. Participants also spoke about the importance of developing relationships to move reform activities forward in post-conflict Kosovo. The

other dynamics captured the interpersonal nature of conducting corrections reform activities in Kosovo, including helping and working with the local residents, and the personal insecurities resulting from their work.

Participants experienced many challenges in conducting corrections reform activities in Kosovo, including securing attention and adequate funding, and providing for the safe and secure confinement of prisoners. Human resource challenges were plentiful; participants voiced concerns about the UN using untrained KFOR and CIVPOL officers as corrections officers. Participants expressed how their least favourite experience in conducting corrections reform activities in Kosovo was working within the UN structure, and with UNMIK personnel. The bureaucratic nature of the UN made progress difficult to achieve, and the lack of expertise among UNMIK "experts" created challenges for CSC personnel. Participants also explained the challenges that arose as a consequence of language barriers. Lastly, participants spoke about the interpersonal challenges they experienced when they returned to Canada, a phenomenon known as "job shrink."

Most of the dynamics and challenges that were discussed in this chapter reflect existing literature in other criminal justice sectors. These findings contribute to the ever-expanding academic literature exploring criminal justice reform in PCEs, and additionally, they provide invaluable insight into the oft-neglected corrections reform sector.

CHAPTER ELEVEN: GROWING ROSES IN THE ARCTIC

> *I think that what they wanted to do is stop the shooting and what they discovered is that they've adopted a child now.*
>
> *(Chris)*

Chapter Overview

As discussed in Chapter 3, there are a variety of criticisms directed at liberal peacebuilding. These criticisms are woven throughout this chapter, which describes the themes that emerged from the data with respect to participants' perceptions about the appropriateness of using UN and international human rights standards and principles in Kosovo, and other post-conflict environments (PCEs). Five key themes emerged from the data, including support for external intervention and liberal peacebuilding activities in Kosovo, the importance of assessing the environment to determine its amenability for reform, developing appropriate objectives and timelines for reform activities, and respecting the local cultural values while implementing UN and international human rights standards and principles. Lastly, participants suggested the UN did not set a great example for Kosovars, as their behaviour was not always in accordance with the values they sought to establish in Kosovo.

"The light shines the brightest when there are dead bodies"[132]

Most of the participants were supportive of the external intervention in Kosovo, and the liberal peacebuilding activities that followed. A few of the participants argued that external intervention was required on the basis of moral grounds, which reflects the post-Westphalian perspective of external intervention in the affairs of sovereign states.

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[132] Brian

Proponents of the post-Westphalian perspective argue that states only maintain their sovereign rights if they satisfy their responsibilities to their citizens, which includes protecting them from major international war crimes (Bellamy, 2010, pp. 38-39). As Brian and Chris allude to below, the international community has the responsibility of intervening to address humanitarian concerns when a state is unwilling or incapable of fulfilling this responsibility (Warner & Giacca, 2009, p. 291):

> I think because of the nature of some of these places, if you don't intervene, their way of resolving situations involves the piling up of dead bodies, and if you want to stop the piling up of the dead bodies, you've got to try to find another way, and if our way works … (Brian)

> NATO's decision was - they took moral ground; "We have the ability and the moral obligation to intercede, so we will, and we'll straighten all of this out after the fact." Now, let history be the judge – was that prudent? Or not? And the answer is, if you have the ability to diminish human suffering, it seems to me that that's a two-sided coin. If you have the ability, then you have the moral obligation if you can. (Chris)

Chris explained how technological advances have changed the dynamics of contemporary interventionism, and strengthened the moral obligation to intervene:

> Prior to the invention of an effective camera, and the ability to transmit images virtually simultaneously, you could have tons of massacres going on around the world that people either didn't know about, or the dissemination of images happened so long after the fact that the need for immediate intervention was not there. But with live TV, when you're sitting around watching stuff go on - that is just tough to gag down - and if you feel that you have the ability to intervene, and go and do something about it, the emotional… There's a compelling emotional need to act, and this in the history of the human family is relatively new. To sit there and say, "Gee, we're not going to do anything because we might run into administrative quagmires down the road," sounds like a pretty emotionally dissatisfying argument to not do something.

Although supportive of external intervention in Kosovo, many participants voiced uncertainty about the liberal peacebuilding project. Their concerns are consistent with existing literature that highlights issues with the liberal peacebuilding project. The participants' uncertainty reflects how ultimately, as Paris (1997) suggests, post-conflict peacebuilding is an "enormous experiment in social engineering – an experiment that involves transplanting Western models of social, political, and economic organization

into war-shattered states in order to control civil conflict" (p. 56). The current findings indicate there are a lot of "unknowns" when it comes to external intervention and post-conflict peacebuilding activities, which reflects the reality that a formula that explains how to successfully transition societies from conflict to sustainable peace does not exist (Paris, 2009, p. 98). Chris shared his opinions about the experimental nature of external intervention, and how the realities in these situations may dictate new and initially unforeseen activities:

> Sometimes in life, that which we go after ends up being - the forces of the universe that were unforeseeable take over - and new things happen. At the initial stages of the game, the goal wasn't an independent Kosovo; the goal at the beginning of the game was to stop the genocide, and how well did we do it? Stopping the genocide? Very well, thank you so much. The problem is that now that you have wandered into the boggy swamp, and the genocide has been managed, if you just pack up and leave, chances are pretty good that the Serbians will reemerge very foul-tempered. So, I mean, I think that you go in to do "x" and while you're in to do "x," you discover that, "Wait a second, now where are we?" So when you have these debates of saying - I don't know if you've ever heard Colin Powell's comments on Iraq - "getting in is easy, how do you get out?"

Tom's opinions are more akin to Paris' (1997, p. 56) concerns in that he referred to the experimental nature of implementing Western values in Kosovo, and the potential consequences of this practice:

> Deciding to go in – should you go in, and get involved in the culture? It's like trying to change a time capsule; you're messing with an unknown situation that may have its own level of balance. By going in and intervening, you may just upset the apple cart, which you may not be aware of. Just the fact in Kosovo, it would've been Serbian now; I'm not sure what would've happened to all of the Albanians. But essentially, we changed the course of history by intervening. So, you tip the natural balance and in the long run, this may prove to be difficult. We can get into situations and sometimes; we can create more problems than solving solutions. You look at Africa, the Middle East, those are countries where the "big" countries have left them, and they left them with unstable systems that continue to experience upheaval.

Made in Kosovo

Most participants were supportive of liberal peacebuilding in Kosovo; however, they stressed the importance of exercising caution when deciding how to go about intervening in the affairs of other states:

> We should never take on those things naively because we have the right values, the Crusader mentality, and because we're bringing Christianity. It's more complicated. The big question for peacekeeping is when to intervene, and how much to intervene. We need to understand the bigger concept in terms of what works in influencing cultures, in terms of deciding when, how, and how much to intervene. Without understanding these important factors, is it safe or fair to intervene blindly? (Tom)

One of the reasons why participants believed reform efforts in Kosovo were appropriate is because the local residents supported the North Atlantic Treaty Organization (NATO) intervention (as discussed in Chapter 7), and the majority of the population (Kosovar Albanians) welcomed the international community's assistance in the aftermath of conflict. Participants spoke about the importance of having local support and buy-in when assessing whether intervention is appropriate within a particular context:

> They wanted the Canadians in, the Americans in, the Western countries, and there's a very small amount of people there who did not want the Western countries and their representatives in. They wanted help, they wanted the people, and they wanted other countries to help them start up their correctional system, their new laws, and their infrastructure altogether. It's not like they didn't want anybody there, they wanted people in, and they wanted help. (Erik)

> When a country expresses a need or a desire for democratic values, and acceptance within democratic societies using democratic norms, you have to start somewhere. Sometimes the learning is difficult and sometimes it requires a real paradigm shift: a shift in thinking. But it was necessary for them, for Kosovo, and I think it was the best approach to take in Kosovo. (Steve)

One of the criticisms of liberal peacebuilding is that the international community engages in these activities without considering whether the host country is amenable to the proposed liberal democratic model (Bellamy & Williams, 2010, p. 277). The findings from the current study suggest the importance of doing so. Nearly all of the participants

stressed the importance of assessing the local context in deciding whether to intervene, and how to go about doing so. Participants described the importance of assessing the local context because not every environment will be amenable to reform. The most frequently cited comparison to illustrate differential amenability to reform was the difference between the environmental ripeness in Kosovo, and that in Afghanistan. Although optimistic about the role of post-conflict peacebuilding in certain PCEs, such as Kosovo, many participants expressed pessimism about striving towards UN and international human rights standards in other environments. Steve and Tom question the applicability and transferability of UN and international human rights standards and principles in environments with vastly different cultural contexts and social mores:

> I'm not sure that in every country, this would be the best way to go. I'm not sure that in Afghanistan, this is the best way to go, or if in some of the other Islamic countries, if it's the best way to go because there's different factors that are at play there. But I honestly believe that in Kosovo, it was definitely the right thing to do. To tackle it early on as we did… I just have opinions in other countries and I just see in some of the Islamic countries - in Afghanistan - there's a different mentality at play, there's different laws at play, there's Sharia law, there's country laws, there's the UN principles and standards. I'm not sure that in countries like that, you should move too quickly. That's just my opinion and I think that you have to be very careful, and I'm not sure that the approach of moving in there like we did in Kosovo, that it's necessarily going to work. There are so many factors at play in these Islamic countries; there's the hatred of the Western world for example, and in Kosovo, we didn't have that. We had a much more accepting people, we had a much more, they were like a sponge, they wanted to soak it all in, they wanted to make changes. We dealt with the challenges but the overarching desire was there to change in a positive way, so I think the pace we went at it was very adequate. I just don't think in other countries – where there are so many other factors at play – that this cookie cutter approach is the best way to go. I'm at a distance and it's an opinion again, but in Afghanistan, the progress, even at this point, when compared to the same point in Kosovo, where we were when we did this in Kosovo, it's just, I think it's not where we were. I don't think all the challenges have been considered, or dealt with, and I do believe that we're really trying to force things too quickly. (Steve)

> But now I have to question in some areas, like Afghanistan, if we're not setting them up for failure. The cultures are very much different; so, are we essentially setting them up for failure once the international community leaves? You have to wonder given the vastly different cultural moral beliefs and values that we possess. But also, were we looking to squash only terrorism? Or, were we genuinely concerned

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with reforming institutions to create a more humane system that will have long-term effects? What was the objective of the intervention in the long run? (Tom)

Chasing Pipe Dreams[133]

In reflecting on the objectives the international community sought to achieve in Kosovo, many participants indicated that the timelines that were put in place were unrealistic given the ethnic polarization that had characterized Kosovo for hundreds of years. These findings are consistent with the existing literature that explains how one of the greatest challenges in fostering democratization in PCEs is short donor timelines (Lappin, 2010, pp. 181-182). As Brian and Steve reflect, given the realities in Kosovo, it was unrealistic to think that the objectives the international community were seeking to achieve, could be quickly met:

> In Kosovo, it's going to take some time and I know it's been 10, 11 years, 12 years, but it's just going to take some time for it to fully function the way that the international community hopes that it will. In spite of all of the efforts that the international community has put there, you're swimming against a very strong tide of histories and traditions. That's a very important aspect to Kosovar culture – whether you're Serbian or you're Albanian. To this day, the problems that go on in the North, those divisions date back to the 1300s, and to think that after 12 years, they're going to be changed the way the international community wants them to be changed. I think that's a real pipe dream because it's not within them as a people to make changes this quickly. (Steve)

> The angst and the hatred… We've been around for 200 years and this has been going on since the 1400s, and I don't know how you outbreed the hatred out of the people. How do you generationally remove those issues? Sticking a bunch of 20 year-old fresh-faced guys on every street corner with a rifle, getting people to behave? It's a short-term solution that in this case, has gone on for 15 years, and the only reason they're still standing there is because there's probably still enough hatred and anger that they can't leave. Because if they leave, it'll just be chaos, and it'll be the people we saved the last time, that decide to seek revenge, and go and kill all of the people who were killing them 15 years ago. (Brian)

[133] Steve

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Participants recognized that they needed to be patient in conducting corrections reform activities in Kosovo. Therefore, they viewed their role as one of introducing new concepts to Kosovars with the hope that these ideas would eventually be embraced over time. James spoke about the importance of finding local champions to advocate for change, which the existing literature says is one way to increase the likelihood that criminal justice reform will be locally owned and effective (Dandurand, 2005, pp. 6-7):

> You're not going to change hundreds of years of beliefs and all that within a year or two years. So you've got to plant that seed and I think that if you can get certain individuals - the stronger personalities – to believe in it then eventually it's going to take root, and it's going to work its way up and through the system, and for the better. But it was definitely a challenge; it was very eye opening for me. You figure you're going in and you've got this expertise, and they're all going to sit there, and you know there's going to be difficulties but you figure for the most part, that they're going to embrace it. For the most part though, it's difficult for them to embrace it whether it's because of their religious belief or because of their gender. It makes it very difficult with one of the biggest problems being, realistically, that eventually we're going to leave … so then the locals are either going to embrace what we did, or they're going to revert back to the way they did it. So basically, what we can hope for, is that they basically meet somewhere in the middle and that eventually, it will evolve into a higher international standard for them. Thinking that we're going to go within a space of a year, or two years, or whatever it's going to be, and change, reform the system to bring it up to international standards, I think that's a little too pie in the sky. (James)

> It's scattering the seeds of change, and hoping that one or two will germinate, and sprout something that can sustain the society. There was openness and a willingness that I saw among the people in Kosovo, a recognition that what had been, wasn't working well for everybody, and a need for change. It's a difficult environment, and yet it's an environment that's right for that kind of positive evolution. (Ann)

Chris suggested that the real impact of the international community's involvement in Kosovo would not be seen for hundreds of years:

> In a social environment where people's memories go back hundreds and hundreds of years, and where there's a visceral tension, we need to wait two or three hundred years to see how well this situation worked out because the Serbs will not have forgotten it.

There was support for his assertion, as a couple of the other participants explained how North American societies have required many years to become democratic societies. Thus, PCEs should also be given a reasonable amount of time for democratic values to flourish:

> I think it takes it's time: the Americans were at the moment of trying to push their brand of democracy and human rights and all that, which is good, and it works over here, but everyone forgets that we evolved to that status. It's not that long ago here when women couldn't vote. That's just one example; in Muslim-type countries, they're a long way away, and to think that that's going to happen overnight? Someone's smoking something real different. (Rick)

As Steve suggests below, the international community should consider setting more realistic objectives, imposing smaller goals:

> Implement small changes at a time – don't overwhelm them. Because with them, it represents significant change in the way they have been doing things, so be patient, don't overwhelm them, do things in small increments, and involve them. Involve the local staff – the ultimate goal is always turning this thing over to the locals at some point.

As this section has illustrated thus far, participants believed patience and time were required to see democratic values come to fruition. In addition to recognizing the importance of time in facilitating democratization, participants also recognized the importance of implementing gradual change. Combined, these findings appear to suggest that Paris' (2004, p. 179, pp. 187-207) Institutionalization Before Liberalization (IBL) peacebuilding strategy may be an effective way to improve the success of peacebuilding activities, as it is a slower-paced peacebuilding approach that focuses on establishing security, stability, and effective political and economic institutions before promoting economic liberalization and democratization.

Dean made an interesting observation when he noted that the incompetence of United Nations Interim Administration in Kosovo (UNMIK) employees (as discussed in the previous section) might be the reason why timelines were difficult to meet:

> I certainly think though that the UN was over-ambitious in terms of their timelines they gave themselves. I think they really underestimated how long it was going to take. Okay, so I made that

statement but I think it wouldn't have taken as long if they actually had the right people in place who actually gave a care about people.

"Someone's smoking something real different"[134]

One of the primary criticisms of post-conflict peacebuilding is that it is a Eurocentric practice, involving the promotion of Western liberal democratic values at the international level without due regard for the appropriateness of imposing these values and practices in PCEs. Participants' criticisms regarding the imposition of Western liberal democratic values in PCEs reflect existing literature documenting concerns about this practice. As Rick and Ann reflect below, liberal peacebuilding activities may not be appropriate in every environment, because as the findings throughout this chapter illustrate, and those in the existing literature also demonstrate, some host countries may have their own customary modes of governance, economic models, and traditional forms of justice that are more suitable for use in PCEs (Bellamy & Williams, 2010, p. 277; Department of Peacekeeping Operations (DPKO), 2006, pp. 21-22). Participants were critical of the practice of imposing Western values in PCEs, and questioned the viability of this practice. Rick questions whether international actors can promote democracy in foreign lands:

> Well just to give you the most telling example: we were supposed to be there to help them rebuild the correctional service, but using ours as a model, and we had some difficulty with that. It's like democracy, it's like a delicate flower that won't necessarily … think of democracy as a rose, and it won't grow in the arctic, okay? (Rick)

> I'm very critical of the US and their drive to impose democracy, as they know it on the world while there are other ways of ruling, controlling, and sustaining people that have worked in some cultures for a very long time. There's a certain ego stance around imposing our way as the only way, or the right way, so I think you need to be very open to the potential for even the democratic way evolving and changing. (Ann)

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[134] Rick

Participants were aware they were sent to Kosovo to establish democratic values and practices into the Kosovo Correctional Service (KCS), as part of the larger rule of law project. They engaged in this task with reservations, as they recognized that it was not a simple process of transplanting their values and ways of doing things into another environment:

> They had given me the United Nations Standard Minimum Rules for the Treatment of Prisoners, and I'm like, "Well, that's pretty basic. There's nothing here moving mountains, it all seems pretty normal." But I don't think that we can heap everything on somebody else that is ours, and expect them to just choke it down because we walk in waving the Canadian flag going, "We know what we're doing, and we're good!" (Brian)

Similarly, Michelle and George acknowledged that Correctional Service of Canada (CSC) personnel were not in Kosovo to strictly enforce the CSC's way of doing 'good corrections' without regard for the cultural differences that existed in Kosovo:

> I think that it's okay for the UN, or for West, to come in and try and put something in place, but they have to understand the environment that they're coming into it, and that you don't replicate our own systems. We learned that; I mean, some people would come and they'd just take our policies and just change CSC to Kosovo. Well, we learned that we couldn't do that. So what I did, I just took that and it was my framework, so I would say to the locals, "Okay, so for searching, how would you do it? Show me how you would do it." … We can give some guidance but we have to be very aware of the culture, and it's more the culture than anything that we need to be respectful of. (Michelle)

> We're not looking to reform and shove down a "Made in Canada" program; we're building in the Kosovar context. Taking into consideration their norms, their mores, their social rules, their values, and working to build as I say, basically start a correctional system from scratch in many ways. (George)

These findings demonstrate how participants questioned whether international actors could promote democracy through external intervention, and recognized that democracy has to be more homegrown. These findings also demonstrate how international actors can exercise discretion and good judgment by incorporating local practices, values, and beliefs into the reform activities to find an appropriate balance between Western standards and practices, and the local context. These findings suggest

that CSC personnel attempted to foster local ownership in reform activities, which is a best practice for rule of law reform activities. These findings also suggest that the criticisms of liberal peacebuilding are not always founded at every level. Concern has been voiced about the lack of local ownership of liberal peacebuilding activities (Newman et al., 2009, p. 4), as well as the over-centralization and externalization of decision-making during these activities (Pugh, 1995, p. 338). Although these criticisms are valid in terms of larger governance structures (such as when the UN acts as a transitional administration), when it comes down to the local level activities, such as those involved in criminal justice reform activities, it is possible that international advisors can mitigate these criticisms by following best practices and involving local actors, thereby encouraging local ownership. What the above findings suggest is that international advisors have the ability to foster local ownership, provide the local residents with a voice in the process, and tailor practices to the unique country context, which may foster change at the local level.

"UN"-exemplary behaviour: "The enemy, Sir, is human rights"[135]

As discussed in Chapter 8, the UN and its personnel do not always demonstrate exemplary behaviour for the local residents to follow. Their behaviour does not always reflect the values they seek to impose; for example, UNMIK was an authoritarian structure designed to promote liberal democratic values in Kosovo. As discussed in Chapter 3, the failure of the UN to follow democratic principles in striving to establish democracy and the rule of law abroad is one of the greatest criticisms of post-conflict peacebuilding. In the example that follows, Brad describes how the Penal Management Division (PMD) was established to promote the rule of law, respect for the dignity of others, and humane treatment, and yet these values were not always exhibited by internationals:

> I'll give you an example from the institution. American police officers were coming as escorts to take these guys to court, and in our

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[135] Brad

detention centre, we had a very difficult guy. They came to get him, and I had said he was disruptive, he was out of control, he was not in a state suitable to go on an escort, so I had said to the police officers, "Just give me a couple of minutes." I didn't explain what was going on because I wanted to go speak with him myself because you don't always get all of the information. I went and I talked to him, so I go back down and I say, "Just give it five minutes and then we'll go," and they were like, "What the fuck's your problem? Why aren't you giving us this guy?" And I said, "Because I'm trying to make your day go a lot better. He's really upset and it's about a family issue, a visit issue, his family is to come from the other side of Kosovo, they're coming today, he didn't know he's going to court, so I just want him to be able to phone the family to say, "Don't come," and then he'll be okay because he's upset because his family will be travelling all the way, and they don't have any money." And these guys said, "Are you fucking crazy? Give us that fucking idiot right now!" That's the way they talk! "We don't give a fuck about him" and in that language, to me, as a Director. "We don't …we'll take him whichever way he wants to go. We don't give a…" Using that language, and that arrogance, and in front of my staff - who I'm trying to teach these things to. That was a real experience for me, and I refused, and I said, "No, just wait. We'll solve this problem" and I turned around and said, "You'll get him when I give him to ya? How's that?"

Another example provided by Steve illustrates how UNMIK International Civilian Police (CIVPOL) officers were willing to violate UN and international human rights standards in conducting their duties as corrections officers:

> There was a time when we had a very difficult inmate; a young inmate that had mental health issues and he'd go on and on, trash his cell, beat on the bars, and this young man had more stamina than any other inmate I've run into. He could keep that type of behaviour up for hours and hours, and it was very irritating. I had a couple of police officers from Egypt and at one point they came into my office and they said, "Sir, we can quiet him down but we have an enemy in quieting him down." "What do you mean you have an enemy in quieting him down?" "The enemy, sir, is human rights." "So, you're suggesting to me you're prepared to go quiet him down by not respecting human rights?" "If that's what you choose sir, we'll do it." And I said, "You know we have to ground ourselves back into policies and expectations and the code of conduct and that's not an option, maybe in Egypt it is…" But it never happened; nobody ever laid a hand on that young man but they would have if I had given permission.

The findings presented in this section are consistent with existing literature that has found that the international community may use illiberal means in its efforts to secure liberal peace. Existing research evidence suggests that UNMIK modeled poor

behaviour for the Provisional Institutions of Self-Government (PISG), undermining its own objectives while promoting democratic transition and security sector reform (SSR) in Kosovo (Bernabéu, 2007, p. 77). Further, there were multiple allegations of misbehavior against individual UNMIK personnel, as described by Ryan (2010, p. 122), Groves et al. (2009, p. 203), and Godec (2010, p. 246). If the UN as an organization, and its hired personnel, are not respecting the values they seek to establish, how can they expect the local residents to learn, internalize, and follow these values? This inappropriate behaviour may minimize the international community's legitimacy in the eyes of the host country, which is problematic, as a lack of legitimacy hinders the success of reform activities. When incidents such as these occur, questions arise about the UN's accountability, as it is "not itself a party to, among other things, the human rights treaties negotiated under its auspices" (Chesterman, 2009, p. 1511), which is ironic given that this means lawless processes may be used to promote the rule of law during peacebuilding activities.

Conclusion

Participants' perceptions about the use of UN and international human rights standards and principles in Kosovo and other PCEs have been explored throughout this chapter. A variety of themes emerged, including support for external intervention and liberal peacebuilding so long as the local context is considered at each step of the process. Additional significance was attached to identifying appropriate objectives and realistic timelines for reform activities to take root, as well as respecting the local cultural values when implementing international standards and practices in these environments. Lastly, participants voiced their concerns about the example the UN and its employees set for the Kosovars, as they did not always exhibit and foster the values they were seeking to establish. The implications of these findings are presented in Chapter 12.

CHAPTER 12: IMPLICATIONS AND CONCLUSION

Chapter Overview

External interventions have increased substantially in the post-Cold War era and have become more complex. The focus has shifted from the international community conducting border and ceasefire-monitoring activities to conducting peacebuilding activities to establish market democracies (Bernabéu, 2005, p. 88; Herrhausen, 2007, p. 1; Matheson, 2001, p. 76; Stover, 2002, p. 509). As the liberal peacebuilding project has continued to expand, it has become increasingly important to engage in reflection about "what works," given the human and financial costs of failing to understand how to engage in successful peacebuilding activities in post-conflict environments (PCEs). Further, the normative and ideological assumptions underlying the practice of peacebuilding must be questioned to understand how, and *if*, liberal peacebuilding contributes to human security in states subject to external intervention (Bellamy, 2004, p. 23, p. 24). This dissertation case study was conducted to explore both of these dimensions, as it is necessary to understand "what works" in liberal peacebuilding given that these activities will likely continue to increase. But similarly, critical research must assess whether the liberal peacebuilding project is the most appropriate means by which to engage in external intervention to address human security and conflict prevention within PCEs, or whether alternative methods may be more applicable.

In seeking to contribute to the "what works" literature on liberal peacebuilding, as well as question the normative, liberal assumptions underlying this practice, I decided to conduct a case study of corrections reform activities in Kosovo. Corrections reform activities play a vital role in establishing the rule of law in PCEs, and yet in stark contrast to the academic literature written on judicial and police reform activities in PCEs, very little academic attention has been devoted to corrections reform activities in these environments. Although there is a marked absence of academic literature exploring corrections reform activities in PCEs (Aitchison, 2010, p. 78), there are multiple practitioner handbooks and toolkits that identify programming options and strategies (e.g., vetting, legal framework reform) to address the operational realities that exist in these environments (e.g., overcrowding, poor prison conditions) (Bastik, 2010, p. 18).

Through a research methodology conducted within an interpretive constructionist framework, this dissertation project revealed Correctional Service of Canada (CSC) personnel's experiences while conducting corrections reform activities in Kosovo. In particular, the findings captured the dynamics and challenges they experienced abroad, and their opinions on the use and applicability of UN and Western-developed frameworks in Kosovo and other PCEs. The data were analyzed using *NVivo* and the themes that emerged from the data mirror findings from existing practitioner literature in the field of corrections reform in PCEs, and overall rule of law reform activities, in addition to mirroring existing academic literature documenting the dynamics and challenges involved in reforming PCE police services. However, the findings also provide unique insight about the interpersonal experiences of international corrections advisors and contribute to a scarce body of academic literature investigating these activities.

The Dynamics: Conducting Corrections Reform in Post-Conflict Kosovo

The findings that emerged from the data regarding the dynamics international corrections advisors experienced in Kosovo reflect existing rule of law practitioner literature. In particular, the dissertation findings suggest the importance of following two of the UN Secretary General's (2008) guiding principles for rule of law activities in PCEs: "take account of the political context" and "base assistance on the unique country context" (p. 1). Participants spoke extensively about how the local context created unique dynamics for them as they engaged in corrections reform activities, as the legal framework, local buy-in, corruption, gender-based issues, and insecurity impacted their work. Participants said it was important to understand the overall local context, as well as the local correctional context, to design effective strategies for reform. Developing a holistic understanding of the local environment by engaging with the local residents and learning about unique cultural differences helped CSC officials design policies and strategies that respected the local culture and practices. Working in the appropriate legal framework in the immediate post-conflict period created unique operational dynamics for CSC personnel. They were responsible for developing strategies and policies that were in line with the applicable legal code (the United Nations Interim Administration in

Kosovo (UNMIK) had difficulties determining the applicable framework) but they also had to determine if the code respected international human rights standards.

Participants said local buy-in and support was high in Kosovo and the environment was ripe for reform with the exception of a few actors who did not commit to the reform process. The findings suggested that some individuals were not willing to engage in reform activities, as they feared a loss of power and privileges, which has been found in other security sector reform (SSR) and governance literature (Brinkerhoff & Brinkerhoff, 2002, p. 518; Brzoska, 2006, p. 8). Despite widespread buy-in and support for reform activities, there were issues with corruption among staff, which is not surprising given that corruption is a common feature in PCEs during the "open moment" (Galtung & Tisné, 2009, p. 93). Corruption was said to be both woven into the social fabric, as well as reflect the UN's poor remuneration of corrections staff. As findings from the PCE police reform literature reveal, low salaries, poor leadership, and weak training increase bribery and corruption within police services (Baker, 2006, p. 37, Broadhurst & Bouhours, 2009, p. 188). The current findings suggest the UN needs to consider staff salaries if they are going to curb corrupt practices among corrections personnel, which is important given existing findings that suggest institutions with poorly trained staff are more prone to have high rates of violence (Penal Reform International (PRI), 2012c, p. 32). Societal gender roles and norms also impacted the CSC's activities, as CSC personnel found a lack of support for gender integration in the Kosovo Correctional Service (KCS) given that Kosovo was a patriarchal society. This is not unexpected, as one of the key components in any SSR is addressing gender-related issues across every component of the security sector (SSR Unit, 2012, p. 17). Another theme that emerged was the importance of developing relationships and coordinating with other international actors. This finding provides support for the UN Secretary General's (2008, p. 1) guiding principle for rule of law activities in PCEs that states the importance of effective coordination and partnerships in achieving success in peacebuilding activities.

Corrections-specific manuals and toolkits highlight the larger operational dynamics international advisors may experience in conducting their work (e.g., corruption, gender inequalities) but neglect the interpersonal level dynamics and challenges that may arise. Two of the dynamics participants experienced in Kosovo diverged from existing literature, as the current findings shed light on the interpersonal

level dynamics that exist for international corrections advisors abroad. These two interpersonal dynamics captured the insecurities that arise from being involved in corrections reform activities in a PCE, and the most rewarding experiences in conducting this work. Participants spoke about how their responsibilities in Kosovo created feelings of insecurity, which capture dynamics previously undocumented in the literature. Participants also shed light on the positive dynamics of conducting corrections reform in a PCE, including helping the local residents, and developing positive relationships with them, which is also undocumented in academic literature.

Given the existing corrections reform literature (primarily practitioner-based toolkits and manuals), I anticipated participants would share stories revealing operational-level dynamics and challenges involved in this practice. As the discussion above reveals, and as will also be considered in the next section, some of the themes capture the interpersonal dynamics and challenges of conducting corrections reform activities, which reveals the human dimension of this practice.

The Challenges: Conducting Corrections Reform in Post-Conflict Kosovo

Most of the challenges participants spoke about have been addressed in existing handbooks (see for example, the United Nations Office on Drugs and Crime's (UNODC) *Handbook for Prison Leaders* (2010)), and focus on three primary issues. The first of which is the most common challenge in conducting corrections reform: the low priority afforded to corrections reform activities, which creates obstacles in securing financial resources (Department of Peacekeeping Operations (DPKO), 2013c, para. 2; Office of the United Nations High Commission for Human Rights (OHCHR), 2006, p. 18). Corrections advisors in Kosovo experienced particularly acute challenges in securing donor attention and funding because international donors wanted to engage in "sexy" areas of reform – such as rebuilding hospitals and schools. UNMIK was the first mission where corrections personnel were asked to become involved in peacebuilding activities (International Corrections and Prisons Association (ICPA), 2002, p. 4), and participants explained how the UN had no idea what corrections reform would entail, or the resources that were required. Participants explained how the low status afforded to

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corrections reform trickled down and created challenges for them in recruiting and retaining officers, and contributed to corruption (because KCS officers were paid less than Kosovo Police Service (KPS) officers).

The second category of challenges reflects the need to provide safe and secure confinement for prisoners. Participants spoke at length about the challenges in providing safe and secure confinement in the KCS given ethnic hostilities and untrained international police and military staff fulfilling correctional officer posts. Due to the ethnic-nature of the conflict in Kosovo, CSC advisors experienced challenges in separating prisoners from warring ethnic groups. At Mitrovica/Mitrovicë Detention Centre, corrections officers had to keep Kosovar Serbians who were accused of war crimes against Kosovar Albanians, strictly separated from imprisoned Kosovar Albanians. In addition to the challenge of keeping prisoners from competing ethnic groups separate from one another, CSC personnel were responsible for recruiting and training personnel for a multi-ethnic KCS. CSC personnel had a hard time determining who was, versus who was not, a suitable candidate for working in the KCS, as they had to avoid hiring people who might engage in revenge violence for their wartime losses. UNMIK made the decision to fully staff Mitrovica/Mitrovicë with International Civilian Police (CIVPOL) officers given their concerns about providing safe and secure confinement for a mixed prisoner population in an environment characterized by ethnic-fuelled conflict. The decision to post CIVPOL officers as corrections officers created unique challenges in providing humane imprisonment, as these officers did not have knowledge of, or experience with, international human rights prison standards. Another challenge was that CIVPOL officers were being deployed to Kosovo from countries that did not necessarily have a good record of respecting human rights in general, which is explored in the next paragraph with respect to the UN "experts" that were deployed to Kosovo.

Further challenges arose with respect to human resource issues, which created challenges in providing safe and secure confinement for prisoners. The bureaucratic structure of the UN, and the incompetence of UNMIK corrections personnel and their inappropriate motivation for being in Kosovo, created challenges for CSC personnel. Many participants said one of their least rewarding experiences in Kosovo was dealing with the UN and its bureaucratic structure. Similar to criticisms voiced in extant literature (Barnett et al., 2007, p. 53; Campbell & Kaspersen, 2008, pp. 478-482), participants

spoke about weak UN coordination and the challenges of receiving approval to implement strategies. The other least rewarding experience for participants was working with UN corrections personnel who had questionable expertise status. There were concerns about UNMIK corrections advisors because they appeared to have a poor understanding of the local dynamics, they used ineffective training strategies, they seemed to lack interest in promoting local ownership or developing the local capacities, and there was poor UN Penal Management Division (PMD) leadership. The current findings are similar to existing cross-sectional criminal justice literature that documents the challenges associated with poorly trained staff arriving in host countries with poor skillsets to effect change (Dandurand et al., 2008a, p. 60; Donais, 2004, p. 955). A related issue is that poorly motivated corrections advisors were employed in Kosovo and seemed more concerned with the money and status the position gave them, than assisting the local residents. Existing findings in the PCE police reform literature have documented instances where CIVPOL officers are motivated to participate in mission based on salaries rather than altruism, which often negatively impacts organizational performance (Heinemann-Grüder & Grebenschikov, 2006, p. 49).

The final theme that emerged with respect to participants' least rewarding experiences in Kosovo – reflecting the interpersonal challenges they experienced while conducting their work – was their disillusionment with the behaviour of some UNMIK personnel. Participants voiced concerns about internationals abusing their power, status, and authority over the local women. Although the findings do not reflect the same allegations that are documented in the existing literature, such as utilizing the sexual services of trafficked women (Godec, 2010), the findings reveal that misbehaviour may not be specific to UN peacekeepers.[136]

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[136] It is important to note that although the larger theme, "providing safe and secure confinement" has been identified as a challenge in existing handbooks, the subthemes, which include unskilled UN personnel, poorly motivated UN personnel, and challenges related to issues with the UN bureaucracy, have not been identified as challenges in existing practitioner-based corrections reform literature.

The final human resource related challenge reflects the language barrier that existed between the majority of the internationals and the local residents. Certain words and explanations were lost during translation between CSC personnel, their interpreters, and local staff. Participants indicated this was often because there was a lack of understanding about the meaning of words, as some corrections-related words did not translate well into the Albanian language, and local residents also had different understandings about how to achieve change among the prisoner population. These findings are consistent with existing literature that documents how certain "buzzwords" may not translate into different languages and cultures (Stewart & Knaus, 2011, p. 11); and furthermore, how the cultural and organizational ethos highly influences the meanings attached to certain correctional practices (such as inflicting punishment rather than respecting human rights to encourage prisoner rehabilitation) (Jefferson, 2005, p. 490, p. 492).

The final challenge was not identified in existing corrections or rule of law handbooks and toolkits, as it reflects an interpersonal level challenge that participants experienced upon returning to Canada. Job shrink is common among individuals who return from being deployed abroad, and it is frequently associated with the reintegration of police personnel following their time in mission (Muise & Rankin, 2002, para. 19). Job shrink reflects the reality that while abroad, many individuals have responsibilities and authority far beyond their responsibilities with their home organizations. Similar to police officers in Dupont and Tanner's (2009, p. 144) study, upon their return, some participants explained how they were bored, unenthusiastic, and unchallenged by their previous posts, which led some to pursue different employment opportunities (either internal or external to the CSC). In contrast, some participants' spoke about the personal and career growth they experienced following their time in Kosovo, as their experiences in Kosovo made them realize they had capacities and strengths beyond what they had previously recognized.

To avoid the doom and gloom that is often associated with the challenges experienced during peacebuilding missions, it is important to acknowledge that all but one of the participants reflected positively about their time in Kosovo. Some of the benefits they identified included: increased appreciation for Canada, a greater appreciation for the freedoms Canadians possess, increased appreciation for the CSC, a

greater appreciation for the small things in life, a recognition that materials items are 'just things,' greater compassion for the experiences of others, increased leadership abilities, increased desire to improve the CSC and assist fellow officers after mentoring Kosovars, and an increased understanding of their personal resilience in challenging times.

Growing Roses in the Arctic: The Appropriateness of using UN and International Human Rights Standards and Principles in PCEs

Five key themes emerged from the data regarding participants' perceptions about the appropriateness of using UN and international human rights standards and principles in Kosovo, and other PCEs. Overall, participants were supportive of external intervention in Kosovo, and the liberal peacebuilding activities that followed. Some of the participants argued that intervention was compelled on moral grounds, which reflects the post-Westphalian perspective of peace operations. Participants indicated they believed the international community was justified in intervening in Kosovo and impinging on the Federal Republic of Yugoslavia's (FRY) sovereign rights. This is because the state was not satisfying their responsibilities to their citizens since Kosovar Albanians were not being protected from major international war crimes (Bellamy, 2010, pp. 38-39; Warner & Giacca, 2009, p. 291). Although supportive of external intervention in Kosovo, participants were uncertain about the liberal peacebuilding project given the experimental nature of peacebuilding and the "unknowns" involved in the practice. Similar to Paris (1997), participants seemed concerned that peacebuilding is essentially an "enormous experiment in social engineering" (p. 56).

Participants emphasized the importance of exercising caution in intervening in sovereign states, as not every environment will be amenable to reform and have a public that supports and buys into the reform activities. Given the diversity among PCEs – participants often spoke about the differences between Kosovo and Afghanistan to illustrate their arguments – it is important that the ripeness and amenability of the environment is considered before intervention because there are issues regarding the applicability and transferability of UN and international human rights standards and principles in different cultural contexts with vastly different social mores. The local

context should also be considered when designing and implementing timelines for change to occur. Participants criticized the UN's timelines for change in Kosovo because they thought it was unrealistic for the international community to expect such drastic change in an environment that was characterized by ethnic polarization for hundreds of years. These findings are consistent with the existing literature that explains how one of the greatest challenges in fostering democratization in PCEs is short donor timelines (Lappin, 2010, pp. 181-182). Participants' also suggested gradual change and smaller objectives may be more appropriate in PCEs. These findings, in combination with the need to create longer timelines for democratic reforms to flourish, may suggest Paris' (2004) Institutionalization Before Liberalization (IBL) strategy holds promise in improving the success of future peacebuilding activities.

Although participants were supportive of external intervention in Kosovo and the peacebuilding activities that followed, they were critical of the Eurocentric nature of the practice. These findings are consistent with existing literature that criticizes post-conflict peacebuilding for failing to consider that some host countries may have their own customary modes of governance, economic models, and traditional forms of justice that are more suitable for use (Bellamy & Williams, 2010, p. 277; DPKO, 2006, pp. 21-22). Participants indicated that the international community has to be open to other models, as the Western form of democracy may not take root in environments with different contextual realities. Participants were very vocal in saying that cultural differences must be accounted for when implementing change in PCEs, as they recognized their responsibility in Kosovo was not simply transplanting Western values into Kosovo. Therefore, participants recognized that they could encourage change at the local level by promoting local ownership, developing capacities, and finding a balance between Western forms of democracy and local practices and traditions to ensure practices reflected the local context, rather than the "Made in Canada program" (George).

The final theme that emerged regarding the use of UN and international human rights standards and principles in Kosovo and other PCEs was the participants' realization – similar to extant literature that documents the problem – that the UN does not always follow the principles they are seeking to impose in PCEs. In particular, participants were concerned about UNMIK personnel's willingness to violate international human rights standards when they were supposed to be setting a good

example for the local residents in establishing respect for human rights, democracy, and the rule of law in the KCS. Extant literature documents how there were multiple allegations of misbehaviour against UNMIK personnel, including individual instances of sexual assault (Ryan, 2010, p. 122) and soliciting the sexual services of trafficked women (Godec (2010, p. 246). Furthermore, UNMIK was an authoritarian structure designed to promote liberal democratic values in Kosovo, which demonstrates their behaviour does not always reflect the values they seek to impose in PCEs.

Policy and Practice Implications

This research study has been designed to promote a "'culture of learning' as opposed to a 'culture of blame'" (Beck, Coupal, Green, & Bierring, 2005, p. xii) in the sense that the findings that emerged from the data will be used to provide recommendations for improvement, rather than solely focusing on the criticisms of the work that was conducted in Kosovo. This is important to move research forward in the area of corrections reform in PCEs. Given the contribution the current dissertation project makes in filling the gap in the academic literature exploring corrections reform in PCEs, it is important to elaborate on policy recommendations. Some of these policy recommendations have been made elsewhere, including in the UN Secretary General's (2008, p. 1) eight principles to be followed while conducting rule of law reform activities; however, it is important to reflect upon these recommendations with specific mention to corrections reform activities given their absence in the academic literature. They also merit repeating because despite the fact they have been documented elsewhere in practitioner manuals and toolkits, there is concern that some of these lessons continue to remain unlearned. Based on the findings that emerged from the data, the following policy recommendations have been made for those involved in corrections reform in PCEs:

Foster Local Ownership

Participants noted that UNMIK corrections advisors were not always concerned with fostering local ownership. Local ownership should be encouraged early on in the peacebuilding process by involving local actors in the design, implementation, and

management of corrections reform activities. Local ownership of corrections reform activities enhances the mission's overall credibility, encourages support for reform activities, increases the legitimacy of the emerging corrections system, and encourages long-term sustainability, as local actors will know how to manage when the international community exits (Barakat, 2009, p. 111; Griffiths, 2003, p. 8; Griffiths et al., 2005, n.p.).

Develop Local Capacities

Participants spoke about the importance of developing the local capacities, and how some UNMIK corrections advisors were uninterested in doing so. Capacity development should begin early on in the peacebuilding process by engaging with the local residents and having them participate in the assessment of the local capacities and needs. Further, local residents should be involved in developing the plan of action to strengthen dormant capacities and develop new ones, implementing the plan of action to foster local ownership, and evaluating the capacity development plan to determine if the outcomes and impacts were met (which reflects the United Nations Development Programme's (UNDP) Capacity Development Process (2008, p. 8; see Figure 5.2). In assessing the local capacities, it is important to consider local customary modes of justice that may be more appropriate for use in PCEs than Western democratic models.

Ensure the Local Context Informs Corrections Reform Decisions

One of the most prominent themes that emerged from the data is the importance of understanding the local context when conducting corrections reform activities, which involves understanding the local criminal justice and political context, in addition to the unique correctional context. Pre-deployment training, and training upon arrival in the host country, is required to ensure participants understand the unique contextual factors in the host country. Attention should be given to historical accounts of the conflict, existing conflict drivers, and the local political and cultural context. This training should also address local incentives and disincentives for change, local spoilers, and the prevalence of corruption. As noted, no amount of pre-deployment training will fully prepare personnel for what they experience abroad; however, pre-deployment preparation should be as comprehensive as possible to provide personnel with a holistic understanding of the host country environment to ensure they are informed as possible

about the existing realities. Understanding the local context – historical, political, cultural, social, and religious factors – is important for internationals because they are able to make informed assessments about whether lessons learned from previous missions can be applied within the host country. Recognizing similarities and differences between country contexts can help guarantee internationals make wise decisions with the design of corrections reform activities, and the implementation modalities they use.

Foster Coordination through the development of a Common Strategy

Participants explained how they were uncertain that UNMIK knew what they expected from corrections advisors. This reflects the need to develop a comprehensive strategy early on in the reform process, utilizing participatory practices to include the local residents, thereby fostering local ownership, and ensuring internationals are aware of their responsibilities and can be held accountable for their behaviour (United Nations Peacebuilding Support Office (PBSO), 2010a, p. 6; UN Secretary General, 2008, p. 4). Due to the absence of coordination within UNMIK, participants were left to develop relationships and coordinate with others on their own to achieve success. Participants indicated that coordination could result in cost-savings; for example, they spoke about the relationships they developed with some American police personnel at the Kosovo Police Service School (KPSS), which resulted in cost-savings when these employees let them use the facilities to train corrections officers. Effective coordination is essential in ensuring resources are appropriate utilized, that various UN agencies do not duplicate efforts, and that areas in need of attention are not neglected. As James said, an abundance of money was thrown into Kosovo but an absence of coordination and a common strategy, in combination with high levels of corruption and no external oversight, meant, "the money wasn't going to all the right places."

Participants also voiced their concerns about the bureaucracy of the UN and their inability to get approval to get tasks done. In combination with developing a common strategy and promoting coordination, international corrections advisors should be provided with information about the UN organizational hierarchy to ensure they know how to obtain approval for designing and implementing reform strategies.

Exercise Patience and Flexibility

The current findings suggest the importance of international corrections advisors remaining flexible in conducting their work by learning from the local residents, and adapting their practices to accommodate cultural differences and contextual characteristics. Participants also spoke about the importance of exercising patience while implementing UN and Western-developed principles and standards in Kosovo. Participants indicated that UNMIK's timelines were unrealistic and that there is value in extending timelines for change, and ensuring reforms are designed with a realistic timeline in mind for the host country, rather than merely reflecting the international community's desires and arbitrary timelines for change. Patience is important because reasonable timelines may mean internationals are less inclined to take over reform activities to ensure donor deadlines are met, which means there is a greater likelihood that local ownership will be fostered, and local capacities, developed.

Gradual change is important, and attention should first be given to the most highly prioritized needs and conflict drivers. Recognizing that gradual change must occur reflects the idiom, "Rome was not built in one day." International advisors must recognize, as participants did, that reform might be more about planting the seeds of change than it is about overhauling the entire system. The weaker the corrections system, the greater the amount of time that is required to reform them, as the requisite reforms may be extensive, and as in Kosovo, involve rebuilding the physical infrastructure. Time is of the utmost importance to ensure a bottoms-up approach to reform activities occurs. Local ownership and capacities can only be developed when time exists to engage the local residents in the planning, design, and implementation of corrections reform activities.

The current findings suggest the international community may benefit from more closely following Paris' (2004) IBL peacebuilding strategy, as it appears that a slower-paced peacebuilding approach may be more effective in achieving sustainable change and preventing relapses to conflict. Given that it has taken some Western states centuries to develop liberal democratic systems (Barakat & Zyck, 2009, p. 1083), there may be room to extend the peacebuilding process in PCEs characterized by insecurity, hostility, fragile peace, and high rates of corruption and criminal activity. Prolonging the

peacebuilding process may mean a locally owned model of democracy that reflects local values, can be developed (Barakat & Zyck, 2009, pp. 1080-1081).

Promote Gender Sensitivity and Mainstreaming

Discussion throughout this dissertation has revealed women are often neglected in peace negotiations, may not have equal opportunities for employment in conflict-afflicted environments, may have experienced conflict differently than men, and may risk losing reform-time gains following the exit of internationals. Providing women with employment will likely be challenging, as it may contradict local patriarchal beliefs about women's social roles. Despite the challenges in addressing women's needs and rights in PCEs, it is important for corrections advisors to engage women in the capacity development process and ensure their voices are heard throughout the corrections reform process. Corrections reform strategies, similar to corrections reform activities in Kosovo, should encourage equal gender representation in the corrections system.

Question whether Imprisonment is an Effective Method of Punishment in the Host Country

With all of the talk about reform, it is easy to overlook other important issues and fail to ask important questions. For example, why does the host country punish? Whom are they punishing? Is the use of imprisonment an effective punishment method (Piacentini, 2006, p. 118)? Asking these questions leaves room for consideration of alternatives to imprisonment, customary practices that do not involve the traditional court system, and diversion programs for vulnerable offenders (children, offenders with mental health issues, and women with dependent children).

Provide Informative Pre-Deployment and On-Site Preparation

Although pre-deployment dynamics and challenges were not presented and explored in the results and analysis in Chapters 10 and 11, the topic is important to address here. The experiences corrections advisors have abroad cannot be separated from the preparation they receive given the importance and value participants gave to understanding the local cultural context and operating environment. As mentioned above, the CSC and UN should therefore ensure corrections advisors receive extensive

preparation to ensure they are adequately educated about a variety of topics, including host country cultural practices, the existing realities in the host country, the historical factors precipitating the conflict, and existing conflict drivers.

Both the CSC (during pre-deployment) and UN (upon arrival in the host country) should provide international corrections advisors with information about the roles they will fulfill in the host country. This is an important recommendation given the value participants placed on fostering the local ownership and developing the local capacities. Advisors should be aware their role is one of facilitating change and supporting the local residents as they assess their own capacities, identify areas in need of reform, and develop plans for corrections reform strategies. This is in contrast to believing their role is to implement reform activities without involving local actors. Advisors should be provided with information about how to foster the local ownership and develop the local capacities. For example, they should be given information and direction about knowledge-transfer strategies, including how to facilitate training, provide effective mentorship, and engage the local residents.

CSC: Address the Reintegration Needs of Returning Personnel

Job shrink represents the one challenge that was discussed by participants, which was not a challenge they experienced abroad. Given extensive concerns with job shrink upon their return, it is important that the CSC has strategies in place to help alleviate staff members' challenges upon returning to Canada. As discussed earlier, it is common for international advisors to possess greater leadership and authority responsibilities while abroad, and thus, they may experience difficulties reintegrating back into their old positions with the CSC upon their return. Existing Canadian literature documenting this phenomenon suggests police agencies should do a better job of acknowledging and utilizing the skills of personnel upon their return (Dupont & Tanner, 2009, p. 144). This transcends in the current research project: consideration should be given as to how the CSC can appropriately recognize and utilize the skillsets of returning

personnel to alleviate the pains associated with job shrink. Further, the CSC should ensure appropriate counselling services are in place for any returning employees who may have difficulty re-adjusting to their lives in Canada.[137] These strategies will help CSC personnel reintegrate into the organization after spending months, and sometimes years, in mission. These strategies may involve an inter-organization promotion, or the opportunity to apply for a different, equal-level position that will provide new challenges and daily realities for personnel. CSC employees who have participated in mission may also be able to assist in the training of employees going to new missions. This may help prepare the new personnel, in addition to providing former advisors with the opportunity to share their knowledge and expertise.

UN: Accord High Priority and Funding to Corrections Reform

Corrections reform cannot continue to be overlooked and under-prioritized during peacebuilding missions. The UN must prioritize corrections reform activities given the importance of corrections reform in establishing the rule of law in PCEs, promoting human security, and promoting citizen trust, while decreasing community instability and the likelihood that a culture of impunity will develop (Bastik, 2010, p. 48; DPKO, 2012, p. 1; DPKO, 2013c, para. 8). Adequate human and financial resources must be dedicated to corrections reform activities in PCEs and further; the UN has to develop their corrections reform capacities. Making corrections a priority includes paying corrections officers at equivalent rates to their police counterparts to thwart corrupt practices and facilitate the recruitment and retention of corrections personnel, which were challenges vocalized by participants in this study.

To increase donor interest in providing corrections resources (monetary or corrections personnel), the UN may want to consider developing communications strategies to educate donors about the important role corrections systems play in

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[137] Participants indicated that the CSC has changed their policies around pre-deployment preparation and reintegration debriefs since the organization's participation in Kosovo. Therefore, it is important to keep in mind that this recommendation may currently be in place.

establishing the rule of law, democracy, and respect for human rights in PCEs. Jefferson (2005) spoke about a conversation he had with a woman observing human rights training in Nigerian prisons, and she asked, "Why, when the state loves incarcerating people, does it resent spending money on the incarcerated (p. 493)?" This question requires further exploration in the context of corrections reform in PCEs. Perhaps alternatives to imprisonment need to be explored further if donor states are unwilling to invest their resources in corrections institutions in PCEs?

UN: Revise Deployment Practices

One of the most prominent themes that emerged from the data was participants' disillusionment with UN personnel – both UNMIK corrections advisors and CIVPOL officers. Given the nature of the concerns – including "experts'" lack of concern for developing local capacities and fostering local ownership, abusing positions of power, and modelling undemocratic behaviour for the local residents – the UN should reconsider their deployment practices and contemplate developing better strategies to educate internationals about their roles in PCEs. Both gratis staff and UN-hired personnel should be provided with gender sensitivity training, cultural sensitivity training, and clearly defined information about their role in the host country. The latter of which should include information on how to effectively engage the local residents in the reform process, develop their capacities, and promote local ownership. The UN may also want to consider implementing hiring conditions that restrict participation for those being deployed to mission. These conditions should reflect the duties personnel are required to fulfill in mission, with the most important condition being that the personnel have knowledge of, and experience with, international human rights standards and principles, so they can set an appropriate example for the local residents, and hopefully, share their expertise with the local residents.

UN: Assess the PCEs' Amenability for Reform

Participants were vocal about the importance of assessing PCEs' amenability for reform prior to engaging in intervention and peacebuilding activities. They recommend addressing issues regarding the applicability and transferability of UN and international human rights standards and principles in different cultural environments. Democratic

reforms may be inappropriately applied in situations where environmental constraints undermine reform objectives, and make success difficult to achieve. Consideration should be given as to whether or not the environment is ripe and receptive to the international community's reforms, as lives, finances, and efforts may be wasted if reforms are not developed with contemplation about their appropriateness in each environment.

Strengths

There is a marked lack of academic literature exploring the experiences of international corrections advisors, and corrections reform activities in PCEs in general. Given that corrections advisors have only been involved in peacebuilding since the missions in Kosovo and East Timor in 1999 (ICPA, 2002, p. 4), this is not entirely surprising. Further, and as discussed throughout this dissertation, corrections reform rarely receives attention and adequate resources, as it is an "unsexy" area (in PCEs and non-PCEs alike). This has serious repercussions given the importance of corrections reform in establishing the rule of law in PCEs. The strength of the research lies in the contribution it makes to a scarce body of academic literature exploring corrections reform activities in PCEs. Although the CSC produced short articles documenting their involvement in Kosovo, and some of the experiences their personnel experienced, nothing has been conducted with the level of detail and analysis produced in this research project. This study presents the experiences and opinions of fourteen (14) CSC personnel from across Canada, as gathered through qualitative interviews. The methodological strengths and limitations of the current study – including the strengths of qualitative interviewing – were discussed throughout Chapter 9 when the methodology was presented. The use of qualitative interviews allowed me to explore the constructed realities of my participants, providing the greatest degree of exploration and information gathering, and capturing "thick descriptions" (Geertz, 1973, p. 6).

Therefore, this dissertation project contributes to a scarce international body of academic literature investigating corrections reform in PCEs, and Kosovo in particular. The research provides understanding about the operational and interpersonal dynamics and challenges that were experienced by CSC corrections advisors while they

conducted peacebuilding activities in Kosovo. The project also contributes to the literature for it captures the 'human dimension' of conducting corrections reform activities in PCEs, as previous corrections-specific literature has typically focused on the more technical, operational side of these activities. The findings provide insight into potential dynamics and challenges that *may* arise in conducting corrections reform activities in other PCEs. This project was not designed to identify dynamics and challenges that *will* arise during corrections reform activities in every PCE. As the discussion throughout the dissertation revealed, when designing and implementing peacebuilding activities, the local context must be considered at every stage of the process because each PCE has its own needs, capacities, and contextual realities that will produce unique dynamics and challenges that require consideration.

The research also provides insight about CSC corrections advisors' opinions about the appropriateness of using UN and Western-developed frameworks in Kosovo and other PCEs, which is an under-researched area. The findings that emerged from the data may provide insight into why peacebuilding activities have produced questionable success in times past. For example, participants noted the importance of assessing the local environment's amenability for reform and addressing issues regarding the applicability and transferability of UN and international human rights standards and principles in different cultural environments. It is possible that in previous missions, due consideration has not been given to the local context. Reforms may be inappropriately applied in situations where environmental constraints undermine reform objectives. Another reason why previous reforms may have failed is due to donor-drive timelines for reform, which are unrealistic given the lengthy nature of the conflict, and the extensive objectives the international community is trying to achieve in PCEs. Another potential reason for a lack of success in previous missions is that the international community has not built upon local capacities and fostered local practices, including customary models of governance and justice that may be more appropriate to use than Western democratic models in PCEs. Lastly, the international community itself may have undermined previous peacebuilding activities. Amidst allegations of poor UN behaviour, this is not an entirely unfounded belief. As noted throughout this dissertation, one has to question how the UN seeks to achieve democratic ideals in PCEs while at times, engaging in illiberal, undemocratic means to achieve these objectives.

On a larger level, the analysis contributes to the body of knowledge about UNMIK and the activities undertaken by the international community when they had the most extensive mandate a mission had ever had to date, and when North Atlantic Treaty Organization (NATO) intervened outside of its members' borders for the first time, and against a sovereign state. Many lessons can be learned from the international community's experience in Kosovo given the unchartered territory they were covering.

Limitations

It is important to identify the limitations of this dissertation project. One of the weaknesses in this project is that the participants were predominantly male (N = 12), so the study is biased towards the experiences and perceptions of male corrections advisors. It is possible gender differences exist, as a larger sample of women might have revealed different dynamics and challenges involved in conducting corrections reform activities in Kosovo, and differences in their perceptions about the use and applicability of UN and Western developed frameworks in Kosovo and other PCEs. Another weakness relates to the nature of the sample. Only five (5) on-leave CSC employees who were hired by UNMIK were interviewed for this study. A greater number of interviews with this population may have been beneficial, as they were responsible for operational duties in the KCS rather than solely strategic policy design, recruitment, selection, training, and mentoring activities. However, I believe saturation was achieved with this population because I was beginning to hear similar stories, events, and insight; I do not believe interviewing additional individuals would have provided new data or insight.

As indicated in Chapter 9, only eleven (11) of the forty-two (42) potential participants who conducted corrections reform activities in Kosovo as CSC gratis staff, as identified on the CSC's website, participated in the study. Another concern is that only eleven (11) of the thirty-one (31) people who were contacted by the gatekeeper agreed to participate in the study, which makes for a 35.48 percent response rate. Therefore, an important consideration is whether important differences exist between the participants I interviewed and those who I did not. For example, did people who contacted me have more positive experiences than those who did not? Did non-responders have more

challenging experiences in Kosovo that they did not want to revisit? Unfortunately, it is impossible to speculate about the differences between those who responded, and those who did not. Despite this concern, it is believed, as mentioned before, that saturation was reached, and a diverse array of experiences were captured given that the sample included both CSC gratis staff, and on-leave CSC personnel working for UNMIK.

Another weakness is that I only interviewed CSC personnel and not personnel from other corrections organizations that were involved in corrections reform activities in Kosovo. The experiences and perspectives of corrections advisors from the UK and Switzerland may be significantly different than the experiences and perceptions shared by the CSC personnel. Although it is an important avenue for future research, the lack of inclusion of other international corrections advisors in this study does not take away from the strength of the findings. The CSC was involved in reforming the KCS from the very beginning – having participated in the needs assessment in the summer of 1999 – so it is believed that despite having only focused on the activities of one organization, the organization selected was perhaps, the best one to study given their extensive roles and responsibilities in reforming the KCS. By focusing on just one organization, a more fluid story was also likely captured, allowing for a more in-depth exploration of the dynamics and challenges that occurred at each stage of the process of reforming the KCS. Although case studies are sometimes critiqued for providing a small and biased account of the topic under study, given the many similarities between the current research findings and extant literature, it is believed the dissertation findings may reflect the experiences of other organizations and actors involved in corrections reform activities in Kosovo.

Some may critique this dissertation project for being unable to generalize the results to other PCEs; however, generalizability and representativeness were not the objectives of this dissertation project. Exploratory research about corrections reform in PCEs was deemed necessary given the absence of research of its kind, and the research objectives were best met by utilizing non-probabilistic sampling techniques. Through the use of thick descriptions, readers have been provided with adequate information to make informed transferability decisions to assess whether the results from the study can be appropriately transferred to different populations or settings (Lincoln & Guba, 1985, p. 316). In addition to relying on rich, thick descriptions while presenting the

themes that emerged from the data, connections were made to the existing literature, which further strengthens the readers' ability to assess the transferability of the research findings. It is important to recognize that PCEs share similar characteristics and experience similar obstacles in their corrections systems (and in general); however, they also possess unique contextual features, and have dissimilar needs, and dormant capacities, which are all factors that impact their amenability for reform. Identification of similarities and differences may allow advisors to apply lessons learned from one setting to another, so long as they are adapted to the local realities.

Some may also critique this dissertation project because I did not travel to Kosovo to immerse myself in the local culture and surroundings, to develop my own understanding of the realities in post-conflict Kosovo, and the corrections system that exists there. This would be more of a limitation if I were studying the current state of post-conflict Kosovo and its corrections system; however, the project was retrospective in nature, examining events that took place a number of years ago. The project captured a particular historical moment in time, as described by the participants. Had the research project focused on the present day, going to Kosovo would have been advantageous but given the retrospective nature of the work, it is believed there was no benefit of going to Kosovo in the present.

Perhaps the biggest limitation of this dissertation project is the lack of "voice" that has been given to the local residents – in this study, the local corrections personnel – the people who were "acted" upon during the correctional reform activities. This occurs despite the fact "best practices" in rule of law reform activities reflect the need to promote national ownership and capacity development activities, which involve extensive engagement with the local residents. Given that the local residents are responsible for long-term change and peace, their voice should be included in research exploring peacebuilding activities.

Future Research

Although this study presents important findings in the vastly under-researched area of corrections reform, and contributes to a growing body of academic literature

exploring peacebuilding activities, much more remains to be learned in the area of corrections reform in PCEs. An exploratory case study such as the one undertaken in this dissertation project – exploring a topic that has been largely absent from the academic literature – predictably raises more questions than it answers, which compels further research. This section of the chapter highlights key areas for future research activities, recommended in light of the weaknesses identified in the current study.

Given that only two (2) of the fourteen (14) participants interviewed for this study were women, it is important that future research endeavours explore the experiences of women in mission. This may be particularly relevant given the issues identified in this project with respect to the challenges women experienced in conducting their work due to gender inequalities in Kosovo. It is also important to conduct further research about the role of women as international corrections advisors, as research about female peacekeepers has revealed that local residents prefer working with civilian police teams that are comprised of both male and female officers (Mazurana, 2003, p. 67). There is a need to explore if similar preferences exist in the corrections sector.

Future research should involve more extensive sample populations, including participants from different organizations, and a larger number of participants from each organization. This may be important in capturing any between-group differences in the sample population, and in ensuring saturation is achieved across the groups. Future research may benefit from collaboration with the UN, as this collaboration may facilitate a larger sample size, and diverse array of participants for inclusion in the study. This would provide a unique practitioner-academic perspective on corrections reform activities in PCEs.

Future research exploring corrections reform activities in PCEs should involve local actors who participate in the process. There are many areas to explore, including their experiences with internationals (similar to Pouligny's (2006) anthropological study investigating what local residents think of peacekeepers), the knowledge-transfer process and training methodologies that are utilized (similar to Jefferson's (2005) study exploring correctional officer training in Nigeria), and their perceptions of the relevance of UN and Western frameworks and principles in their countries (similar to Piacentini's (2006) work exploring prison reform in post-Soviet Russia).

Another critical area in need of further exploration is the voice of prisoners who are held in corrections systems in PCEs. Prisoners have a wealth of knowledge to share about many important topics including: verbal, physical, and sexual victimization within prisons, whether human rights are respected within the prison, treatment programming, the experiences of vulnerable prisoner populations (children, women, and ethnic minorities), the relationships that exist between corrections officers and prisoners, how power, resistance, and compliance work in PCE corrections systems, the pains of imprisonment for prisoners in PCEs, and whether, and how, the inmate code and inmate subculture exist in these environments. Additionally, future research should explore the community side of corrections, including the experiences of offenders sentenced to a community sanction (such as probation), and the social reintegration process for prisoners (including conditional release if it exists). If possible, it would be fruitful to conduct longitudinal research to explore prisoners' experiences beginning in the immediate aftermath of conflict, and progressing onwards as the social situation improves, and as reform efforts take root in the PCE in general, and in the corrections system in particular.

Another important avenue for future research in PCES – and arguably, in non-PCEs as well – is exploring why these nations' punish, whom they punish, and the effectiveness of the punishment they administer, which are all missing from discussions about corrections reform in PCEs (Piacentini, 2006, p. 118). With all of the talk about corrections reform activities, important questions about the appropriateness and necessity of imprisonment are not asked. The underlying assumption is that imprisonment works best and is effective. Further research should be conducted to question the normative assumptions underlying the use of imprisonment in PCEs. This question is particularly important in PCEs where Western standards are forced upon cultures, often with limited attention being given to local modes of customary justice, which may be more suited to the cultural beliefs and social mores.

Peacebuilding activities are conducted to promote humanitarian ideals but the findings in this study suggest that the promotion of these ideals may come at the expense of individual peacebuilders, as they may experience personal challenges while deployed, and upon returning to their home nation. As previously mentioned, the current project captures the human element of conducting peacebuilding activities – the

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interpersonal level dynamics and challenges not previously captured in the PCE corrections reform literature. The micro-level dynamics and challenges that emerged during the analysis reveal the need to study how peacebuilding impacts individuals engaged in activities on the ground. It is only by identifying the challenges and issues corrections advisors experience that solutions can be found to address their concerns. Future Canadian research should continue to explore the human dimension of conducting corrections reform activities and specifically, the challenges corrections advisors experience upon returning home. These challenges include substance abuse issues, marital problems, post-traumatic stress disorder (PTSD), and job shrink, as these issues have been identified as being prevalent among Canadian police officers following their time in mission (Dupont & Tanner, 2009, pp. 143-144). The existing literature has typically focused on larger, operational-level dynamics and challenges involved in conducting corrections reform activities, and the overall objectives of peacebuilding activities, to the exclusion of exploring the human and emotional side of these endeavours, which necessitates further research in this area. Therefore, future research should explore the pre-deployment training that is provided, the support corrections advisors receive on the ground in mission, and the support they receive upon returning to Canada, as these are important dimensions in understanding the human, emotional side of conducting corrections reform activities in PCEs.

Although the current project took a micro-level approach to exploring corrections reform activities in Kosovo, it is important that future research is also conducted at the macro level in terms of stepping back and assessing why Canada and other Western nations become involved in peacebuilding activities in PCEs. This is a particularly important question to ask given the mediocre record of success in engaging in peacebuilding activities to date, and the large costs associated with these practices. One has to question whether Canada and other Western governments become involved in peacebuilding activities to promote peace and human security abroad, or, if foreign governments become involved because it gives them an opportunity to 'do the right thing' in the eyes of the voting public and in the community of nations. Additional questions to be explored would include, "Is involvement in peacebuilding activities merely an exercise in political posturing – of simply 'waving the flag?'" "Do politicians advocate peacebuilding participation merely to receive public support, which translates

into votes?" "Does Canada provide continued support for peacebuilding activities simply to maintain good standing within the UN?" Although the current findings indicate individual corrections advisors were aware of the need to develop policies and practices that reflected the local realities and context, the findings do not speak to the Canadian government's motivation in sending corrections advisors to Kosovo. It is unclear for example, whether the government was promoting a "Made in Canada" (George) correctional model in Kosovo as a means of flaunting their status and strengthening their reputation at the international level, without due regard for the realities on the ground, and the challenges corrections advisors would face.

Therefore, research should be conducted at the macro-level to explore the political justifications, rationales, and motivations underlying Western states' engagement and participation in post-conflict peacebuilding. Further, and with respect to post-conflict corrections reform activities in particular, the correctional philosophies that exist in donor countries should also be explored in future research. When the CSC first became involved in Kosovo in 1999, the CSC Commissioner was "a visionary" (Chris), a man of European descent and of the European liberal tradition, who was "committed to sharing the Canadian experience anywhere" (Chris). It would be advantageous to explore how, or whether, CSC leadership and the correctional philosophies that are being pursued in Canada at any point in time, influence the CSC's involvement in, and approach to, corrections reform in PCEs. Of additional importance is exploring the political agendas, roles, and activities of organizations that deploy personnel to missions, including the CSC. It is important to explore whether these organizations participate in peacebuilding to conduct justice reform to establish respect for democracy, human rights, and the rule of law, or, if they participate for political reasons (to garner organizational support nationally, as well as internationally). The latter reflects the concern that organizations participate in peacebuilding as a mere exercise in political posturing and 'waving the flag' without due attention being given to evaluating the impact of their efforts, and determining whether the benefits of these efforts outweigh the financial and human costs resulting from their participation in these activities. Therefore, research should be conducted to explore the political nature of missions, and how correctional philosophies, organizational agendas, roles, and activities factor into the

peacebuilding equation, and additionally, how these dynamics and factors may impact justice advisors working on the ground.

Future research should also evaluate the success of peacebuilding activities in PCEs. The lack of donor evaluations conducted on the multitude of activities undertaken during peacebuilding suggests that donor governments are not genuinely interested in learning "what works" when it comes to official development assistance (ODA) activities, and that post-conflict peacebuilding activities may in fact be an exercise in political posturing. The absence of evaluation may suggest that donor governments are more concerned with doing the 'morally right' thing in the eyes of their citizens (e.g. intervening in Kosovo to prevent the ethnic cleansing of Kosovar Albanians), than understanding the factors that contribute to success in peacebuilding. The lack of evaluation may suggest that donor governments become engaged in peacebuilding activities to merely "show their flags" because they seem unconcerned with learning more about the micro-level dynamics and challenges involved in the work, and the overall impact of their human and financial investments. The evaluations would likely reveal that on paper, post-conflict peacebuilding is a great idea, but on the ground, it is often a messy affair with many human costs to those involved in the efforts, and which results in questionable success. Given the human and financial consequences of engaging in post-conflict peacebuilding activities, it is necessary that future research be carried out to evaluate their success. Future evaluation research must go beyond merely identifying the number of personnel that go to mission and consider success in terms of larger outcomes, such as establishing respect for human rights, the rule of law, and effective governance structures, and further, determine whether the potential negative, human consequences of these efforts are worth the outcomes that the activities produce.

Another avenue for future research is exploring the motivations of the recipient countries that receive ODA. Various questions may be asked and studied, including, "Why are these countries motivated to receive ODA and participate in peacebuilding activities?" Although participants believed the local Kosovar Albanians they worked with were not motivated by their desire to obtain independence and acceptance by the European Union (EU), it is possible political actors at higher levels were 'playing the aid game' and not actively resisting simply to advance their own interests. It is possible that political actors displayed acceptance of liberal democratic principles to receive money

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and gain the support of the international community to further their goals of independence without actually internalizing Western and international norms and standards. It is also possible – given high levels of corruption in PCEs – that political actors in Kosovo (and other PCEs) may 'support' peacebuilding activities to receive ODA, which they siphon for corrupt purposes. Further research should thus explore the underlying motivations driving recipient country acquiescence and participation in peacebuilding activities.

Although unrelated to corrections reform activities in PCEs, an important area in need of further exploration is how emotions arise during qualitative research exploring sensitive topic areas. As discussed in Chapter 9, I felt a variety of intense emotions during the collection and analysis of the data, and experienced considerable uncertainty about the appropriateness of expressing my emotional vulnerability to participants, and about including my experiences in this dissertation. As Dickson-Swift et al. (2009, pp. 64-65) suggest, there is a need to conduct further research to explore how qualitative researchers experience emotion while conducting their work.

Further research exploring corrections reform activities in PCEs is required because since 1999, corrections reform has been a fundamental component of rule of law strategies conducted during peacebuilding missions. As discussed in Chapter 4, all three criminal justice sectors must be simultaneously strengthened to create a criminal justice system that can manage the security needs of its country in a transparent and democratic manner while respecting international human rights standards and the rule of law (UN Brahimi Report, 2000, para. 40). PCEs are inherently volatile and the failure to successfully reform criminal justice systems to establish the rule of law can lead to increased levels of crime and corruption, decreased public security, lack of respect for human rights, lack of support for peacebuilding efforts, and increased susceptibility to relapse back into conflict (Arbour & Costa, 2007, Foreword). Given the high human and financial costs of failing to successfully establish the rule of law in PCEs, it is essential to continue to explore "what works" in conducting rule of law reform activities in PCEs. It will be through continued academic studies and research conducted in a variety of PCEs, that best practices for conducting corrections reform activities in PCEs will be developed. Future research should also question the normative and liberal assumptions underlying the practice of peacebuilding to assess if liberal peacebuilding is in fact, the

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most effective model to use in achieving human security in PCEs, and in preventing relapses to conflict. Additional research will contribute to our understanding about the appropriateness of using UN and Western developed principles and frameworks to achieve significant social, economic, and democratic reform in PCEs.

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Appendices

Appendix A: Study Information and Informed Consent

SFU REB Approval: Study Information and Informed Consent

Criminal Justice Reform in Post-Conflict Environments: A Case Study of Corrections Reform in Kosovo

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Study Information & Informed Consent

Principal Researcher/Interviewer: Danielle Murdoch, Ph.D. Candidate, Simon Fraser University, BC, Canada.

Title of the Research Study: Criminal Justice Reform in Post-Conflict Environments: A Case Study of Corrections Reform in Kosovo

Introduction: You are being invited to participate in a study designed to explore the dynamics and challenges of conducting corrections reform activities in Kosovo, given your involvement in these activities following the NATO-led intervention in 1999.

Study Background: The researcher is interested in criminal justice reform activities that are undertaken in post-conflict environments, with a particular focus on corrections reform. In order to explore corrections reform activities in post-conflict environments, a case study on these activities within Kosovo is being conducted. Although there is a vast amount of literature about conducting criminal justice reform in post-conflict environments, there is very little about corrections reform. Additionally, very little has been written about the corrections reform activities undertaken in Kosovo. The current study will therefore help fill the gap in the literature with respect to corrections reform in Kosovo and post-conflict environments more generally.

Research Goals/Objectives: To conduct exploratory research about the dynamics and challenges of conducting corrections reform activities in Kosovo, with the potential identification of recommended best practices and ―lessons learned‖ derived from the Kosovo experience. This study is purely exploratory in nature and does not involve an evaluation of the effectiveness of policies and practices that were implemented during this time.

What is Required of Research Participants: Research participants will take part in an individual, in-depth interview with the researcher that will last approximately three hours. A list of interview questions will guide the interview. The questions are not designed to evaluate the policies that guided criminal justice and corrections reform in Kosovo and similarly, do not evaluate the organizational processes and practices that were employed. The purpose of conducting this exploratory study is to identify and discuss the dynamics and challenges involved in conducting corrections reform activities in Kosovo. The interviews will be conducted in June and July of 2011. Once you agree to participate you will be contacted to determine the best possible location and date for the interview.

Statement of Voluntary Participation: Your participation in this study is voluntary.

Rights of Refusal: You may refuse to answer any question(s) and/or end the interview (withdraw‖) at any time for any reason, without any prejudice or negative consequences, by informing the interviewer. If you withdraw from the study, your interview data will be destroyed immediately.

Risks: There are no foreseeable risks of this study (e.g., physical stress, physical harm, psychological stress) to research participants, third parties, or society.

Benefits: The research findings may be used to guide future dialogue, policy, practice and research undertaken in the area of corrections reform in post-conflict environments.

Statement of Anonymity/Confidentiality: Every effort will be made to keep your identity, organization/agency, country affiliation, and any other information, confidential by anonymizing your records and data with pseudonyms as soon as possible.

Data Security: To ensure the data is preserved in its truest form to produce typed interview transcripts for analysis, the data will exist in a maximum of two formats. Handwritten notes on paper will be written and if participants agree to have their interview taped, a digital voice file will also be created.

Typed interview transcripts will be produced for each interview using the handwritten notes and where applicable, the digital voice files. Upon completion of each transcription, the researcher will destroy–by shredding and/or digital erasure—the corresponding handwritten notes and (if applicable).

An electronic copy of the typed interview transcripts will be kept by the researcher, in addition to an electronic back-up copy. These electronic copies will be maintained securely in locked and private facilities, namely the researcher's personal residence in British Columbia. Only the researcher will have access to the data.

The typed interview transcripts will be produced in both hardcopy and softcopy formats to facilitate qualitative analysis. No other soft or hard copies of the data will be made. The raw data will be destroyed, by way of shredding and/or digital erasure, as appropriate, seven years after the day of the interview.

Final Dissertation: The final dissertation is being submitted in partial fulfillment of the requirements for the Ph.D. in Criminology degree, School of Criminology, Simon Fraser University. The dissertation will be available online and in-print through the Simon Fraser University Library.

PARTICIPATION: If you would like more information about this study, please contact me—at your earliest convenience—via email or telephone, at the email address/telephone number provided below.

Researcher & Interviewer
Danielle J. Murdoch, Ph.D. Candidate
School of Criminology
Simon Fraser University
8888 University Drive
Burnaby, BC, Canada
V5A 1S6
██████████████

Concerns or Complaints: Any concerns or complaints about this research may be directed to the researcher's Senior Supervisor: Professor, Dr Curt T. Griffiths (████████ or 778 782 4158).

Thank you very much for your time.

CSC Approval: Study Information and Informed Consent Document

Criminal Justice Reform in Post-Conflict Environments: A Case Study of Corrections Reform in Kosovo

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Study Information & Informed Consent

Principal Researcher/Interviewer: Danielle Murdoch, Ph.D. Candidate, Simon Fraser University, BC, Canada.

Title of the Research Study: "Criminal Justice Reform in Post-Conflict Environments: A Case Study of Corrections Reform in Kosovo" (Application Number: 2011s0296) and Correctional Service of Canada, Director General Research, Dr. Brian A. Grant (30 November 2011)

Introduction: You are being invited to participate in a study designed to explore the dynamics and challenges of conducting corrections reform activities in Kosovo, given your involvement in these activities following the NATO-led intervention in 1999.

Study Background: The researcher is interested in criminal justice reform activities that are undertaken in post-conflict environments, with a particular focus on corrections reform. In order to explore corrections reform activities in post-conflict environments, a case study on these activities within Kosovo is being conducted. Although there is a vast amount of literature about conducting criminal justice reform in post-conflict environments, there is very little about corrections reform. Additionally, very little has been written about the corrections reform activities undertaken in Kosovo. The current study will therefore help fill the gap in the literature with respect to corrections reform in Kosovo and post-conflict environments more generally.

Research Goals/Objectives: To conduct exploratory research about the dynamics and challenges of conducting corrections reform activities in Kosovo, with the potential identification of recommended best practices and "lessons learned" derived from the Kosovo experience. This study is purely exploratory in nature and does not involve an evaluation of the effectiveness of policies and practices that were implemented during this time.

What is Required of Research Participants: Research participants will take part in an individual, in-depth interview with the researcher that will last approximately three hours. A list of interview questions will guide the interview. The questions are not designed to evaluate the policies that guided criminal justice and corrections reform in Kosovo and similarly, do not evaluate the organizational processes and practices that were employed. The purpose of conducting this exploratory study is to identify and discuss the dynamics and challenges involved in conducting corrections reform activities in Kosovo. The interviews will be conducted in December 2011 and early 2012. Once you contact the researcher expressing interest in participating in the study, a location, date and time will be set to conduct the interview.

Statement of Voluntary Participation: Your participation in this study is voluntary.

Rights of Refusal: You may refuse to answer any question(s) and/or end the interview ("withdraw") at any time for any reason, without any prejudice or negative consequences, by informing the interviewer. If you withdraw from the study, your interview data will be destroyed immediately.

Risks: There are no foreseeable risks of this study (e.g., physical stress, physical harm, psychological stress) to research participants, third parties, or society.

Benefits: The research findings may be used to guide future dialogue, policy, practice and research undertaken in the area of corrections reform in post-conflict environments.

Statement of Anonymity/Confidentiality: Every effort will be made to keep your identity, organization/agency, country affiliation, and any other information, confidential by anonymizing your records and data with pseudonyms as soon as possible.

Data Security: To ensure the data is preserved in its truest form to produce typed interview transcripts for analysis, the data will exist in a maximum of two formats. Handwritten notes on paper will be written and if participants agree to have their interview taped, a digital voice file will also be created.

Typed interview transcripts will be produced for each interview using the handwritten notes and where applicable, the digital voice files. Upon completion of each transcription, the researcher will destroy–by shredding and/or digital erasure—the corresponding handwritten notes and digital voice file (if applicable).

An electronic copy of the typed interview transcripts will be kept by the researcher, in addition to an electronic back-up copy. These electronic copies will be maintained securely in locked and private facilities, namely the researcher's personal residence in British Columbia. Only the researcher will have access to the data, which will be saved and stored to two memory sticks with keys, locked in a cabinet that only the researcher has a key to unlock

The typed interview transcripts will be produced in both hardcopy and softcopy formats to facilitate qualitative analysis. No other soft or hard copies of the data will be made. The raw data will be destroyed, by way of shredding and/or digital erasure, as appropriate, seven years after the day of the interview.

Final Results: Each participant will have the option to review the notes from their interview prior to their inclusion in the final report. Additionally, approval will be requested for any direct quotes the researcher would like to use in the final report.

Participants will be provided with a copy of the final research results. The final results will be summarized and presented in the researcher's dissertation being submitted in partial fulfillment of the requirements for the Ph.D. in Criminology degree, School of Criminology, Simon Fraser University. The dissertation will be available online and in-print through the Simon Fraser University Library.

PARTICIPATION: If you would like to participate in this study, please contact me—at your earliest convenience—via email or telephone, at the email address/telephone number provided below.

Researcher & Interviewer
Danielle J. Murdoch, Ph.D. Candidate
School of Criminology
Simon Fraser University
8888 University Drive
Burnaby, BC, Canada
V5A 1S6
████████████████

Concerns or Complaints: Any concerns or complaints about this research may be directed to the researcher's Senior Supervisor: Professor, Dr Curt T. Griffiths (███████████ or 778 782 4158).

Research Participant Consent: By signing below, you indicate that you understand the nature of this research study, and that you agree to participate voluntarily.

Name of the Research Participant (Please print): _____

Signature of the Research Participant: _____

Place: _____

Date: _____

Signature of the Interviewer: _____

Thank you very much for agreeing to participate in this study.

Appendix B: Interview Questions

What does "reform" mean to you?

What does "corrections reform" mean to you?

Does your conception of reform differ from that of the organization you worked for while in Kosovo?

What was your experience working with other 'experts' during these reform efforts in terms of interpersonal dynamics?

What was your experience working with other 'experts' during these reform efforts in terms of organizational dynamics?

What was your experience working with locals from Kosovo, during these reform efforts?

Were there challenges implementing reform activities due to cultural barriers?

Were there challenges implementing reform activities due to language barriers?

Were there challenges implementing reform activities due to different cognitive lenses?

What would you say was the biggest challenge of implementing corrections reform in Kosovo?

Can you identify any organizational challenges implementing corrections reform activities in Kosovo?

How well do you think the reform policies reflected the reality of implementing them on the ground?

Were any policies changed once you were 'on the ground' and recognized the realities within Kosovo?

Did you go to Kosovo with any previous knowledge of the SFRY situation?

What was your most rewarding experience in Kosovo?

What was your least rewarding experience in Kosovo?

Given your experiences in Kosovo, how would you measure the outputs of corrections reform policies in future peacebuilding missions?

Given your experiences in Kosovo, how would you measure the outcomes of corrections reform programs in future peacebuilding missions?

Given your experiences in Kosovo, do you feel as though the failure of the international community to address the final status of Kosovo at the beginning of the mission had any impact on the reform activities you were a part of?

Were the reform activities undertaken in line with UN and international human rights standards and principles?

Given your experiences in Kosovo, can you speak to the appropriateness of applying UN and international human rights standards and principles within PCEs?

Following your time in Kosovo, did you experience "job shrink" upon your return to Canada (and your previous job with CSC)?