The Impact of Partition on Human Rights

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Introduction

Since March 2011, the Syrian Civil War has been waged with no end in sight. The result has been a stalemated conflict and a deeply fragmented country. Tragically, as of December 2016, the war had killed around 400,000 people, and had produced a humanitarian crisis of more than 4.8 million refugees and around 6.3 million internally displaced persons (CNN 2016). Neighbouring Iraq has experienced sectarian violence ever since the United States-led coalition forces toppled the Saddam Hussein regime in March 2003. The withdrawal of American soldiers from Iraq in December 2011 gave militant groups an opportunity to reignite the sectarian conflict between the Sunnis, Shias and Kurds. As Kurdish Region President Massoud Barzani claimed in July 2014, Iraq has become “effectively partitioned” (BBC 2016). Civilians have paid the steepest price in the conflict, as more than 186,000 were killed between 2003 and 2016 (Statista 2016).

In an article in Foreign Affairs, Ali Khedery, who served as a special assistant to five American ambassadors in Iraq and as senior adviser to three chiefs of United States Central Command, advised that

If Iraq continues on its current downward spiral, as is virtually certain, Washington should accept the fractious reality on the ground, abandon its fixation with artificial borders, and start allowing the various parts of Iraq and Syria to embark on the journey to self-determination. That process would no doubt be rocky and even bloody, but at this point, it represents the best chance of containing the sectarian violence and protecting the remainder of the Middle East from still further chaos (Khedery 2015, 33).

Would the partitioning of Iraq and Syria into multiple independent states or autonomous regions which are ethnically or religiously homogenous be an effective option for creating a lasting peace between the various sectarian groups in conflict? Moreover, how would partition impact the human rights of the sectarian populations that are being partitioned? Would their basic civil liberties and political rights be protected and respected by the new political authorities that govern them?

In order to answer these questions, this paper begins with a survey of the academic literature on the issue of partition, followed by an explanation of the methodology of this study. The narrative then examines two cases of partition: the splitting of Cyprus into the Republic of Cyprus (ROC) and the Turkish Republic of Northern Cyprus (TRNC), and the division of Bosnia and Herzegovina (Bosnia-Herzegovina) into the Federation of Bosnia and Herzegovina (FBH) and the Republika Srpska (RS). The paper concludes with an assessment of the long-term impact that partition has had on civil and political rights in the Cypriot and Bosnian political entities that were created, and implications for the potential partition of Iraq and Syria.

The Academic Debate on Partition

The term ‘political partition’ has been defined as “a fresh border cut through at least one community’s national homeland, creating at least two separate political units under different
sovereigns or authorities” (O’Leary 2007, 888). Unfortunately, many scholars who have written about partition have tended to treat secessionism and partition as equivalent, which has only served to skew the results of their studies. Brendan O’Leary illustrated that whereas secessionism is akin to a “political unfastening” which “takes apart what was previously separately constructed and does so along the original line of unification,” partition is a fresh and artificial slash through a national territory (O’Leary 2007, 887). Partitions are executed by a political centre (whether an empire, state, or provinces within a federation), while secession is an act committed by subnational units which the political centre might not accept.

Proponents of Partition

Chaim Kauffman is perhaps the most renowned proponent of partition. In a 1996 article published in *International Security* titled “Possible and Impossible Solutions to Ethnic Civil Wars,” Kauffman argued that in ethnic wars, hypernationalism and mass atrocities both contribute to the hardening of ethnic identities, rendering cross-ethnic political cooperation impossible (Kauffman 1996). Furthermore, the intermingling of ethnic populations creates security dilemmas that encourage violence and ethnic cleansing. Consequently, Kaufmann posited that the sole way to achieve a stable resolution of an ethnic civil war is through the separation of opposing groups into enclaves that are defensible. Thus, in order to prevent genocide, the international community should assist vulnerable populations to move to ethnically homogenous defensible enclaves, rather than attempt to rebuild a multi-ethnic state.

Two years later, *International Security* published another article by Kaufmann where he drew on the experiences of partition in Cyprus, India, Ireland, and Palestine to formulate three recommendations for the management of ethnic civil wars (Kaufmann 1998). First, he called for the establishment of a conservative threshold of intergroup violence and security threats beyond which separation and partition become necessary actions, but which also gives a chance for divided societies below the threshold to rebuild peace. Second, Kaufmann emphasized that partition should never be attempted unless the national communities have already been separated or will be separated simultaneously, or the partition attempt may actually produce more violence. Moreover, each group needs defensible boundaries in order to guarantee their own security. Kaufmann’s third suggestion was that the international community support the resettlement of refugees from civil wars, and refrain from pushing for the return of refugees to homelands which are controlled by hostile groups.

With regards to the Iraqi conflict, Chris Demchak (2006) has argued that the partitioning of Iraq into three states—Shia, Sunni, and Kurdish-governed—has always been the best option for restoring peace. She claimed that there are three drivers of violence: *legitimacy*, what actors believe is acceptable for them to do; *need*, what actors strive for as preferred outcomes; and *confidence*, what actors believe they can achieve. In Demchak’s words, “actors act violently when they give themselves the latitude to use such action (legitimacy) to obtain a significant favorable outcome (need) if they think they can (confidence)” (Demchak 2006, 4). Demchak stressed that peace could be achieved in Iraq by reducing the legitimacy and need drivers through the creation of three states or autonomous regions with clear borders, with each possessing ownership rights over critical resources such as petroleum.

Through statistical analysis, Thomas Chapman and Philip Roeder (2007) discovered that in the aftermath of civil wars involving parties struggling for self-determination, partition has a
greater likelihood of preventing a recurrence of violence than the alternative strategies of instituting a unitary state with a common government for all parties, carrying out a de facto separation of the groups in conflict, or establishing autonomy for a region or population. Moreover, states that were created by partition were more likely to be founded as democracies and to experience longer periods of democratic governance. But Chapman and Roeder cautioned that their findings regarding peace and democracy only hold when partition results in the establishment of separate sovereign states.

Critics of Partition

The policy of partition has its critics as well. Radha Kumar illustrated that partition was imposed by the colonial powers as a “divide and quit” approach in order to establish spheres of influence while they withdrew from their colonial possessions (Kumar 1997, 24). But rather than encourage inter-sectarian peace, the partitioning of Cyprus, India, Ireland, and Palestine produced more violence and population displacement. Kumar cautioned that partition “has been unable to contain the fragmentation it triggers among dispersed or overlapping ethnic groups that are not confined by neat geographic boundaries, and it gives birth to weak civil institutions demanding supervision” (Kumar 1997, 24). Although partitions are often seen as a temporary measure, ethnic partitions have never been eliminated. In fact, partitions have hardened animosities between the sectarian groups which they divide. Wary that partitioning Bosnia following its civil war might lead to an indefinite commitment of Western soldiers to enforce the peace, Kumar suggested that it may be more prudent to invest efforts into reintegrating Bosnia.

Nicholas Sambanis (2000) uncovered the correlates of partition through a quantitative analysis of 125 civil wars, including twenty-one cases of partition. It is more likely that partition will occur following an identity war than an ideological war, after an informal truce or the victory of rebel groups in a very costly war, and in a country with relatively higher economic development that features large ethnic groups, but little ethnic heterogeneity. Sambanis tested the three principal hypotheses of partition theory: “(1) that partitions facilitate postwar democratization; (2) that they prevent war recurrence; and (3) that they significantly reduce residual low-level ethnic violence” (Sambanis 2000, 439). Due to a paucity of data for partitioned states that are not internationally recognized as independent, Sambanis was not able to accept or reject the first hypothesis that partition enables democratization in successor states. But he found that partitions do not prevent war from recurring, and that in most cases partition has a negligible impact on the reduction of residual violence. Based on the empirical results of his study, Sambanis proposed a fourth hypothesis for further investigation: if national borders can feasibly be redrawn, then combining several large ethnic groups in a single multiethnic state may reduce the likelihood of new wars erupting. He concluded that “only in the most extreme cases may partition be necessary, indeed inevitable…on average, partition may be an impossible solution to ethnic civil war” (Sambanis 2000, 482).

Through an analysis of sixty cases of separatist-driven conflict, David Carment and Diane Rowlands (2004) tested Chaim Kaufmann’s argument that the resolution of ethnic conflicts which generate a high number of casualties requires the separation of the sectarian groups. The authors found weak support for this primary hypothesis, as only three of the thirteen resolved cases of high-casualty conflicts were settled through separation (Eritrea-Ethiopia, East Timor-Indonesia, and Pakistan-Bangladesh), and one case of separating the belligerents failed to settle the conflict (India-Pakistan). Moreover, Carment and Rowlands tested two additional
hypotheses: first, that in the absence of separation, conflict resolution would require either highly robust and lengthy interventions, very weak separatist groups, or a very strong central government; and second, that third party interventions in support of separation would produce quicker and more stable settlements. Their study found qualified evidence in support of both of these supplementary hypotheses.

Brendan O’Leary (2011) reviewed the claims made by both partitionists and anti-partitionists, and concluded that the latter have better arguments on practical, political and moral grounds. The impossibility of carrying out a perfectly just partition means that dominant or privileged minorities usually benefit the most. Rather than a divorce between equals, partition often places one successor state in an inferior position to the other, as occurred in the partition of Cyprus (the Turkish Republic of Northern Cyprus), India (Pakistan), Ireland (Northern Ireland), and Palestine (the Palestinian territories of the West Bank and the Gaza Strip). Anti-partitionists also stress that partition produces more disorder and violence during the population transfers between the new states, as well as an enhanced probability of interstate warfare post-independence. While partitionists may blame these unintended consequences on partition plans that were flawed in their design or execution, O’Leary labelled their responses as “unfalsifiable and unconvincing,” and emphasized that “prudence therefore mandates opposing partition as a tool of international public policy-making” (O’Leary 2011, 153).

This brief survey of the academic literature illustrates that there is no scholarly consensus on whether partition is a wise strategy for addressing ethnic conflict. The anti-partitionist camp appears more convincing though, based on their empirical data which demonstrates the calamitous impact on human security that partition plans have had. Curiously, studies have not focused on the consequences that partition may have for the protection of human rights, a relationship which shall be explored in this paper.

**Methodology**

In order to assess the effects of partition on the human rights of partitioned populations, it is critical to select appropriate cases for analysis. Since international norms tend to favour the maintenance of national borders over secessionism, it is more likely that any peace plan for Iraq and/or Syria would entail the granting of regional autonomy to sectarian groups rather than the forging of new independent states. Therefore, the paper focuses on two cases of internal partition: Cyprus and Bosnia-Herzegovina. Both of these partitions are attributable to armed conflict; the 1974 Turkish military invasion helped the Turkish Republic of Northern Cyprus gain quasi-independence from the Republic of Cyprus (though no international recognition, save for Turkey, of its sovereignty), and the 1995 Dayton Accords which ended the Bosnian civil war partitioned the country into two entities, one controlled by Bosniaks and Bosnian Croats, and the other dominated by Bosnian Serbs. If the Iraqi and/or Syrian conflicts were to be resolved through partition, there is a strong possibility that the partitioning would be done either through external military intervention (as in Cyprus) or through international negotiations (as in Bosnia-Herzegovina), thus, it would be useful to take a closer look at the human rights implications of the Cypriot and Bosnian experiences with partition.
The data used to assess the human rights situations in Cyprus and Bosnia-Herzegovina over time is drawn from the non-governmental organization Freedom House, which publishes an annual report titled *Freedom in the World* rating the political rights and civil liberties of nearly all countries and territories (Freedom House 2017b). Each country and territory is assessed a score of zero to four points, with zero representing the least amount of freedom and four representing the highest degree of freedom, on ten political rights indicators (for a maximum score of forty points) and fifteen civil liberties indicators (for a maximum score of sixty points). The political rights indicators comprise category indices of Electoral Process (three indicators), Political Pluralism and Participation (four indicators), and Functioning of Government (three indicators). The civil liberties indicators are compiled in the category indices of Freedom of Expression and Belief (four indicators), Associational and Organizational Rights (three indicators), Rule of Law (four indicators), and Personal Autonomy and Individual Rights (four indicators). Based on their scores on these indicators, each country and territory is assigned two ratings—one on political rights and the other on civil liberties—ranging from one (most free) to seven (least free). A Freedom Rating is then calculated from the average of the political rights and civil liberties ratings, and the countries and territories are classified as either ‘Free’ (with a Freedom Rating of 1.0 to 2.5), ‘Partly Free’ (3.0 to 5.0), or ‘Not Free’ (5.5 to 7.0).

The chronological range of this study is circumscribed by the availability of quantitative data from Freedom House. Data on the three categories of political rights and the four categories of civil liberties are accessible from the Freedom House website for the period from 2006 until 2017. Aggregate data for the composite indices of political rights and civil liberties are available for the years 2003 through 2017. Furthermore, Freedom House provides data on the human rights situations for both the Republic of Cyprus and the Turkish Republic of Northern Cyprus, but only furnishes data for Bosnia-Herzegovina as a single political entity.

**Partition and Human Rights: Case Studies**

**Cyprus**

**The Ethnic Conflict**

The population of the island of Cyprus is approximately eighty percent Greek Cypriot and eighteen percent Turkish Cypriot, while minorities such as Armenians and Maronites make up the remaining two percent (Mirbagheri 1998). According to Farid Mirbagheri, prior to the independence of Cyprus, the Greek and Turkish Cypriot communities generally “enjoyed a state of amicable relations…they did not feel threatened by one another, and despite symbolic and important separations in their traditions and customs, there was a degree of cooperation and social intercourse between them” (Mirbagheri 1998, 13). But the existence of two major societal cleavages—language and religion—rendered the Cypriot sectarian groups vulnerable to the manipulations of their ethnic communities in Greece (which favoured *Enosis*, the union of Cyprus with Greece) and Turkey (which preferred *taksim*, the partition of Cyprus between Turkey and Greece).

In 1950, the Greek Cypriots began a campaign to achieve *Enosis*, which turned violent in 1955 due to the activities of the National Organization of Cypriot Fighters (EOKA) (Fouskas and Tackie 2009). Turkish Cypriots responded by forming the Turkish Resistance Organization
(TMT) in 1958, and with assistance from Turkey, launched an armed struggle for *taksim*. Strenuous negotiations in 1959 between the Greek and Turkish governments eventually produced the Zurich and London Agreements, which founded the consociational Republic of Cyprus in 1960 (Mirbagheri 1998).

In 1963, the ROC president, Archbishop Makarios III, proposed thirteen constitutional amendments which were designed to establish a unitary state and grant minority status to Turkish Cypriots, thereby violating the mutual ethnic veto enshrined in the constitution and reducing the influence of the Turkish Cypriot community (Salih 2004). Armed conflict erupted between the sectarian groups, and Turkish Cypriot nationalists created militarily defensible enclaves. The United Nations Peacekeeping Force in Cyprus (UNFICYP) was deployed in March 1964, and British soldiers drew a ‘Green Line’ through Nicosia to separate the Greek and Turkish communities.

On July 15, 1974, President Makarios was ousted in a coup by pro-Enosis radicals, who were supported by the military regime in Greece (Papadakis, Peristianis and Welz 2006). In response, the Turkish military invaded Cyprus five days later and occupied 37 percent of the island (Fouskas and Tackie 2009). The military intervention effectively partitioned Cyprus, as Turkish Cypriots relocated to the north and Greek Cypriots took refuge in the south (Papadakis, Peristianis and Welz 2006).

The Turkish Cypriots created the Turkish Republic of Northern Cyprus in 1983, a state which only Turkey has recognized as sovereign (Papadakis, Peristianis and Welz 2006). In April 2004, referenda were held in both the ROC and the TRNC on a plan proposed by UN Secretary-General Kofi Annan to establish a bicomunal, federal Cypriot state. But while 66 percent of Turkish Cypriots endorsed the Annan Plan, 76 percent of Greek Cypriots rejected it, quashing the idea of a united Cyprus. When the ROC became a member of the European Union (EU) in May 2004, the impoverished TRNC was excluded.

As of 2006, 79 percent of Cypriots lived in the Greek-controlled ROC while 21 percent lived in the TRNC (Hatay 2007). Based on population data from 2011, the U.S. Central Intelligence Agency has estimated that the demographic breakdown of the government-controlled part of the island is an overwhelming 98.8 percent Greek Cypriot, while Turkish Cypriots, Armenians and Maronites comprise a mere one percent of the population (CIA 2016b). Population figures for the TRNC are less reliable. The Turkish Cypriot census of 2011 indicated that there were more than 190,000 citizens of the TRNC, of which over 38,000 held dual TRNC-Turkish citizenship, and over 16,000 were dual citizens of the TRNC and another state (Mullen 2015). The government of the ROC has estimated that there are roughly 85,000 indigenous Turkish Cypriots in Cyprus, who are vastly outnumbered by the 130,000 to 160,000 settlers from Turkey who are portrayed as ‘illegal colonists’ by the government (Hatay 2007).

**Human Rights in the Republic of Cyprus**

Freedom House has classified the ROC as ‘Free’ throughout the twenty-first century, with consistent ratings of 1 (the maximum possible) out of 7 for its political rights, civil liberties, and overall freedom. A deeper look at the category indices, however, indicates that there has been some backsliding in a few areas. The ROC has maintained a maximum score of 16 points on Political Pluralism and Participation from 2006 till 2017. But its score on Electoral Process has been 11/12 since 2007, falling from a perfect score in 2006. There has been some fluctuation in
terms of Functioning of Government, as the ROC scored a perfect 12 points in 2006, then fell to a low of 10/12 in 2014 and 2015, before rising to its current score of 11/12 in 2016. As a result, the ROC’s score on Political Rights has declined slightly from a perfect 40 points in 2006 to 38/40 in 2017, with a low of 37/40 in 2014 and 2015.

The ROC’s performance on Civil Liberties has experienced more variation, rising initially from 56 to 57/60 from 2006 till 2007, then falling gradually to a low of 55/60 for the period from 2012 till 2014, before rebounding to 56/60 for 2015 to 2017. The variability on civil liberties is due to a combination of an increase in the Freedom of Expression and Belief index (from 14/16 in 2006 to 15/16 in 2007), a decrease in the Personal Autonomy and Individual Rights index (from 15/16 in 2009 to 14/16 in 2010), and a slight fluctuation in the Associational and Organizational Rights index (a decline from a maximum of 12 points in 2011 to 11/12 in 2012, and a rebound to 12 points in 2015). Hence, while the ROC has performed well over the years as a liberal democracy, its aggregate score assessed by Freedom House has slipped slightly from 96/100 in 2006 to 94 in 2017, with a low of 92 in 2014.

Minority groups enjoy full rights of political participation in the ROC (Freedom House 2016b). After a ruling by the European Court of Human Rights (ECHR) against the ROC in 2004, the government adopted legislation to permit Turkish Cypriots residing in the south to vote in ROC elections and run for elected office. But the ROC’s constitution reserves the office of president for a Greek Cypriot, and mandates that the vice president be a Turkish Cypriot, a position that remains vacant. The ROC’s unicameral House of Representatives has 24 reserved seats for the Turkish Cypriot community, which the Turkish Cypriots have boycotted since 1964. The Maronite, Armenian, and Roman Catholic communities each elect their own non-voting representative to the House of Representatives.

A contentious issue between Greek and Turkish Cypriots is the status of property abandoned by the two communities when they fled to opposite sides of the island after the 1974 Turkish military invasion. In 1991, the ROC adopted legislation which transferred ownership of abandoned Turkish Cypriot property to the state. In the TRNC, an Immovable Property Commission was established in 2006, to which Greek Cypriots who owned property in Northern Cyprus can appeal. But due to a termination of funding from the Turkish government in 2014, the commission’s future is in doubt, despite having settled more than seven hundred claims effectively (Freedom House 2016c).

On the positive side, freedom of movement throughout the island has improved significantly due to more border crossings (Freedom House 2016b). Turkish Cypriots in the north are eligible to obtain ROC passports (Freedom House 2016c). While freedom of religion is constitutionally protected, and the ROC government expedites north-south border crossings for religious pilgrimages, there have been allegations that practitioners of minority religions have suffered discrimination from the Orthodox Christian majority (Freedom House 2016b). Moreover, despite a moderation of sectarian attitudes in recent years, ROC public schools still use textbooks which portray Turkish Cypriots and Turkey in a negative manner. Although the ROC government has implemented policies to tackle inequality and prejudice, non-Greek Cypriots are occasionally victims of discrimination and violence, as are migrants and asylum seekers, who are frequently subjected to long-term detention.
Human Rights in the Turkish Republic of Northern Cyprus

In contrast to the ROC, human rights in the TRNC have not been assessed as highly. There was some improvement between 1998 and 2002, thus Freedom House upgraded the TRNC’s Political Rights rating (from 4/7 to 2/7), Freedom Rating (from 3/7 to 2/7), and status (from ‘Partly Free’ to ‘Free’). But these scores have remained constant since 2002, and the TRNC’s Civil Liberties rating (2/7) has not changed since 1998. The TRNC’s Political Rights score improved dramatically from 2004 (31/40) to 2005 (34/40), but retrenched to its current level (32/40) in 2013. This decline may be attributed to a sharp decrease in the TRNC’s grade on the Political Pluralism and Participation index from 14/16 in 2012 to 12/16 in 2013, which has remained constant since then.

On the positive side, the TRNC has shown persistent improvement with regards to its Civil Liberties rating, rising steadily from 2003 (44/60) till 2017 (48/60). The reasons for this include an increase in the Freedom of Expression and Belief index from 13/16 to 14/16 in 2009 (which dropped briefly back to 13/16 for 2013 solely), and a sharp rise in the Associational and Organizational Rights index from 9/12 to 11/12 in 2017. The sole retrenchment on civil liberties has been a slight reduction in the TRNC’s Personal Autonomy and Individual Rights index from 12/16 in 2016 to 11/16 in 2017. These trends in political rights and civil liberties have made the TRNC’s aggregate score on human rights volatile over the years, rising from 80/100 (2006) to a high of 81 (2009-2012), then falling drastically to a low of 78 (2013) before bouncing back to 80 (2017).

Although Freedom House acknowledges that elections in the TRNC are generally free and fair, the organization warns about the regular interference of Turkey in TRNC politics (Freedom House 2016c). In fact, the TRNC constitution bestows the Turkish military with authority over the security and police forces of the TRNC, which occasionally violate citizens’ rights and abuse detainees. The ROC has accused the Turkish government of encouraging the resettlement of Turkish citizens in Northern Cyprus so as to gain influence over the TRNC government and thwart a possible reunification with the ROC. Moreover, although freedom of the press is generally respected in the TRNC, media scrutiny of the Turkish government often provokes reprisals from Ankara.

A major issue in Northern Cyprus is minority rights (Freedom House 2016c). The few hundred Greek Cypriots and Maronites living mainly in tiny enclaves are ineligible to vote in elections in the TRNC as they are considered to be legal citizens of the ROC. These minority enclaves experience limited social and economic opportunities, and their residents are frequently harassed at border checkpoints as well as monitored by TRNC authorities. In addition, the small Kurdish community suffers routine economic discrimination and police surveillance. While the TRNC is constitutionally secular, there have been allegations that Christian churches are inadequately maintained and that Christians do not enjoy full access to religious sites. Unfortunately, an initiative to bolster minority rights through constitutional reforms was rejected in 2014.

There are positive signs that relations between the TRNC and the ROC are improving. The 2015 presidential elections in the TRNC were won by Mustafa Akinci, who had pledged to resume the negotiations on Cypriot reunification which had been shelved since 2014 (Freedom House 2016c). Akinci and the ROC president Nicos Anastasiades both support a five-stage reunification plan which proposes the formation of a federation of two states. The TRNC lifted
the visa requirement for ROC citizens in May 2015, and began discussions with the ROC on the creation of a joint property court in September 2015. Although both Greek and Turkish Cypriots remain hopeful that a reunification plan will be adopted soon, they remain divided on several contentious issues, including how governing power will be shared and territory will be demarcated in a new federation, as well as the presence of Turkish settlers and military personnel in Northern Cyprus.

**Bosnia and Herzegovina**

**The Bosnian War**

According to the 1991 census, the ethnic breakdown of the four million residents of the Yugoslav republic of Bosnia-Herzegovina was 44 percent Bosnian Muslim (now referred to as Bosniak), 31 percent Serb, and 17 percent Croat (History.com 2009). The Bosnian War erupted in March 1992, after 93 percent of Bosnians (mainly Bosniaks and Bosnian Croats) cast votes in favour of Bosnian independence in a referendum largely boycotted by Bosnian Serbs (Filipov 2006; Oberschall 2007). With the assistance of the Yugoslav military, Bosnian Serb forces gained control of sixty to seventy percent of Bosnian territory by the end of April 1992. When Bosnia-Herzegovina was recognized as an independent state by the European Community and the United States on April 6th, the Bosnian Serbs declared the independence of their own Serbian Republic of Bosnia and Herzegovina the following day, which was renamed the Republika Srpska (Serb Republic) in August 1992. The war escalated into a tripartite conflict in May 1992, as the armed forces of the Croatian Republic of Herzeg-Bosnia mobilized against both the Bosnian military and Bosnian Serb forces.

The Bosnian War witnessed war crimes and mass atrocities committed by all three parties, including sexual violence and the use of concentration camps (Morus 2010; Oberschall 2007). Bosnian Serb militias engaged in ‘ethnic cleansing’ operations and laid siege to Sarajevo for nearly four years. Perhaps the most heinous manifestation of the war’s brutality was the Srebrenica massacre of July 1995, when Bosnian Serb forces seized the United Nations’ designated ‘safe area’ for Bosniak refugees and murdered over seven thousand Bosniak men and boys (Smith 2010).

Throughout the conflict, various peace plans were proposed, but ultimately rejected (Oberschall 2007). The 1992 European Community plan recommending Bosnian independence as a single state composed of three autonomous regions was dismissed by Bosnian leaders for not protecting the integrity of the country, and by Bosnian Croat leaders who wished to annex the territory they controlled to Croatia. The subsequent Vance-Owen plan, which would have divided a sovereign Bosnia into three Bosniak provinces, three Croatian provinces, three Serb provinces, and the shared city of Sarajevo, was rebuffed by the Bosnian Serbs in a 1993 referendum for denying them control over a land corridor. The 1993 Owen-Stoltenberg plan envisioned a Bosnian confederation of three ethnic states, with fifty-three percent of the territory controlled by the Serbs, thirty percent by the Bosniaks, and eighteen percent by the Croats. But the plan was ultimately rejected by the Bosniaks as it would have enabled the Serb and Croatian states to eventually secede and join Serbia and Croatia, respectively, thereby leaving the Bosniaks in “a small and weak Muslim buffer state” (Oberschall 2007, 112).

In 1994, the Contact Group (including the European Union, France, Germany, Italy, Russia, the United Kingdom and the United States) brokered the Washington Agreement, whereby
Bosnia-Herzegovina would be maintained as a single state comprised of a Bosniak-Croat federation controlling 51 percent of the territory, and a Bosnian Serb entity in charge of 49 percent of the country (U.S. Department of State 2016). The Bosniaks and Croats signed the Washington Agreement, implemented a ceasefire between their forces, and created the Federation of Bosnia and Herzegovina. The Bosnian Serbs rejected the agreement, however, as they held around seventy percent of Bosnian territory at the time, and would not accept a reduction of their controlled territory or the proposal that the Serb entity would consist of three non-contiguous regions (Oberschall 2007).

But the subsequent offensives by Bosnian Serb forces against the Bosniak towns of Srebrenica and Zepa, designated as ‘safe-areas’ by the United Nations Protective Force (UNPROFOR), and the mass atrocities which ensued, were enough to provoke the North Atlantic Treaty Organization (NATO) to launch air strikes on Bosnian Serb military positions in 1995, and to dispatch a Rapid Reaction Force to support the UNPROFOR units (U.S. Department of State 2016). In the meantime, Bosnian Serb forces were retreating due to a joint offensive by the Bosniak and Croatian troops, thereby producing the 51/49 territorial balance envisioned by the Contact Group. Intense diplomacy by the U.S. Assistant Secretary of State for Western Europe, Richard Holbrooke, generated a cease-fire in September 1995. The parties in conflict then met at the U.S. Air Force Base at Dayton, Ohio in November, where negotiations were successful in brokering the General Framework Agreement for Peace in Bosnia and Herzegovina (also known as the Dayton Peace Accords). The accords were signed in Paris on December 14, 1995, and NATO deployed an Implementation Force (IFOR) to Bosnia-Herzegovina six days later to ensure the implementation of the accords. A brutal genocidal war, which had claimed more than 100,000 lives (the vast majority of them Bosniak) and had displaced around two million people, was finally over (History.com 2009).

The sectarian divisions in Bosnia-Herzegovina became institutionalized in the post-war constitutional structure. Two equal administrative entities were created by the Dayton Peace Accords: the Federation of Bosnia and Herzegovina, with a majority population of Bosniaks and Bosnian Croats, and the Republika Srpska, dominated by Bosnian Serbs (CIA 2017a). A third self-governing entity was also created: the Brčko District, held in condominium between the FBH and the RS. Each of the two co-equal entities is governed by its own constitution. The presidency of Bosnia-Herzegovina consists of three members: one Bosniak and one Croat elected from the FBH, and one Serb elected from the RS, between whom the chairpersonship is rotated every eight months. The bicameral Parliamentary Assembly is comprised of the House of Peoples, the upper chamber to which five Bosniaks, five Croats, and five Serbs are elected by the FBH and RS legislatures, and the House of Representatives, the lower chamber with 28 popularly-elected members from the FBH and 14 members from the RS (Freedom House 2016a). The FBH and the RS each have their own president and parliament. Government positions are often awarded based on an ethnic quota system that was instituted by the Dayton Peace Accords. At the apex of the governance structure lies the Office of the High Representative (OHR), a United Nations authority which was created by the accords and is empowered to remove elected Bosnian officials if they disrupt the peace process, but tends not to get involved in Bosnian politics.

The 2013 census revealed that of the total Bosnian population of 3.53 million people, over 2.2 million citizens reside in the FBH, more than 1.2 million live in the RS, and around
83,000 reside in the Brcko District (Toe 2016). Bosniaks comprise 50.11 percent of the population, Serbs make up 30.78 percent, Croats are 15.43 percent, and other peoples who do not identify with the three dominant groups account for 2.73 percent. Moreover, the census illustrated that an overwhelming 91.39 percent of Bosnian Croats and 88.23 percent of Bosniaks live in the FBH, while the RS is home to 92.11 percent of Bosnian Serbs.

**Human Rights in Partitioned Bosnia and Herzegovina**

Since 1998, Bosnia-Herzegovina has been classified as ‘Partly Free’ by Freedom House. The country’s ratings on political rights, civil liberties, and overall freedom have only increased slightly over two decades, from 5/7 to 4/7. While Bosnia’s Political Rights score improved considerably from 2003 (19/40) to 2007 (25/40), the country’s performance on political rights has worsened significantly over the past decade, earning a grade of 21/40 in 2017. Improvements were rolled back on the Electoral Process index (from 7/12 to 8/12 in 2007, and back to 7/12 in 2017) and the Functioning of Government index (from 5/12 to 6/12 in 2007, but falling to 4/12 from 2016 onwards), while the Political Pluralism and Participation index has remained at 10/16 since falling from 11/16 in 2008 (with the exception of a brief return to 11/16 in 2013).

Similarly, civil liberties have ameliorated and retrenched in Bosnia-Herzegovina. The Civil Liberties score shot up from 31/60 in 2003 to 39/60 in 2006, but has plummeted since 2008 to 34/60. The Personal Autonomy and Individual Rights index remained constant from 2006 till 2017 at a meagre 10/16. The Freedom of Expression and Belief index was downgraded from 11/16 to 10/16 in 2011, while the Associational and Organizational Rights index fell from 8/12 to 7/12 in 2009. But where Bosnia has suffered the most is in terms of Rule of Law, whose index plunged from 10/16 in 2015 to a troubling 7/16 in 2017. Due to roller-coaster performances on both political rights and civil liberties, Bosnia-Herzegovina’s aggregate human rights rating from Freedom House generally oscillated between 62 and 60/100 during the period from 2006 till 2015 (but reached a high of 64 in 2007), before nose-diving to a record-low of 55 in 2017. That year, Freedom House downgraded Bosnia-Herzegovina’s civil liberties rating from 3/7 to 4/7 because government officials refused to implement rulings from the constitutional court, including a prohibition on an RS referendum on whether Bosnia’s national courts should have legal jurisdiction over the entity (Freedom House 2017a).

National elections in Bosnia-Herzegovina have been deemed to be free and fair, but they have generated a grand coalition of sectarian political parties which has been largely ineffective at passing legislation (Freedom House 2016a). Politics in the FBH is dominated by Bosniaks and Croats, while Serbs control politics in the RS. According to the Dayton Peace Accords, representatives from the Bosniak, Croat, and Serb ethnic groups are empowered, at both the national and entity levels, to cast a veto regarding legislation which runs counter to their community’s interests. The need to broker a tripartite consensus on legislation means that few legislative initiatives are ever adopted at any level of government. In addition, Bosnian citizens who do not identify themselves as Bosniaks, Bosnian Croats, or Bosnian Serbs are barred from running for the national presidency or from serving in the House of Peoples, restrictions which the ECHR has ruled should be lifted, but have yet to be addressed by the Bosnian government.

Although freedom of the press is constitutionally protected, it is frequently violated (Freedom House 2016a). Most independent media outlets cater to specific ethnic communities and fail to engage in substantive investigative journalism. The RS assembly adopted legislation in February 2015 which made it illegal to disseminate on social media any material that is
deemed to disrupt public order. Following protests from journalists and various domestic and international organizations, the RS legislature amended the law to permit material which is critical of government agencies, but still banned material which criticizes specific public officials.

Freedom of religion is curtailed, as people from the three major sectarian groups only feel secure to practice their religion in areas where they form the majority population (Freedom House 2016a). Religious sites for each of the dominant religions—Islam, Roman Catholicism, and Serb Orthodox Christianity—have experienced vandalism. Furthermore, educational institutions are heavily politicized. Ethnic nepotism is a major determinant of academic appointments in universities, and Bosniak, Bosnian Croat, and Bosnian Serb students in primary and secondary schools use different textbooks that are printed in Sarajevo, Croatia, and Serbia, respectively. Despite a 2014 ruling by the Supreme Court of the FBH, schools within the entity still segregate Bosniak and Croat students attending the same schools. While freedom of movement is protected under Bosnian law, there are still occasional attacks against displaced persons who have returned to their homes after the war. People who live in regions where their ethnic group is a minority suffer discrimination in social services, housing, and employment.

Corruption is persistent throughout Bosnia-Herzegovina (Freedom House 2016a). The judicial system of Bosnia-Herzegovina is perceived as inefficient and subject to influence from the national leadership and sectarian political parties. Rather than a single judiciary that reigns supreme, there are separate court systems for the Bosnian state, the FBH, the RS, and the Brčko District. The president of the RS, Milorad Dodik, has been pressing for a referendum on the legality of the Bosnian national courts—which hear cases related to war crimes, terrorism, corruption, and organized crime—arguing that the Dayton Peace Accords made no provisions for such courts, and that the Bosnian courts demonstrate persistent bias against Serbs.

The internal partition of Bosnia-Herzegovina is hardening to the point that secessionism is a concern. A September 2016 referendum in the RS on whether to designate January 9th as the national day, ruled illegal by the Bosnian constitutional court for discriminating against Bosniaks and Bosnian Croats, was still held and 99.8 percent voted in the affirmative (The Economist 2016). Even more worrisome for the future of Bosnia-Herzegovina is the pledge by RS President Dodik that the RS will hold a referendum on sovereignty by 2018.

**Conclusion**

Based on the case studies analyzed in this paper, partition has had a varied impact on human rights. The partitioning of Cyprus following the Turkish military invasion of 1974 produced two states, the ROC and the TRNC, which have both had very good human rights records overall in the long term, despite some shortcomings. The principal human rights issue of the ROC is that ethnic and religious minorities suffer occasional discrimination and abuse. Turkish Cypriots in particular are treated in a two-faced manner by the state. While the Turkish Cypriot community has been granted full powers to participate in ROC politics (but has refrained from filling its reserved seats in the House of Representatives and the position of vice president), the public educational system continues to portray Turkish Cypriots derogatorily. It would be prudent for the ROC government to eliminate such discriminatory practices, and to enact conciliatory policies aimed at building a more inclusive civic culture which would encourage
Turkish Cypriots and other minorities to participate as equal members of the ROC polis and society.

The most problematic human rights issue in the TRNC is similar to the ROC: the discriminatory treatment of ethnic and religious minorities. But more troubling is the fact that the TRNC government has limited sovereign authority to rectify problems, as the government of Turkey is constitutionally empowered to control the TRNC’s security apparatus, the means by which sectors of the population are harassed and repressed. On the positive side, it appears that the decades of partition have not made the goal of Cypriot reunification impossible, as both the ROC and TRNC governments are amenable to the formation of a two-state federation. By dismantling the border and implementing an island-wide policy of nation-building that respects multiculturalism, the human rights situation for all Cypriots should be improved.

In sharp contrast to the centripetalism in Cyprus, Bosnia-Herzegovina may be split asunder by centrifugal forces in the future. While Cyprus has suffered through a bipolar ethnic rivalry between Greek and Turkish Cypriots, Bosnian politics is characterized by a more complicated tripolar competition between Bosniaks, Bosnian Serbs, and Bosnian Croats. The tripartite ethnic veto produces legislative gridlock at all levels of government, and the overwhelming concentration of Bosnian Serbs within the RS hinders Bosnian nation-building and fuels secessionist forces. As in Cyprus, the most discrimination and human rights violations are suffered by people who live in regions where they belong to a minority ethnic group. Furthermore, citizens who do not self-identify as Bosniak, Serb, or Croat have circumscribed political rights. The educational systems and the media contribute to the divisive sectarianism in politics and society, and the immense corruption that pervades Bosnian institutions makes it difficult to ensure that political rights and civil liberties are being protected. In summary, the partition of Bosnia-Herzegovina into two entities has hampered national integration, encouraged the sovereignty aspirations of Bosnian Serbs, and imperiled the human rights conditions of minority groups.

The experiences of the Cypriot and Bosnian partitions illustrate possible ramifications of a potential partitioning of Iraq and Syria. Ever since Cyprus and Bosnia-Herzegovina were partitioned, there has been no armed conflict between the antagonist sectarian communities in either country. This presents hope that by partitioning the Sunnis, Shites, Kurds, and Alawites into ethnically homogenous regions, the possibility of renewed fighting between these sectarian groups will be significantly reduced. But a key factor in the pacification (and militarization) of both Cyprus and Bosnia-Herzegovina has been the involvement of external actors, such as the European Union, Greece, and Turkey in the case of Cyprus, and the Contact Group, NATO, Yugoslavia, and Croatia with regards to Bosnia-Herzegovina. Thus, the termination of hostilities in Iraq and Syria will depend greatly on the interests of critical foreign actors such as Russia, the U.S., Turkey, Iran, Saudi Arabia, and Qatar. It is unlikely that partition on its own will be the cure to ethnic conflict in the long term. Furthermore, while the Cypriot and Bosnian partitions have provided security for the major sectarian groups in conflict, the political authorities have institutionalized discriminatory policies and practices against minority populations. Thus, partition may not be conducive for the formation of well-functioning Iraqi and Syrian states which protect and respect the human rights of all citizens equally.
References


