

The United States and the Quest to Reverse Ethnic Cleansing in

Bosnia: 1994 – 1995

Within the larger context of the crimes committed during the 1992 – 1995 war in Bosnia, the most shocking was the pre-meditated, meticulous, and methodical ethnic cleansing of members of opposing ethnic groups. The aggressors' goal was to render once multi-ethnic regions ethnically pure.¹ The term “ethnic cleansing” was introduced to the global public in the context of the 1990s Balkan wars.² Such purposeful un-mixing of peoples had not been witnessed in Europe since the end of World War II. Following the war, the international community responded to the ethnic cleansing committed by attempting to “re-mix” Bosnia’s ethnic groups.

The main objective of this article is to illuminate the U.S. role in an anomalous historical case: in the first half of the twentieth century great powers tended to accept and even facilitate the un-mixing of warring ethnic groups as a means of preventing future conflict. Yet following the 1992 – 1995 war in Bosnia, international powers – led by the U.S. – did precisely the opposite; they took extraordinary efforts to *reverse* the ethnic cleansing in the name of preventing future inter-ethnic conflict. Ethnic conflict is not new. Nor are international attempts to prevent or contain it. The international attempt to “re-mix”

¹ Gerard Toal and Charles Dahlman, *Bosnia Re-made: Ethnic Cleansing and Its Reversal* (Oxford: OUP,

² Norman Naimark, *Fires of Hatred: Ethnic Cleansing in Twentieth Century Europe* (Cambridge: Harvard University Press, 2001), p. 4.

ethnic groups in Bosnia, however, is unprecedented. As re-mixing in the Bosnia case represents a novel development, the rationale behind the policy demands investigation.³

This article asks: why did the U.S. pursue a re-mixing policy in response to ethnic cleansing in Bosnia? There were multiple policy alternatives on the table at the start of the conflict, including (a) Relocation: returning individuals to their country but not their region of origin; (b) Local Integration: maintaining individuals in their place of refuge/transforming temporary protection into permanent protection and naturalization; and (c) Resettlement: transferring individuals from their place of temporary refuge to third countries offering permanent refuge.⁴ As compared to these other options, re-mixing was an unlikely choice. Historically, this policy response was unprecedented. Politically, it was incredibly risky. Locally, it was unpopular. Financially, it was quite expensive. Practically, it failed. Yet U.S. government officials chose to prioritize re-mixing none-the-less, justifying their choice on the grounds that it was essential for “reversing” the ethnic cleansing and thereby re-establishing a multi-ethnic Bosnia.⁵

Two views have generally been put forward to explain the U.S.’s unprecedented support for the re-mixing of peoples in this case. I would characterize these explanations as “international moralism” and “norm evolutionism.” The international moralists include representatives from advocacy organizations (primarily *Human Rights Watch* and

³ It was unprecedented for the degree of financial, legislative, military, and human resources invested in its realization and for the policy’s specific targeting and incentivizing of minority returns.

⁴ See UNHCR “Framework for Durable Solutions for Refugees and Persons of Concern” (Geneva May 2003). Available online at: <http://www.unhcr.org/3f1408764.html>.

⁵ Toal and Dahlman, *Bosnia Re-made*; Sadako Ogata and Kofi Annan, *Turbulent Decade: Confronting the Refugee Crises of the 1990s* (New York: W. W. Norton, 2005); Catherine Phuong, “Freely to Return: Reversing Ethnic Cleansing in Bosnia-Herzegovina,” *Journal of Refugee Studies*, vol. 13, no. 2, 2000, pp. 165-183.

Amnesty International), think tanks, academics, journalists, and humanitarian workers.⁶ They have often explained support for re-mixing as a reflection of a moral compulsion, arguing that the policy of re-mixing surfaced as a direct response to the ethnic cleansing committed during the Bosnian war. They sustain that the policy aimed to right an egregious wrong: when international powers eventually agreed to intervene, their intervention came too late to prevent the ethnic cleansing of over half of Bosnia's population of 4 million people. Intervention did, however, make it possible to attempt to undo the effects of the cleansing through the return of ethnic minorities. Therefore, according to the international moralist view, it is neither surprising nor unusual that the U.S. threw its support behind a re-mixing policy because its conscience – or at least those of its constituents –required it.⁷

⁶ For the role of Western media in eliciting public pressure on Western leaders to intervene on humanitarian grounds see Piers Robinson's *The CNN Effect: The Myth of News, foreign Policy and Intervention* (London: Routledge, 2002). For specific analyses of Western intervention in Bosnia as "humanitarian" rather than strategic see Thomas G. Weiss's *Humanitarian Intervention* (Cambridge: Polity Press, 2007); Nicholas Wheeler's *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: OUP, 2000); Chih-Hann Chang's *Ethical Foreign Policy?: US Humanitarian Interventions* (Farnham: Ashgate, 2011); and Michael Ignatieff *The Warrior's Honor: Ethnic War and the Modern Conscience* (London: Vintage, 1999). For specific journalists who pushed for U.S. intervention on humanitarian grounds see reporter for *Newsday's* Roy Gutman, *A Witness to Genocide* (New York: Macmillan, 1993); David Halberstam's account of CNN's Christiane Amanpour's interview with President Clinton and a discussion of the most influential reporters of the war crimes including Blaine Harden of the *Washington Post* and John Burn of the *Times* (In *War in a Time of Peace: Bush, Clinton, and the Generals* (London: Bloomsbury, 2003), pp. 165-66; 283). For a post-hoc media review of the atrocities committed see: *Frontline*, "The Triumph of Evil, January 16, 1999, transcript. For international moralist accounts of historical cases of intervention, see Gary Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York: Knopf, 2008).

⁷ Samantha Power, *A Problem From Hell* (New York: Basic Books, 2002), pp. 269 – 280, 318 – 237, 423 – 441. See Roger Petersen, *Western Intervention in the Balkans: The Strategic Use of Emotion in Conflict* (Cambridge: CUP, 2011), p. 125 for a discussion of "shame" as a motivating factor of Western action in the region. See James Kurth, "Humanitarian Intervention: Lessons from the past decade," *Orbis*, Fall 2001, p. 578; James Kurth, "Humanitarian Intervention After Iraq: Legal ideas vs. military realities," *Orbis*, Winter 2006, pp. 87 – 101; and Walter Russell Mead, *Special Providence: American foreign policy and how it changed the world* (New York: Knopf, 2001), Chp. 5 on the role of international moralists in foreign policy decision making during humanitarian crises.

Norm evolutionists, in contrast, hold that norms regarding appropriate responses to ethnic cleansing have changed significantly over the past century.⁸ Whereas in the first half of the twentieth century, great powers condoned the “un-mixing” of ethnic groups as a means of providing ethnic minorities with personal security and increasing regional stability, by the close of the twentieth century, they contend, international peace brokers eschewed un-mixing and embraced re-mixing as a more socially appropriate alternative. Re-mixing, according to this view, became the preferred solution to displacement for members of tolerant, liberal-democratic societies. Norm evolutionists highlight the U.S.-led response to ethnic displacement in Bosnia as evidence of their claim. They conclude, from the apparent break with past international practice, that external support for re-mixing in Bosnia must have been the result of shifting conceptions of human rights and international responsibility on the international level leading to a shift in policy on the local level.⁹

I would like to present a third explanation: Un-intended Norm Diffusion. The promotion of re-mixing, I will argue, served U.S. goals enough to be kept on the table and failed to intimidate Serb and Croat leaders sufficiently to be taken off the negotiation table. It was this mix of instrumental significance and insignificance that allowed the re-mixing policy

⁸ Martha Finnemore, *The Purpose of Intervention; Changing Beliefs about the Use of Force* (Ithaca: Cornell Studies in Security Affairs, 2003); Michael Barutciski, “Lausanne Revisited: Population Exchanges in International Law and Practice,” in Rene Hirschon, ed., *Crossing the Aegean : an appraisal of the 1923 compulsory population exchange between Greece and Turkey* (Oxford: Berghahn, 2003), pp. 33 – 35; Christa Meindersma, “Population Exchanges: International Law and State Practice,” *International Journal of Refugee Law*, vol. 9, no. 3, 1997, pp. 613-653; Phuong, “Freely to Return,” pp. 165-183; and Rosand, “The Right to Return.” See Howard Adelman and Elezar Barkan, *No return, no refuge: rites and rights in minority repatriation* (New York: Columbia University Press, 2011) for a critical view.

⁹ Barutciski, “Lausanne Re-visited”; Meindersma, “Population Exchanges”; Phuong, “Freely to Return,”; Rosand, “The Right to Return.” See Alfred de Zayas, “International Law and Mass Population Transfers,” *Harvard International Law Journal*, vol. 16, 1975, p. 207-258 for a critical view (especially p. 208 – 209).

to slide through the negotiation process and enter into binding law. Given different interests on the part of the chief negotiators, the re-mixing directive would have been dropped. Given a more zealous endorsement of re-mixing on the part of the U.S., local parties to the negotiation would not have agreed to the Dayton Accords and Annex 7 in their current form.

I. Introduction

While European and United Nations' diplomats were struggling to broker a peace deal, the United Nations High Commissioner for Refugees (UNHCR) was scrambling to negotiate refugee admission agreements, and European member states were continuing to deflect Bosnian asylum seekers, U.S. President Clinton was facing increasing political pressure to take charge of the conflict in Bosnia. Up until 1994, Clinton had been wavering between conflicting positions with much talk and little delivery.¹⁰ The hedging and risk aversion arose, in large part, as a result of Clinton's intervention failure in Somalia.¹¹ Many of his critics were accusing him of failing in Bosnia, too, due to his inability to formulate an effective policy response. His first term was almost through and he had yet to prove his mettle in foreign affairs.¹²

Starting in 1994, following the insistence of his advisers, Clinton's Special envoys began to wrest control of the peace negotiations from the Europeans. By the time of the signing of the first successful peace accords in November/December 1995, the U.S. had achieved

¹⁰ Chih-Hann Chang's *Ethical Foreign Policy?: US Humanitarian Interventions* (Farnham: Ashgate, 2011).

¹¹ David Halberstam, *War in a Time of Peace: Bush, Clinton, and the Generals* (London: Bloomsbury, 2003).

¹² Ibid; Richard Holbrooke, *To End a War* (New York: Random House, 1998).

complete control (in fact, if not in theory) of the peace process.¹³ This article focuses primarily on the U.S. as the U.S. was the actor most responsible for influencing the re-mixing initiative during the 1994-1995 period.

Between 1994 and 1995, the U.S. adopted and promoted a top-down re-mixing discourse as part of its broader peacemaking efforts in Bosnia. Over this two-year period, the American negotiators created a new emphasis not only on return but also on return as a means of re-mixing Bosnians back into a unified, multi-ethnic state. Through the U.S.-brokered Dayton Peace Accords (DPA), the widespread rhetoric of “reversing ethnic cleansing” used throughout 1991 – 1994, was finally transformed into binding law. In legalizing the right to return to one’s home as a means of re-creating a multi-ethnic Bosnia, the U.S. peace brokers officially linked the agendas of the European refugee host states bent on returning their “guests” to Bosnia and the Bosniak leadership’s desire to re-establish territorial dominance with transnational advocacy networks committed to promoting the human rights of displacees.¹⁴

This article traces the U.S. actions which served to further develop the re-mixing idea over the 1994 – 1995 period. It also explores the various reasons why a powerful state came to embrace both a normatively charged and a seemingly impractical and costly policy idea. The first section of this article (“Case Narrative”) outlines the three key actions the U.S. took between 1994 and 1995, which paved the way for the formalization

¹³ Holbrooke, *To End a War*.

¹⁴ Such as Izetbegovic, as well as human rights advocacy groups including *Human Rights Watch* and *Amnesty International*. See Judith Goldstein, Miles Kahler, Robert Keohane and Anne-Marie Slaughter (eds.), “Legalization and World Politics,” *International Organization*, vol. 54, no. 3, 2000, pp. 385 - 399 on legalization as way to increase compliance with norms.

of re-mixing. The second section (“Case Analysis”) examines the reasons decision makers themselves gave for why they acted as they did. The third section (“Comparing Explanations”) places these findings in a theoretical context, arguing that both the instrumental value and the comparative insignificance of the re-mixing idea likely enabled its survival through the negotiation process.

In brief, this article upholds the idea that in order for human rights norms to become a primary factor in U.S. foreign policy decision-making, the promotion of the rights has to serve some broader U.S. national interest. Normative appropriateness in and of itself is *not* sufficient. To demonstrate this claim, my analysis contradicts international moralist and norm evolutionist explanations, which attribute the re-mixing policy to concerns of conscience and normative shifts. Instead, I offer an alternative account that casts geostrategic concerns as the primary factors shaping U.S. policy towards post-conflict refugee return.

II. How the U.S. Propped Up the Re-mixing Policy

U.S. policymakers took three crucial steps between 1994 – 1995, which contributed to the formalization of a re-mixing policy. The first of these steps had little to do with re-mixing. In March 1994, the U.S. drafted and helped broker the *Washington Agreement*. This Agreement saved Bosnia from a pending three-way partition through binding the Bosnian Croats and Bosniaks together in a coalition against the Bosnian Serbs.¹⁵ The

¹⁵ See David Owen, *Balkan Odyssey* (New York: Harcourt, Brace and Company, 1995), James Gow, *Triumph of the Lack of Will: International Diplomacy and the Yugoslav War* (NY: Columbia University Press, 1997) pp. 50 – 253; Steven Burg and Paul Shoup, *The War in Bosnia-Herzegovina: Ethnic Conflict and International Intervention* (New York: M. E. Sharpe, 1999), Chp. 5, 6; and Radha Kumar, *Divide and Fall?: Bosnia in the Annals of Partition* (London: Verso, 1997), Chap. 2 for a discussion European peace deals pre-Dayton.

second crucial step was the U.S. government's decision to consult UNHCR regarding the wording for the return annex of the Dayton Peace Accords. Without UNHCR's input it is not clear whether Annex 7 would have included its unique emphasis on "minority returns."¹⁶ The third and final step constituted the U.S.'s successful negotiation of the Dayton Accords without needing to bargain away the re-mixing Annex.¹⁷ Despite the fact that these three American actions were essential to the survival and codification of the re-mixing policy, U.S. decision makers paid surprisingly little attention to the issue of re-mixing during the treaty negotiations. The article concludes with a discussion of the significance of U.S. decision makers' relative disinterest in re-mixing, despite their public support for the idea.

i. The Washington Agreement and the U.S. Commitment to a "Unified, Multi-ethnic Bosnian State"

As the U.S. involvement in the Bosnia crisis increased, the U.S. policy rhetoric regarding U.S. interests and goals in the region solidified. No longer did the U.S. "not have a dog in this fight."¹⁸ Now the U.S. declared that it was not only set on stopping Serb aggression and ending the war, but also on rebuilding a unified, multi-ethnic state.¹⁹

From confidential memos to press briefings and from CIA reports to public speeches, the constellation of government foreign policy outlets began to speak of unity and multi-

¹⁶ "Minority returns" symbolizes the return of ethnic minorities not just to their country of origin but to their former homes. Without this provision, individuals would have returned to Bosnia but would have had to resettle in regions amongst their own ethnic group rather than in their former residences.

¹⁷ According to the primary Annex 7 drafter, this was a surprise at the time. Both he and his colleagues at the Bureau for Population, Refugees, and Migration assumed that the negotiating parties would demand significant reductions to the rights he had afforded displacees (Interview 33, April 22nd 2013).

¹⁸ Burg and Shoup, *The War*.

¹⁹ See Holbrooke's own account in *To End a War*.

ethnicity as the primary post-conflict goals for Bosnia.²⁰ The consistency and clarity of the “unified and multi-ethnic” mantra proved quite a contrast to the contradictory claims espoused by Western political elites over whether Bosnian independence should be allowed, and if so, whether parts of Bosnia should stay in Greater Serbia and other parts join the Republic of Croatia.²¹

The design and the wording of the U.S.-initiated and U.S.-brokered *Washington Agreement* was framed as a first step towards achieving a unified and multi-ethnic Bosnian state. Noting the failure of UN/European-led efforts from 1991 - 1994, the Clinton administration charged members of his foreign policy team with investigating alternative approaches to resolving the Bosnian impasse. The result was the *Washington Agreement*. This particular treaty, unlike the UN/EU negotiated treaties which preceded it²², spelled out the creation of a joint, multi-ethnic entity called the “Bosnian Federation.” Under the new Federation, which would comprise approximately half of Bosnia’s territory, power would be shared between Bosnian Croats and the Bosniaks. The power of the agreement lay in the fact that it bound Bosniaks and Bosnian Croats together against the Bosnian Serbs. In theory, this plan was also premised on using the return of refugees and internally displaced persons (IDPs) as a means of weaving the Bosniaks and Croats back together in a tight-knit web and, thereby, fostering increased stability for the federation in the future.²³

²⁰ U.S. State Department Cables January 1994 – December 1995.

²¹ Richard Caplan, *Europe and the Recognition of New States in Yugoslavia* (Cambridge: CUP, 2007); Burg and Shoup, *The War*, Chp. 5, 6.

²² *Carrington-Cutileiro Peace Plan*, the *Vance-Owen Peace Plan*, and the *Owen-Stoltenberg Plan*.

²³ Cable # 8753 (page 3) 21st, March 1995 from Sect. of State Christopher. Confidential. “Regarding Munich Meeting on Federation”: “We will focus governments and international organizations on the issue of return of displaced persons as key to the viability of the Federation.” Also see Christopher (same cable)

The *Washington Agreement's* introduction of a joint coalition against the Serbs shifted the immediate balance of interests on the ground and, thereby, opened up new possibilities for negotiated solutions. First, by creating a united military front against the Bosnian Serb forces the agreement enabled the Croat-Bosniak coalition to reverse the Bosnian Serb advance.²⁴ Second, the *Washington Agreement* provided much needed evidence that at least part of Bosnia was multi-ethnic and united.²⁵ The comprehensive peace plan, which was eventually adopted, subsumed the *Washington Agreement*.²⁶

ii. U.S. Brokers the First Comprehensive Agreement while Upholding the Universal Right to Return

Another key result of the U.S. taking charge of the multi-party negotiation process was that the U.S. finally managed to broker a comprehensive peace agreement between the main parties to the conflict. Building on the *Washington Agreement*, the Dayton Peace Accords (DPA) included the injunction to rebuild a unified, multi-ethnic Bosnia through

on the “Nine Point Plan To Support the Bosnian Federation.” These 9-points were based on the Washington Agreement, Vienna Agreement, Federation Constitution, and “equitable principles” established during the London Conference. This cable states that Holbrooke developed the 9-Point Plan (with the Europeans) to “enhance the long-term perspective of the Federation.”

²⁴ Interview with one of the U.S. Chief Negotiators for the Federation, Interview 7.

²⁵ This was, at any rate, what the Federation provided on paper. In practice, its architects admit that the Federation was akin to a “shotgun marriage” between Bosnia’s Croats and the Bosniaks, rather than an example of ground-up reconciliation (Interview with one of the US Representatives to the Bosnian Federation (Interviewee 7)).

²⁶ While the *Washington Agreement* brought certain realities on the ground closer to the rhetoric of unity and diversity through the creation of the Bosnian Federation, the comprehensive (and also U.S. brokered agreement) cemented conflicting realities on the ground by including the “Republika Srpska” [Serb Republic] as the second of the future state’s two entities. Thus, the U.S. initiated plan carried with it the biggest victory for unity and multi-ethnicity through maintaining a multi-ethnic entity within the state. But the plan also required a great concession; in order to achieve unity, the U.S. peace brokers gave the Serbs their own ethnically-linked territory to control, which, for many, undercut the sense of either a truly multi-ethnic or a united state.

the return of its displaced peoples.²⁷ From November 1st to November 21st, 1995, U.S. Ambassador Richard Holbrooke, used his prerogative as Chief U.S. Negotiator, and locked Serbian President Milosevic, Croatian President Tudjman, and Bosnian President Izetbegovic in an Air Force base in Dayton, Ohio. Milosevic was meant to negotiate on behalf of Bosnia's Serbs and Tudjman on behalf of Bosnia's Croats. The Yugoslav officials could not leave, Holbrooke declared, until they could agree to a common peace deal. After twenty-one days of intense bi-lateral and multi-lateral negotiations, the parties finally signed a common document. The Agreement specified that the future Bosnian state would be unified and multi-ethnic. The DPA also explicitly provided for the right of all Bosnians, including ethnic minorities, to return to their homes. Annex 7, Article I (1) of the DPA stipulated:

All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them. The early return of refugees and displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina.²⁸

Note that the clause not only specified return to one's home, but also compensation. The provision of compensation is crucial to note as it demonstrates that this Annex provided for formal alternatives to re-mixing – alternatives that are often forgotten in mainstream accounts of refugee return in Bosnia.²⁹ But what is so interesting about the unexpected and growing importance of re-mixing over all other policy options, is, in fact, the

²⁷ Dayton Peace Agreement, General Framework Agreement for Peace in Bosnia and Herzegovina, 21 November 1995, ("Dayton Peace Accords" (DPA)). Available online at: <http://www.refworld.org/docid/3de495c34.html>.

²⁸ Ibid, Annex 7, Article 1.

²⁹ These accounts tend to focus on the 1998 – 2003 period, while neglecting the first three Phases of the narrative.

compensation option was almost completely marginalized in favour of supporting the return of individuals to their original homes.³⁰

In addition to Annex 7, the DPA also provided for minority rights, the role of an ombudsman, and a requirement that policies of the new Bosnian government be “human rights friendly.”³¹ What is surprising about Annex 7, however, is that the U.S. managed to formalize a deal between two parties boldly hostile towards the idea of re-mixing (Milosevic and Tudjman) and one party selective in its understanding of re-mixing (Izetbegovic) without ever needing to revise or weaken, let alone delete, the Annex.

Holbrooke charged Ambassador Brunson McKinley, a career diplomat and deputy secretary at the U.S. Bureau for Population, Refugees, and Migration (PRM), with writing Annex 7. Left substantial discretion in the drafting process, McKinley chose to informally consult individuals from UNHCR as well as other refugee-oriented organizations. Working particularly with UNHCR’s Washington Representative, Anne-Willem Bijleveld, McKinley solicited advice regarding which principles should be included in the refugee and IDP annex.³²

At the time UNHCR was under severe pressure to provide for the return of refugees in any peace agreement as Germany and other European host states had only agreed to offer

³⁰ This was, in large part, because return to original homes was the only option in Annex 7, Article 1, which would lead to the reestablishment of multi-ethnicity rather than to the further cementing of demographic divisions. How compensation and other alternatives to return were marginalized will be discussed in further detail in the following two chapters.

³¹ Ibid, Annex 6.

³² UNHCR, given its intimate knowledge of the dynamics on the ground, based on its field presence during the war, had an expertise U.S. officials lacked.

temporary and not permanent protection. The sheer number of Bosnian refugees needing a durable solution to their displacement made resettlement to third countries such as the U.S., Canada, or Australia, less feasible. Therefore, the UNHCR leadership, by 1995, had accepted that return to Bosnia was the only politically viable solution for UNHCR to pursue following the end of the war.³³

Given this context, UNHCR's Representative to Washington D.C., Mr. Bijleveld, remembers UNHCR staff offering the following crucial advice to Brunson McKinley as he was drafting Annex 7: "[a]dd 'the right of return *to one's home of origin.*' [Including] the specification 'to one's home'...[It is] the only way to ensure that [the] return [of Bosnian refugees] will include reversal of the ethnic cleansing rather than simply a return to Bosnia."³⁴ This contribution – to not only return refugees but to re-mix them by sending them back to their original homes – critically changed the debate over the nature of the international community's obligations towards displaced persons following the end of the war. In deciding to accept this wording, McKinley introduced the concept of re-mixing into what the U.S.-led negotiation team made a legally binding document.³⁵

At the time, however, McKinley did not expect that his initial draft, which he turned over to Holbrooke's negotiation team, would remain unchanged through the Dayton negotiation process. "We saw [the draft we submitted to Holbrooke] as the starting point

³³ Matthew Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees* (Cambridge: CUP, 2004); Interviews with UNHCR employees charged with finding protection options for Bosnians wishing to flee Bosnia during the war.

³⁴ In-person Interview, Anne-Willem Bijleveld, on the record, Geneva November, 30th 2011. Bijleveld described the meeting with the Annex 7 drafter as "a short, informal meeting with a few members at UNHCR Headquarters in Geneva."

³⁵ UNHCR's rationale for pursuing a reversal-through-return policy is explored in the following chapter, Chapter VI.

for negotiations,” McKinley shared in an interview. “Knowing the parties and their preferences, both Milosevic and Tudjman were openly opposed to allowing re-mixing, [my staff at PRM and I] assumed they would either not agree to [our draft] or they would demand compromises...”³⁶

In order to understand how Annex 7 entered and survived the Dayton negotiation process intact, it is important to understand the overall *insignificance* of Annex 7 in the context of the players and issues present at Dayton.

iii. Importance of Annex 7 to the Dayton Negotiations

In the literature on international refugee law and international law more broadly, scholars often cite Annex 7 as an example of best practice in the field.³⁷ Scholars rightly claim that Annex 7 sets an international precedent.³⁸ In fact, UNHCR’s High Commissioner, Madame Ogata, often argued that the success of the entire Dayton Peace Accords lay in the international community’s ability to successfully provide for the right of return to one’s home (what I call re-mixing) as specified in Annex 7.³⁹ Similarly, years after U.S.

³⁶ Interview 33.

³⁷ Rosand, “The Right to Return”; Catherine Phuong, “Freely to Return: Reversing Ethnic Cleansing in Bosnia-Herzegovina,” *Journal of Refugee Studies*, vol. 13, no. 2, 2000, pp. 165-183; Charles Philpott, “From the Right to Return to the Return of Rights: Completing Post-War Property Restitution in Bosnia Herzegovina,” *International Journal of Refugee Law*, vol. 18, no. 1, 2006, pp. 30-80; Rhodri Williams, “Post-Conflict Property Restitution and Refugee Return in Bosnia and Herzegovina: Implications for International Standard-Setting and Practice,” *New York University journal of international law & politics*, vol. 37, 2004, pp. 613 - 653; Anneke Smit, *The Property Rights of Refugees and Internally Displaced Persons: Beyond Restitution* (New York: Routledge, 2012).

³⁸ Interviewee 16, 12.

³⁹ Sadako Ogata and Kofi Annan, *Turbulent Decade: Confronting the Refugee Crises of the 1990s* (New York: W. W. Norton, 2005), Chp. on Bosnia; Phuong, “Freely to Return”; and UNHCR “Update of UNHCR’s Position on Categories of Persons from Bosnia and Herzegovina Who are in Continued Need of International Protection Sarajevo” (1 May 1999). Available online at: <http://www.unhcr.org/refworld/docid/3ae6b3390.html>.

involvement in the Dayton Peace Process, top U.S. government officials could easily cite Annex 7 (as opposed to other annexes) from memory. They also volunteered it as one of the most important elements of the Dayton Peace Accords as the future of a unified state depended on re-mixing.⁴⁰

Research in U.S. State Department Archives and interviews with individuals on the Dayton negotiation team, however, show a very different reality: key U.S. decision makers paid scant attention to Annex 7. For example, U.S. special envoy, Ambassador Bob Frasure, failed to discuss the issue of the scope of return and repossession rights in his pre-Dayton meetings with Milosevic, the chief negotiators failed to discuss Annex 7 during the twenty-one-day Dayton conference,⁴¹ and Holbrooke left Annex 7's final wording to the most junior members of his legal drafting team.⁴² Most importantly, Holbrooke, the chief architect of the Peace Accords, is unlikely to have even read Annex 7 before the final signing of the Accords.⁴³ Yet, it is precisely this lack of attention that enabled such a ground-breaking Annex to survive the negotiation process.

In the numerous sources of information on the negotiations leading up to the Dayton talks and on the twenty-one days at Dayton, there is a conspicuous absence. Almost none of the sources discuss the specifics of refugee return and what would become of refugees once they returned. For example, the U.S. State Department diplomatic cables between Washington and negotiation team members in the field offer the most detailed and

⁴⁰ Interview 25, 28, 21, 6.

⁴¹ Derek Chollet, *The Road to the Dayton Accords: A Study of American Statecraft* (New York: Palgrave Macmillan, 2005); Holbrooke, *To End A War*, Chp. 16 - 18.

⁴² Interview 25.

⁴³ Ibid; Interview 28.

complete account of topics negotiated prior to Dayton.⁴⁴ What is significant about the cables in the months leading up to the Dayton talks is the *lack* of discussion regarding what would become of Bosnia's displaced people, despite the issue's prevalence in post-conflict public debates. There was little internal debate because the necessity of re-mixing Bosnians was not of central importance to negotiators at the time.⁴⁵ In fact, given references to land swaps, minimizing expulsions, and lines of [ethnic] control in these debates, one could argue that the issue of re-mixing had no substantive importance in the negotiations.⁴⁶ When key members of the U.S. negotiation team were asked about Annex 7 in the context of the Dayton talks, they explained that the refugee return and human rights provisions were simply "left to the Europeans to negotiate"⁴⁷ while the Americans busied themselves with the "core war versus peace issues."⁴⁸ These "core" issues included the manner, degree, and composition of NATO's peacekeeping force in the region, the nature and duration of sanctions on Serbia, and the location of the inter-entity lines of control in the future Bosnian state.⁴⁹

The detailed records on the twenty-one days of negotiation over the DPA also demonstrate silence on the issue of re-mixing. Holbrooke, cognizant of the importance the negotiation would hold in history if it were a success (and some would say, eager to

⁴⁴ FOIA Request, Review of U.S. State Department Cables between Washington and Sarajevo, Bosnia and Belgrade, Serbia, July 1994 – March 1996.

⁴⁵ U.S. State Department Cables between Holbrooke's negotiation team in the field and Headquarters; Chollet, *Road to Dayton*; Holbrooke, *To End a War*; Bildt, *Peace Journey*

⁴⁶ Interview 20.

⁴⁷ Interviewee 28.

⁴⁸ Interview 20. According to Interview 33, it seems that the Europeans were not necessarily in charge of these issues. Rather, the drafting was delegated to members of the U.S. government, but European individuals were consulted.

⁴⁹ Jim O'Brien, "The Constitution of Bosnia Herzegovina," Chap. 12 in *Framing the State in Times of Transition* (Washington, D.C.: United States Institute for Peace, 2010).

mark his own feats in the halls of diplomatic fame), kept a meticulous record of the Dayton proceedings. In Holbrooke's account of the treaty negotiations, however, the re-mixing imperative is not discussed, with one exception.⁵⁰

In addition to Holbrooke's own personal record, the State Department commissioned a detailed study of how and why Dayton worked, following the negotiation's success. The investigation included detailed interviews with all of the key American players involved in the Dayton negotiation process. Derek Chollet, the author of the project's final report, the "Dayton History Project," wrote his own account of the Dayton talks, based on the project's findings. Once again, Chollet's insider overview gives scant attention to Annex 7, let alone naming it as the essential element for the success of a future Bosnian state.⁵¹

Finally, Annex 7, unlike the other "core war versus peace"⁵² annexes, was left to a drafting committee composed of junior lawyers. These junior lawyers were tasked with drafting all the human rights-related annexes including Annex 7 on the return of

⁵⁰ Holbrooke, *To End A War*: see Chapters 16 - 18 highlighting the Dayton negotiations. The one exception concerns Holbrooke's discussion of the importance of re-establishing a multi-ethnic state to certain members of the Bosniak leadership. A corollary to re-establishing multi-ethnicity was the importance of achieving diversity through the right of all displaced persons to return to their pre-war homes. Thus Holbrooke had described how the Bosniaks would insist on including a right to return in any peace deal. Whether or not Holbrooke and his team believed that the Bosniaks meant to extend this right to all returnees – or just to returnees from their own group – is not discussed. As discussed in Chapter IV, Izetbegovic might have insisted on the inclusion of a universal right to return – i.e. re-mixing – in the Dayton Accords. But following the conflict's end, Izetbegovic actions suggest that the SDA leadership only ever intended this right to apply to displaced Bosniaks (Interview 43). When it came to the return of ethnic Serbs or ethnic Croats to regions controlled by the SDA, Izetbegovic's support for return transformed into obstructionism. It is important to remember that as the plurality, the SDA could only maximize their political influence through the dispersal rather than through the consolidation of the Bosniaks. Turning to Milosevic and Tudjman, it is likely they allowed Annex 7's inclusion because both assumed it was insignificant and therefore neither expected to have to implement Annex 7 following the war's end (Interview 40, 18).

⁵¹ Chollet, *Road to the Dayton*.

⁵² Interviewee 20.

displaced people, Annex 6 on human rights protections, and Annex 8 on the preservation of national monuments. Regarding Annex 7 in particular, one member of the junior lawyers team explained:

Though [Annex 7] became an important part of the [Dayton] implementation process, [Annex 7 was] not at all an important part of the negotiation...[The issue of return] was kept at the more junior level...I don't even know if Holbrooke and the other senior people ever talked about [return] at Dayton...[Annex 6, Annex 7, and Annex 8] were not the issues between the parties.⁵³

The comments of another member of the negotiation team, who worked alongside the junior lawyers, clearly reveal the degree of neglect of the return issue and other human rights clauses during the Dayton negotiations:

You've probably read in Holbrooke's book about the day when he said, 'We're leaving. It's all over.'⁵⁴ And I remember we were all ordered to pack our bags. I thought we really were leaving! It was all over. I packed my bag. I remember sitting in our office space and [junior lawyer], who was with the [U.S. State] Policy Planning staff then, was doing some clean up work on the document. I think specifically Annex 7, as a more minor [annex] that the people⁵⁵ weren't paying attention to. I remember thinking to myself, 'Why is she bothering? We're leaving!'

Next thing you knew we're not leaving and there is no time to do anything. It's a good thing she bothered to just clean up [Annex 7] because in the end, there was no time to do that. For [the chief American negotiators], [Annex 7, Annex 6, and Annex 8] were just minor details.⁵⁶

⁵³ Ibid.

⁵⁴ A few weeks into the conference, when there was little progress and a great chance of negotiations breaking down, Holbrooke took a risky move. He ordered all his staff to pack up their things. He announced that the U.S. team was leaving and that the negotiations were over. Faced with the prospect, recalcitrant parties finally agreed to sign the Accords in exchange for the U.S. staying to broker the final stage. Holbrooke agreed. Before the parties could change their minds, Holbrooke put the final documents in front of the leaders for signing and announced the feat to the press. Some have suggested that Holbrooke's dramatic departure was only a bluff (Interview 7, 20).

⁵⁵ By "people" Interviewee 20 was referring to Holbrooke's senior negotiating team, including Bob Owen, Chris Hill, Wesley Clark, and, Jim Steinberg, among others.

⁵⁶ Junior Legal Drafters on the Holbrooke team at Dayton.

My interviewee concluded, “Honestly, it would not shock me if [Holbrooke] never read Annex 7 before Dayton was signed...He only just knew very generally what was in there.”⁵⁷

Could it be that American negotiators, in this case, took re-mixing for granted? Might the idea of re-mixing have been so embedded in U.S. ideas about the ingredients needed for a stable, post-war state that U.S. officials thought there was nothing left to debate? Or, was U.S. support for re-establishing a multi-ethnic state through the re-mixing of Bosnia’s peoples a cheap and easy nod to human rights? An expression of an ideal rather than of an intention? Or, a discourse that happened to correspond with the U.S.’s pre-existing strategic intent? In order to explore this issue further, let us turn to decision makers’ own explanations for U.S. support for re-mixing.

III. Why did the U.S. Propped Up the Re-mixing Idea?

How are we to make sense of the fact that the U.S. initially minimized and even neglected the primary Annex concerning re-mixing while espousing it as one of its primarily foreign policy goals for Bosnia? How should we understand this seeming contradiction?

⁵⁷ Interview 20. It is important to put this interviewee’s observations in context, given what is known about Holbrooke’s management style at Dayton. Holbrooke was a notorious micromanager. In countless interviews conducted with his intimate colleagues, his colleagues emphasized how much Holbrooke controlled even the tiniest details of the peace process. Therefore, Holbrooke’s failure to micro-manage Annex 7 as the central clause regarding re-mixing suggests that the promotion of this particular policy did not take on much importance at the time of the Dayton negotiations. Also the recent biography on Richard Holbrooke, *Unquiet American: Richard Holbrooke in the world*, penned by two of his most intimate colleagues, Derek Chollet and Samantha Power, eds. (New York: Public Affairs, 2012), confirms this personality trait.

i. Normative Justifications

Throughout the war, the Clinton administration maintained a normatively driven set of justifications regarding the Bosnian conflict. The administration's justifications included the need to take action in order to reverse ethnic cleansing, to rebuild a multi-ethnic Bosnia, to seek "justice" for those forcibly displaced during the conflict, and to set a good example, as part of re-establishing the rule of law and respect for human rights, minority rights, and property rights so that ethnic cleansing would not occur again.

Consider a few examples: on February 10th 1993, Clinton's Secretary of State, Warren Christopher, portrayed U.S. incentives for intervening in Bosnia in the following way, "Bold tyrant and fearful minorities are watching to see whether 'ethnic cleansing' is a policy the world will tolerate...Our answer must be a resounding no."⁵⁸ In reference to the *Vance Owen Plan*, the Clinton administration suggested that it was unacceptable because it "rewarded ethnic cleansing."⁵⁹ Clinton called the plan flawed in this respect and declared that the U.S. would not accept any plans that the Bosnian Muslims would not be willing to live by on their own.⁶⁰ As another example, Clinton's Ambassador to the United Nations, Madeleine Albright, often publically argued for UN intervention in Bosnia to stop the ethnic cleansing.⁶¹ Privately, she and Vice President Gore were the most vocal critics of the Clinton administration's early failure to intervene on human

⁵⁸ Warren Christopher, "New Steps towards Conflict Resolution in the Former Yugoslavia," Opening statement by the secretary of state at a news conference, Feb. 10, 1993. Reprinted in *Dispatch*, vol. 4, Feb. 15th 1993, p. 81.

⁵⁹ Daalder, *Bosnia*, p. 11.

⁶⁰ Thomas Friedman, "U.S. Will Not Push Muslims to Accept Bosnia Peace Plan," *New York Times*, February 4, 1993, p. A1.

⁶¹ Halberstam, *War in a Time of Peace*, pp. 197, 290, 312, 317 – 318.

rights grounds alone.⁶² Ambassador Albright spoke frequently at the United Nations and to the press stressing the need for the international community to intervene in order to stop ethnic cleansing and to protect human rights.⁶³

In the years following the end of the conflict, U.S. government rhetoric increasingly articulated its support for re-mixing and justified it as an end in itself. Speaking of the negotiation process, U.S. Special Representative Holbrooke, for example, in direct reference to earlier cases of population exchanges and post-war un-mixings, wrote: “The image of Cyprus with its ugly [dividing] wall would haunt us through the Bosnia peace process...We talked frequently about the need to avoid letting Bosnia become another Cyprus...”⁶⁴

Similarly, in February 1996, U.S. Secretary of State, Warren Christopher, gave a poignant speech in which he extolled the Dayton Accords as a beacon for universal values including multi-ethnicity, democracy, and human rights. Based on these values, he argued, the U.S. had triumphed over ethnic hatred and violent separatism. As part of this speech, Christopher vowed that “refugees and displaced persons will have the right to return home.”⁶⁵ These examples are by no means unique. Most U.S. government statements, in both the conflict and the post-conflict years, justified U.S. support for re-

⁶² Ibid., pp. 196 – 197.

⁶³ Ibid., pp. 312, 314, 317 – 318.

⁶⁴ Holbrooke, *To End A War*, p. 133.

⁶⁵ Secretary of State Christopher’s speech is quoted in John Shattuck, “Prospects of Peace with Justice in Bosnia” transcript of U.S. Department of State Dispatch, 19 February, 1996.

mixing as premised primarily on reversing ethnic cleansing and re-establishing unity, stability, and multi-ethnicity.⁶⁶

The re-mixing policy is a particularly powerful lens for examining the normative justifications used for intervening in Bosnia in general. For while it is easy to find strategic rationales for other U.S. policy priorities in Bosnia (expanding NATO, improving relations with Russia, saving the Europeans and the United Nations from legitimacy crises, and so forth), the *strategic* reasons for upholding a universal right to return within the broader U.S. policy strategy towards Bosnia are not so obvious. The lack of a clear alternative explanation has led many commentators to assume that the rationale for return was simply a matter of Western states following their conscience or of complying with existing humanitarian norms.⁶⁷

ii. Looking Beyond Normative Discourses to Alternative Justifications

While political rhetoric can signpost policy intentions, it can just as well disguise them. Realist scholars argue that normative rhetoric is no more than “window dressing”⁶⁸ for self-interest. “State behaviour,” realist scholars contend, “is largely shaped by the material structure of the international system.”⁶⁹ While interests might be disguised in

⁶⁶ See Holbrooke, *To End A War*, Madeline Albright, *Madame Secretary: A Memoir* (New York: Miramax Books, 2003) and William Clinton, *My Life* (New York: Knopf, 2004) for autobiographical accounts. These accounts are consistent with comprehensive analyses from two veteran White House Press Corps journalists: Bob Woodward (*The Choice: How Bill Clinton Won* (New York: Simon & Schuster, 1996) and Halberstam’s *War in a Time of Peace*).

⁶⁷ Rosand, “The Right to Return”; Phuong, “Freely to Return”; See discussion in Julie Mertus, *Bait and Switch: Human Rights and U.S. Foreign Policy* 2004: Chap. 1.

⁶⁸ Robert Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford, OUP 2000), p. 67.

⁶⁹ John Mearsheimer, “The False Promise of International Institutions,” *International Security*, vol. 19, no. 3 (Winter, 1994-1995), p. 91.

broad commitments to human rights, one must look below the surface in order to decipher the power and interests driving the policy choices.⁷⁰ Following this line of thought, one would have to assume that if the U.S. decided to commit the resources and to take the political risks to uphold a particular policy, then this policy must have served the U.S.'s core interests.⁷¹ But how? And which interests?

Archival and interview data suggest that over the 1994 –1995 period, U.S. actors adopted the re-mixing idea for primarily instrumental reasons. This observation directly contradicts claims made by both international moralist and norm evolutionist scholars. Interview and archival material covering the 1994 –1995 intervention phase confirms the realist hunch that, *to the extent that U.S. policy makers considered re-mixing significant at all, it was for instrumental reasons*. At the time, the emphasis on re-mixing served other, more pressing, U.S. interests. These interests included the U.S.'s need to please the leader of the Bosniaks, Izetbegovic, so that he would sign the proposed peace deal, the need to find a feasible solution,⁷² and finally, the concern that an independent, land-locked Bosniak rump state, which would be the likely result absent re-mixing, would be too susceptible to nefarious fundamentalist influences from Iran and Saudi Arabia.

Consider the following comment from an interview with a member of Holbrooke's innermost negotiation team. When asked about U.S. rationales for supporting the

⁷⁰ Ibid.

⁷¹ It is also important to note that the U.S., at the time, was not pursuing return in other situations akin to Bosnia. This failure to follow the norm of reversal in other cases, suggests that interests particular to the Bosnian case, rather than general norms of appropriate behaviour, were driving the U.S. in its decision to support return.

⁷² After many attempts to devise a divided or semi-divided solution, U.S. negotiators were of the mind that unity was the only feasible route for Bosnia.

reversal of ethnic cleansing, my interviewee brushed aside the assumption that idealism or new norms were driving U.S. policy:

You have to separate between what was a rhetorical idea and what was the pragmatic policy - of all governments, not just the U.S. Rhetorically it was about a single, unified, multi-ethnic Bosnia. But as you see, to this day, the practical solution at Dayton and in trying to end the war was about something else.

[Our policy goal] was a solution that kept Bosnia together as a state, but was a kind of hybrid of bringing together the different communities but in a form of government that is *different* than most unitary states. It's not a unitary state but [our policy] keeps the borders together ...⁷³

In other words the goal was not substantive unity and multi-ethnicity, but rather only symbolic. When asked about the lack of consistency regarding U.S. action on un-mixing and re-mixing in the region, (with reference to U.S. actions in Kosovo and Croatia versus U.S. actions in Bosnia), my interviewee responded lightly, “In the foreign service, we like to say that no two situations are the same.”⁷⁴

Yet in the U.S. Department of State's confidential cables on Bosnia, this high level adviser and his colleagues had often used precedents and analogies as the basis for advocating a particular policy course.⁷⁵ If “no two situations are the same,” then what value should be given to their arguments in these internal cables? When confronted with this contradiction between his statements and his own cables, this adviser responded with a twinkle in his eye, “Well [in the cables], that's when [the situations] *are* the same.”⁷⁶

⁷³ Interview 27.

⁷⁴ Ibid.

⁷⁵ In debating policy options in Bosnia alone, U.S. officials had drawn on analogies to World War II, Cyprus, and even to the American Revolutionary War (Slides #: 8736: “Cyprus in Croatia”; 9436 – 9446: “What can be done about the Bosnias, Abkhazias, and Rwandas that may be of interest to you?”); Samantha Power, *A Problem From Hell* (New York: Basic Books, 2002), Chps. on the intervention in Bosnia; and Owen, *Balkan Odyssey*.

⁷⁶ Interview 27.

Similarly, in Holbrooke's memoirs on the U.S. peace efforts in Bosnia, while he does share fears of Bosnia "becoming another Cyprus," he also writes that "Many in the West believed and still believe that partition would have been best [in Bosnia]..."⁷⁷ But rather than decrying partition as unpalatable or as against the U.S.' core values, Holbrooke simply explains that partition, as a solution to the inter-ethnic tensions, was not endorsed by all three of Bosnia's main ethnic groups: "The Bosnians were divided against themselves on what they wanted. There was disagreement between the Bosnian President and the Bosnian Prime Minister."⁷⁸ Ultimately, the Bosnians eventually opted against partition, as the three parties were unable to decide where to draw the partition lines. As a result, Holbrooke encouraged Clinton to oppose partition and to support the maintenance of a unified, multi-ethnic Bosnian state.⁷⁹

In addition, while Secretary Christopher did argue that "our answer should be a resounding no" to tolerating ethnic cleansing in Bosnia, National Security Council insider, Ivo Daalder, also points out that "there was a notable mismatch between the rhetoric of [Christopher's] policy announcement and its content,"⁸⁰ as the rhetoric was not accompanied by a commitment to action. Instead Christopher emphasized that under no circumstances other than a comprehensive peace settlement would the U.S. offer

⁷⁷ Holbrooke, *To End A War*, p. 96.

⁷⁸ Ibid, p. 97.

⁷⁹ Ibid. The pro-partition camp used the language of "self-determination" to promote their position.

⁸⁰ Daalder, *Bosnia*, p. 10.

ground troops. In Christopher’s memoirs, he too admits that his rhetoric “proved to be well ahead of our policy.”⁸¹

Similarly, while Clinton continued to espouse an international moralist line of argument for his “refusal to accept any plan that the Bosnian Muslims would not be willing to live by,” this sentiment, too, proved stronger in rhetoric than in content. Over the course of the Dayton negotiations, the U.S. had to pressure the unwilling Izetbegovic and the SDA leadership to sign the final plan. As evidence of the Bosniak leader’s reluctance to sign let alone live by such a harsh compromise of his original goals, Izetbegovic famously left the negotiations declaring that the DPA provided a peace, but not a just peace.⁸²

In a discussion with one of the most senior members of Clinton’s foreign policy team, my interviewee described himself as one of the few people in the administration who “knew shit from shinola about the Balkans.”⁸³ Following Dayton, this senior adviser had famously announced that the U.S.-brokered Dayton Accords had made the European “continent safe for democracy and thereby create[d] an environment in which self-determination can flourish without requiring the proliferation of ethnically-based micro states...”⁸⁴ When asked about this comment in the context of the lack of consistency in U.S. policy (in Kosovo and Croatia, where the U.S. tolerated far more un-mixing, versus Bosnia), the adviser confessed that his earlier optimistic comments about U.S. influence

⁸¹ Warren Christopher, *In the Stream of History: Shaping Foreign Policy in the New Era* (Stanford University Press, 1998), p. 345.

⁸² Holbrooke, *To End a War*, Chp. 18.

⁸³ Interview 9.

⁸⁴ Quoted in Lenard Cohen, *Serpent in the Bosom: the Rise and Fall of Slobodan Milosevic* (Boulder: Westview, 2001), p. 389.

in the region were ill-founded. “I just turned out to be wrong unfortunately. It was wishful thinking”⁸⁵ – or, in other words, aspirations without thought to implementation.

One former state department employee, close enough to the re-mixing policy process to know the U.S. decision makers well, gave the following response when asked about the influence of norms on the return policy choice:

U.S. decision makers [forming policy on Bosnia] chose the [normative] explanation that suited their policy best. It changed: When they wanted to do nothing [in Bosnia] it was “ancient hatreds” [causing the war] and there was nothing the U.S. could do. When [U.S. decision makers] wanted to intervene [in Bosnia], it was “manipulative elites” [causing the war] and we needed to remove them.⁸⁶

This interviewee’s perspective is backed by Lenard Cohen’s detailed study of U.S. policy rhetoric and practice towards Bosnia during and after the war. Cohen contends that U.S. decision makers’ normative justifications for their policies changed as policy priorities changed.⁸⁷ For example, Cohen describes how Chief Negotiator Holbrooke, “picked and chose from history to suit his own goals...He shifted from one view [paradise lost] to another [loathsome leaders].”⁸⁸

In my interview with a retired Brigadier General who acted as an adviser to Bosnia’s Federation forces, he challenged yet another normative premise of the U.S.’s rhetorical justifications for return. When asked which principles, if any, seemed to be guiding U.S. action, he responded, “You know the diplomats who were on the ground, trying to keep these wretched people from tearing each other apart, were looking for a little bit of this

⁸⁵ Interview 9.

⁸⁶ Interview 4.

⁸⁷ Cohen, *Serpent in the Bosom*, Chp. 9.

⁸⁸ Ibid., pp. 400 – 401 or see also Richard Holbrooke’s speech, *Federal News Source* (1 October 1996).

proposal and a little bit of that proposal that they could cobble together and make work...They wanted to please everyone. Compromise and not principle was the guiding rule.”⁸⁹ He continued to explain that the result was an unworkable hodgepodge of contradictory commitments.⁹⁰ These contradictory commitments made implementation of the Accords impossible. Specifically, the Brigadier General referred to the contradiction between rhetorical endorsement of re-mixing and the concerted efforts to obstruct the implementation of re-mixing during the years immediately following the conflict’s end.

As a final piece of evidence to consider, John Western, a former State Department employee, resigned from the Intelligence and Research section of the State Department (INR) in August, 1993, where he was a Balkans and East European specialist. He was one of a few from State who resigned in protest to U.S. policy in Bosnia. When asked about the reasons for his resignation, Western explained that he opposed the fact that the U.S. government failed to take action to stop ethnic cleansing on normative grounds alone.⁹¹ There was, at that point, a dearth of broader political incentives to intervene and the Clinton administration had decided to delegate the situation to the Europeans.⁹²

iii. Alternative Rationales for Supporting Re-mixing

⁸⁹ Interview 10.

⁹⁰ For example, U.S. negotiators promised a universal right to return while ceding control of one of the two entities to the Bosnian Serb leadership, a group hostile to the idea of re-mixing.

⁹¹ Interview 37.

⁹² Henry Ryan, “The Ultimate Dissent: resignations from the State Dept. over government policy in Bosnia,” *Government Executive*, May 1994; “3rd US Aid Quits Over Bosnia,” *New York Times*, August 10th, 1993. Available online at: <http://www.nytimes.com/1993/08/10/world/3d-us-aide-quits-over-bosnia.html>. Western resigned on August, 6th, 1993.

If the U.S. did not support re-mixing for normative reasons primarily, as international moralists and norm evolutionists suggest, then why did U.S. policymakers support it? What were the interests underlying the rhetoric? There are three alternative explanations for why the U.S. stood to benefit from actively supporting re-mixing. These include the U.S.’ desire to minimize extremist influences in the Bosniak community, the U.S.’ desire to maximize regional stability through creating a feasible future state, and the U.S.’ need to expedite a mutually agreeable solution, even if that meant accepting different parties’ contradictory demands.

Minimizing Extremist Muslim Influences

The first alternative reason for pursuing return, namely the desire to minimize Muslim extremist influences in Bosnia, rests on a claim that the U.S., more than its European allies, held a substantial concern regarding Bosnia’s three-way ethnic partition.⁹³ This concern, however, was not primarily due to American beliefs in multi-ethnic tolerance and diversity. Rather, U.S. intelligence at the time suggested that a Bosniak rump state, land-locked and trapped between two far more powerful and hostile neighbours, might well turn to radical Islamist sponsors for support and, in turn, become radicalized itself. This is one alternative explanation for the U.S.’ consistent support for a unified and multi-ethnic state in which the war-induced homogenization of Bosnia’s communities would be reversed.⁹⁴

⁹³ Interview 27.

⁹⁴ Interview 27, 7.

Former U.S. envoy to the Bosnian Federation, Daniel Serwer, is one of the primary advocates of this rump state theory. According to Serwer, who was privy to internal cables during his assignment as envoy from 1994 - 1995, the U.S. State Department knew of Bosniaks' increasing links with Wahhabi groups and with the Iranian government.⁹⁵ The Central Intelligence Agency identified mujahedeen fighters, fresh from the Afghan war against the Soviets, in the Bosniak ranks. Serwer argues that the U.S. thinking evolved over the course of the war into a belief that keeping Bosnia ethnically integrated would dilute the influence of these radical, external forces and keep Bosnia's Muslims invested in a European future.⁹⁶ Without this pending threat, the U.S. may well have been ready to sacrifice its support for re-mixing and a multi-ethnic Bosnia if the quickest and surest path to peace included a three-way partition.⁹⁷

Serwer's claim is still disputed, however, by other core members of the U.S. negotiation team. Some members agree with Serwer that the fear of a radicalizing Muslim rump state was of paramount concern at the time of the March 1994 *Washington Agreement*. Others, from the State Department's intelligence community, say that the extremist threat was of little to no concern.

⁹⁵ Interview 7; Daniel Serwer, "A Bosnian Federation Memoir," in Chester Crocker, Fen Osler Hampson, Pamela Aall (eds.) *Herding Cats: Multiparty Mediation in a Complex World* (Washington, D.C.: USIP, 1999), pp. 547 – 586.

⁹⁶ A similar logic was applied in defending the U.S. policy to supply indirect military support to the Federation troops, despite the international embargo. Through building up Bosniak defences and military capabilities, U.S. officials were seeking to lessen Bosniak leaders' dependency on Islamic fundamentalists for arms, funds, and training (Interview 27, 18).

⁹⁷ This point I infer from comments made regarding Kosovo Albanians, who were known to U.S. officials as the "most secular of all Muslims" (Interviewee 7). "The only religion they know," the interviewee remarked, "is Albanianism!" When I asked Interviewee 7 and other interviewees whether the U.S. would have supported the Kosovo bid for statehood if the Kosovo Albanians had been less secular, all agreed that the U.S. would likely not have supported the bid.

Turning to local sources, one finds further contradictory evidence for Serwer's rump state hypothesis. On the one hand, Bosniaks in the military were said to greatly admire the mujahedeen for their courage and for their expertise. In comparison, the Bosniak fighters were often "incompetent and inexperienced."⁹⁸ But local journalists and former members of the military also described general resentment amongst the wider Bosniak community towards the changes these foreigners imposed including the wearing of headscarves, the forbidding of public bathing, praying five times a day, and fostering animosity towards secular members of the Bosniak community.⁹⁹

Returning to the U.S.'s perception of the degree of threat posed by a potential rump state, one of Holbrooke's chief political advisers offered a compromise account. He suggested that U.S. concerns, regarding the potential for fundamentalist or foreign Muslim influences in a future Bosnian state, were an issue of degree rather than a decisive factor in U.S. support for reversing ethnic cleansing through re-mixing. The smaller and the more homogenous the Bosnian state, the more potential for the few fundamentalists to influence or control the remaining members of the Bosniak community.¹⁰⁰ A former State Department Intelligence and Research specialist who was working on Bosnia at the time, however, challenges even this account. He claims that an insignificant number of foreign fighters were present in Bosnia during the war and thus that given their small

⁹⁸ Interview 43.

⁹⁹ Interview 55.

¹⁰⁰ Interview 18.

numbers, they posed no threat. In addition, he added, Bosniaks accepted these fighters not due to ideology but out of desperation.¹⁰¹

One reason for the disagreement may come from confusion over what U.S. perceptions were at the time, given the information available, and what these same U.S. officials' perceptions are now, given the increased information available. Until all U.S. government files are de-classified, the significance of the Muslim extremist fear will remain disputed.¹⁰²

Regional Stability

Regional stability was a second underlying explanation for the U.S.' decision to pursue the re-mixing policy (with "return" as the glue that would unite Bosnia's scattered ethnic groups) and keep the state from fragmenting. Here the U.S. concern was not with the principle of re-mixing but rather with its instrumental value. Clinton's primary interests in the Balkans, as dictated to embassy staff during this period, were to contain and end the hostilities.¹⁰³ Publically U.S. officials always discussed stability in conjunction with a unified and a multi-ethnic state.¹⁰⁴ Cables and interviews with key U.S. decision makers, however, suggest that the utmost policy concern was stability. In order to achieve regional stability, the entities that emerged from the fighting would need to be

¹⁰¹ Bosniaks were known for being particularly secular. Based on this knowledge, this source questioned whether radical Islam would have caught hold in the wider Bosniak community (Interview 27).

¹⁰² Considering all interviews and archives, I would suggest that the "fear of a Muslim rump state" factor may have been strategically exaggerated as a means of convincing more sceptical members of the U.S. government, such as the Department of Defense, that U.S. involvement in Bosnia was vital to U.S. security interests.

¹⁰³ Cable #: 9112 June 10th, 1995, Subject: "U.S. Policy Briefing Addressed to all U.S. embassies to stay abreast of most recent US Policy on Balkans."

¹⁰⁴ Ibid; Cable #: 8763 April 4th, 1995, "Press Briefing." In these cables the goals were explicitly conflated.

viable.¹⁰⁵ Try as they might, international negotiators as well as the parties to the conflict had not been able to devise a viable plan for a separate Bosniak state. The models proposed were often landlocked, non-contiguous, or too indefensible, squeezed between expansionist and hostile neighbours; in other words, a recipe for future conflict and instability.¹⁰⁶ Thus, so long as division lines could not be drawn, which was the general assumption amongst U.S. peace brokers at the time they took over the negotiation process, the threat of continued conflict loomed large. As a result, U.S. support for re-mixing Bosnia's ethnic groups in order to pre-emptively defuse future conflict, emerged as a practical compromise rather than an ideological necessity.¹⁰⁷

Expediting A Mutually-Agreed Solution

The third underlying explanation that informed U.S. support for re-mixing was a simple desire to please all parties at the negotiation table in order to expedite a mutually agreed solution. The U.S. support for re-mixing, as displayed in Annex 7, was part of a broader set of contradictory promises made in order to coax all parties¹⁰⁸ to sign the final agreement. To please the Serbs, the U.S. agreed to two entities, one of which would be under Bosnian Serb control. To please the Bosniaks, the U.S. maintained Bosnia as a unified state and protected the right of freedom of movement and return.¹⁰⁹ It did not

¹⁰⁵ Interview 20, 18; Holbrooke, *To End A War*, p. 122, 162; Chang, *Ethical Foreign Policy?*, Chp. 5;

¹⁰⁶ Interview 7, 27, 18.

¹⁰⁷ Ibid.

¹⁰⁸ Or parties' representatives in the case of the Bosnian Serbs.

¹⁰⁹ Though the Bosniak leadership publically and consistently supported the right to universal return, their support was likely founded on aims other than shared appreciation for diversity, multi-ethnicity, and tolerance for minorities. By exploiting the principle of return, especially minority returns, the SDA hoped to facilitate the re-distribution of their constituents throughout Bosnia. By restoring Bosniaks to lands from which they had been cleansed, the SDA hoped to maintain its dominant influence in a future Bosnian state (Owen, *Balkan Odyssey*, pp. 63 – 67). As a side note, to please the Croats, the U.S. gave the Croat minority (at around 18 per cent of the total population) an equal partnership in the governing of the coalition.

matter to the U.S. that these two promises contradicted each other so long as the parties involved were willing to sign the common treaty and thereby end the hostilities.¹¹⁰ In other words, the U.S. negotiators prioritized reaching a deal over upholding, at any cost, the norms of multi-ethnicity and diversity. They were driven by a “best of bad choices” mentality and readily compromised the very same values that were meant to be guiding the negotiations.¹¹¹

Michael Walzer emphasizes the importance of considering whether or not a period was perceived as a crisis when analysing past state behaviour. According to Walzer, deliberations or considerations that are perhaps normal in peacetime will be easily forgone in the name of urgency or simply getting a job done.¹¹² Steven Burg and Paul Shoup highlight the importance of the 1994 – 1995 “crisis” environment for U.S. policymakers working on Bosnia. They argue that the U.S.’ primary goals during this period were simply to make the situation go away. In order to do this, Holbrooke’s negotiation team were under great pressure to produce a deal and to get it signed.¹¹³ So long as these first two goals could be achieved, the content of the deal may have been more or less beside the point.

Amongst my interviewees, it was telling how often they praised each other and their foreign counterparts as practical players who would listen to compromise, rather than

¹¹⁰ Interviews with top U.S. negotiators from Dayton (Interview 28, 27).

¹¹¹ Interview 40, 6; O’Brien, “The Constitution of Bosnia Herzegovina.”

¹¹² Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1997), pp. 251 – 255.

¹¹³ Burg and Shoup, *The War*, pp. 63 – 64.

strictly adhere to ideology.¹¹⁴ At the same time, the chief decision makers never praised each other or their foreign counterparts for upholding ‘principle at the expense of compromise.’ Holbrooke, Milosevic, and (to a lesser extent) Izetbegovic, exemplified this characteristic. They had each side-lined the ideologues in their own ranks and shared an interest in painting the compromise reached at Dayton in a way most likely to please their own constituencies. Given that the Bosnian Croat, Muslim, Serb, and U.S. public all expected different core values to be upheld in the final deal, it is only natural that their deal contained conflicting principles.¹¹⁵

IV. Alternative Explanation

i. Un-intended Norm Diffusion

The identity of the actors in question and the context in which they were crafting and prioritizing policies contributed to the policy outcome outlined in this article. Between 1994 – 1995, the primary actors pushing for re-mixing were top political operators with short attention spans, even less patience, and an overall goal of getting the job done. In

¹¹⁴ Interview 7, 28, 27.

¹¹⁵ For more on how these three key negotiators prioritized practical compromise while painting themselves as ideologically inclined to their own publics see Kumar, *Divide and Fall*, Chp. 2. See Owen, *Balkan Odyssey* on how Izetbegovic back-tracked on the three-way partition plan he had endorsed at the Madrid 1991 Conference after the conference results were leaked. This backtracking, Kumar suggests, was a result of the Bosniak constituency’s reaction to Izetbegovic’s willingness to support a three-way, ethnic-based partition (p. 52). On Milosevic, see Frasure negotiation cables from U.S. State Department Slides #: 9469 - 9632 and Holbrooke’s accounts of his conversations with Milosevic in *To End a War*; Cables: # 9470, “Frasure Report to Washington,” suggests that despite Milosevic’s far reaching control, there were certain lines that Milosevic could not cross – in public. Milosevic, in this case, is to be contrasted with the Bosnian Serb leaders Karadzic and Mladic, both of whom were highly ideologically motivated and bent on creating a greater, ethnically-pure, Serb homeland. Finally, for more on Clinton and Holbrooke, see Holbrooke’s *To End a War* regarding a) the internal decision not to intervene to stop Srebrenica despite intelligence warnings of a pending massacre (Slide #: 9236 – 9 269), b) internal directions to work with Milosevic and other suspected war criminals (while simultaneously giving public support to the International Criminal Tribunal for the former Yugoslavia, and (Slide #: 9470 - 9632) c) Clinton’s ambivalence on the form a post-war Bosnia state would take. Holbrooke’s book suggests that Clinton left the issue up to Holbrooke.

their eyes, the “job” was ending the fighting and securing a stable peace. Their time horizon was quite short. None of them, at the time, were thinking ahead regarding exactly how or even if the less crucial aspects of their peace plan, including re-mixing, would come about.¹¹⁶

Contrary to what international moralists and norm evolutionists argue, the reasons U.S. policymakers formalized re-mixing go beyond a simple case of a powerful norm leader promoting norm compliance abroad.¹¹⁷ U.S. decision makers’ support for re-mixing stemmed not from the rise of an international norm obliging the Clinton administration to act or from the American public’s disgust at the crimes committed during the war. Instead, U.S. support for re-mixing arose from broader political considerations that favoured promoting re-mixing, as outlined in this article.

The logic of *realpolitik* and compromise undercut existing scholarship regarding the presence of binding customary law or norm embeddedness in this case. If a norm is binding or successfully embedded, an actor cannot simply bargain the obligation away when it no longer suits. Whereas Rosand argues that “the international community has not wavered in its belief that...any gains resulting from ‘ethnic cleansing’ and ‘ethnic engineering’ must be reversed,”¹¹⁸ it seems the U.S. endorsed re-mixing in this case not because of an internalized norm but because promoting the re-mixing suited other ends.

¹¹⁶ Burg and Shoup talk about Crisis mode and Crisis foreign policy making as opposed to post- conflict policy making in their discussion of why the U.S. drafters made certain decisions, compromises, and tolerated certain inconsistencies (*The War*, p. 64 – 65).

¹¹⁷ John Ikenberry and Charles Kupchan, “Socialization and Hegemonic Power,” *International Organization*, vol. 44, no. 3, 1990, pp. 283-315.

¹¹⁸ *The Right to Return*, p. 1112.

Instead of taking U.S. policy over the 1994 –1995 period as an indication, therefore, of the embeddedness of a new norm governing international (re)actions, self-contradiction or Stephen Krasner’s “organized hypocrisy” seems a more apt way to characterize U.S. behaviour over this period.¹¹⁹ Krasner, engaging scholars’ James March and Johan Olsen’s work, refers to two logics which motivate human action: a logic of appropriateness and a logic of consequences.¹²⁰ Unlike March and Olsen, however, Krasner does not see these logics as mutually exclusive. Rather, he synthesizes them into a combined approach. Focusing on the example of the logics of appropriateness requiring respect for sovereignty, Krasner argues that there is an organized hypocrisy regarding states’ use and attitude towards the supposedly embedded norm of non-intervention; i.e. states respect sovereignty until respecting this generally accepted norm conflicts with their interests. When two norms conflict, states follow a logic of consequences and abide by the norm – or the logic of appropriateness - which best suits their interests in this case. In other words, human action cannot be explained by one logic alone. We use both logics and shift seamlessly between them, making it even harder for scholars to distinguish the source of an actor’s motivation.¹²¹

Returning to the Bosnian case, I would argue that there was an organized hypocrisy regarding the U.S. administration’s respect for the re-mixing norm and for the prohibition

¹¹⁹ Stephen Krasner, *Sovereignty: Organized Hypocrisy*, (Princeton: Princeton Univ. Press, 1999).

¹²⁰ James March and Johan Olsen, “The Institutional Dynamics of International Political Orders ,” *International Organization*, vol. 52, no. 4, 1998, pp. 943-969.

¹²¹ *Ibid.*

on un-mixing. While consistently and publically supporting the norm, the U.S. often chose to violate it or neglect it in practice.¹²²

But what about the rhetoric used to justify the policy choice? If a powerful state decides to follow a logic of consequences in a given situation, why would it bother to dress up its decision with language drawn from norms of appropriateness? This article has focused specifically on the question: why did the U.S., a great power, choose normative justifications to defend the re-mixing policy choice, while selecting the policy on other grounds?

Legitimacy and reputation are two important interests intertwined with a state's identity. In a discussion of the importance of state legitimacy as one under-analysed source of power, John Ikenberry and Charles Kupchan argue, for example, that "rule based on might is enhanced by rule base on right."¹²³ Drawing on Max Weber, these scholars suggest that "experience shows that in no instance does domination voluntarily limit itself to the appeal to material of affectual or ideal motives as a basis for its continuance. In addition, every such system attempts to establish and to cultivate the belief in its legitimacy."¹²⁴

¹²² The primary difference between Krasner's analysis and mine, however, is that the norms he examines are more deeply embedded (ala Finnemore and Sikkink's norm life cycle) than the norm regarding respect for righting the wrongs of displacement. Thus, following Krasner's line of logic, it was perhaps even easier or less costly for the U.S. administration to violate or neglect the remixing norm in practice without incurring significant damage to its reputation as a promoter of human rights. According to Finnemore and Sikkink, "issues regarding the cost of norm-violation or benefits of norm adherence "hinge on the stage of the norm's evolution." The more embedded the norm, the higher the costs of violation ("International Norm Dynamics," p. 895).

¹²³ "Socialization and Hegemonic Power," p. 286.

¹²⁴ Max Weber, *Economy and Society*, vol. 1, p. 213 quoted in Ikenberry and Kupchan, "Socialization and Hegemonic Power," p. 289.

Given U.S. actions outlined in this article, it is clear that being seen as a promoter of universal principles of pluralism and co-existence helped maintain the U.S.’ identity and sense of self-esteem. Thus it should be no surprise that a state with an interest in maintaining its self-image would wish to take actions to enhance it.¹²⁵ It also seems clear that the U.S. had an interest in presenting its policy choices both to its own public and to its liberal democratic allies in a way that would only confirm and strengthen its self-image rather than challenge it. Yet having a diversity-friendly self-image is quite different from taking costly actions to uphold or create the diversity one is promoting. It is one thing to advocate appropriate actions when these actions align with one’s immediate interests or when promotion is “cost free.” Yet it is quite another thing to uphold particular policies when the policies contradict one’s interests. Thus while constructivist accounts can guide us on how identities and interests interact and co-evolve, scholars seem to have exaggerated the influence of norms in this case. My analysis suggests that the influence of what norm evolutionists describe as a re-mixing imperative was most evident in U.S. speech and least evident in its practice. Though the normative discourses regarding appropriate solutions to ethnic conflict seem to have shifted since the end of World War II, the practices, given U.S. actions during the 1994 – 1995 intervention phase, seem to have remained largely the same.

¹²⁵ According to James Fearon “identity is based on those aspects of the self in which an individual has special pride or from which an individual gains self esteem” (“What Is Identity: As We Now Use the Word?” Department of Political Science, Stanford University, Draft, Nov. 3rd, 1999, p. 23). Building on Fearon’s observation, Finnemore and Sikkink argue “The desire to gain or defend one’s pride or esteem can explain norm following. In this sense, states care about following norms associated with liberalism because being “liberal states” is part of their identity in the sense of something they take pride in or from which they gain self esteem” (“International Norm Dynamics,” p. 904).

V. Conclusion

The U.S. decision to support re-mixing as an integral element of re-building a multi-ethnic state should no longer appear to be an obvious policy choice despite what norm evolutionists and international moralists claim. Moreover, this article presents evidence that the taboo against facilitating or endorsing “un-mixing” following ethnic conflict was not as strong as norm evolutionists assumed it to be. While the prohibition on endorsing de facto un-mixing certainly shaped policy rhetoric, it did not significantly shape U.S. policy actions. In summary, normative concerns contributed to U.S. support for re-mixing only to the extent that these norms provided a legitimizing veneer for policy selected on broader political grounds.¹²⁶ Given a different policy, my research suggests that U.S. rhetoric (and goals) would likely have drawn on different morally-charged arguments to justify U.S. actions.¹²⁷

¹²⁶ Richard Merelman, “Learning and Legitimacy,” *American Political Science Review*, vol. 60, 1966; Alexander George, “Domestic Constraints on Regime Change in U.S. Foreign Policy: The Need for Policy Legitimacy,” in Ole Holsti, Randolph Siverson, and Alexander George, eds., *Change in the International System* (Boulder: Westview Press, 1980); Thomas Trout, “Rhetoric Revisited: Political Legitimacy and the Cold War,” *International Studies Quarterly*, vol. 19, 1975.

¹²⁷ Interview 27, 7, 9.