

Distributive Justice and the Durability of Negotiated Agreements

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Resume

This study explores the relationship between principles of justice and the durability of negotiated agreements. Focusing primarily on peace agreements negotiated during the early 1990s, the study provides evidence for a relationship. Sixteen peace agreements were coded for the centrality of each of four principles of distributive justice – equality, proportionality, compensation, and need. The agreements were also judged on scales of durability and implementation over a five-year post-settlement period. Two other variables included in the analysis were the difficulty of the conflict environment and the willingness of international actors to be involved in the conflict. A modest correlation between justice and durability raised questions about the relationship. Further analyses showed that this correlation was accounted for by three anomalous cases, Rwanda, Somalia, and El Salvador.

A closer look at these cases led to a refinement of the coding decisions. The recalculated correlations showed a stronger relationship between justice and durability, even when the effects of difficulty were controlled. Further support for a relationship was obtained from a focused comparison of selected cases matched on difficulty (Bosnia and Cambodia [high difficulty]; Guatemala and El Salvador [low difficulty]). The results suggest that when many principles of justice are included in an agreement, the negative effects of difficult conflict environments are reduced. When only a few principles are

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included, the negative effects of difficulty are heightened. Implications of these findings are discussed along with a number of ideas for further research.

Role of Justice in Negotiation

Justice plays a role in negotiations at all levels. Social-psychological research has demonstrated the impact of different principles and concepts of justice in interpersonal conflict and bargaining situations. In the last few years, the role of justice in international negotiations has also been chartered and demonstrated more systematically. The significance of that role will, of course, vary with the context. Justice considerations may, among other things, trigger the onset of negotiations, help set the agenda, guide the exchange of concessions in the bargaining process, influence the terms of the eventual agreement, and cause uproar over any later violations. They may either *guide and facilitate the negotiations* by coordinating expectations and helping parties forge an agreement, or they may complicate the talks by *becoming a subject of the negotiation*. Sometimes the justice aspects of the negotiations will be influential from the outset – for example, by virtue of taking place in a strongly normative context and involving issues of recognized ethical importance. At other times, features of justice may be subdued and less central – for example, in contexts lacking established norms and marked by strong power inequalities between the parties involved. But the design of broadly supported, cooperative and workable agreements can rarely rely only on interest-based bargaining or the promise of benefits. In order to win the necessary respect and voluntary approval of parties and their constituencies, the provisions – and the process whereby they were worked out – should include principles of justice.

International environmental negotiation is an example of an area where justice issues are usually prominent and influential, as well as a major hurdle to tackle. The issues concern the exploitation and preservation of scarce or finite resources which are essential to human well-being, the allocation of the high costs of protective measures between countries marked by sharp inequalities in resources and responsibility for environmental problems and, many would argue, obligations of present generations to future ones. Poor states hold that they should not have to compromise their own welfare or economic development in order to bear the cost of resolving environmental problems, especially those caused mainly by rich industrialized nations such as climate change and ozone depletion. They maintain furthermore that all countries, regardless of their financial or technological assets, should have equal access to the 'global commons' (resources held in common by or affecting the international community as a whole). Such conceptions of justice have influenced negotiations over issues such as the protection of the world's seas and oceans, ozone depletion, international trade in toxic wastes and, as further discussed below, trans-boundary air pollution.

Negotiations to end war and formulate peace agreements exemplify how justice issues may be less prominent and visible, and yet play a role. Violent conflicts today are primarily internal (intra-state) strife and civil wars, often driven by ethnic-sectarian differences. The issues on the agenda, if and when talks do get underway, may concern such matters as disarmament and peace-keeping, political power-sharing, political autonomy, elections, compensation for war damages, and the status of refugees and displaced persons. The parties are often sharply unequal in power -- for example, an ethnic minority or rebel group vs. a ruling ethnic majority or national government -- and do not hesitate to threaten or

use force to secure an agreement on their terms. Yet, as demonstrated in this project, there are various aspects of and claims to justice also in this context. These are frequently addressed in the resulting peace agreements.

Types of Justice Issues in Negotiation

What then concerns us when we talk about justice in negotiations? A wide range of issues arise particularly when we examine international negotiations, from the earliest phase when the talks are structured to the final phase of implementation and compliance. Five types of justice issues can be identified. The first type concerns the *structure* of the negotiations. This pertains to the overall conditions and constraints under which deliberations take place; for example, issues of participation and representation, power relations, and the ordering of issues on the agenda (Albin, 1993, 2001). The second type concerns the negotiation *process*; that is, the ways in which parties interact and behave as they build agreements, including patterns of concession exchange (Druckman and Harris, 1990) and the use of deceptive or coercive tactics. This type of justice has been the primary focus of social exchange theory (e.g., Druckman, 1990; 1998). The third type of justice involves the *procedures* used in the negotiations; that is, the mechanisms employed to arrive at an agreement. They may involve, for example, the respective roles played by political representatives and technical experts as well as different rules of division (Young, 1995).

The fourth type pertains to the *outcome*, namely the principles governing the allocation of benefits and burdens in an agreement (e.g., Deutsch, 1975). This is often referred to as *distributive justice*, and is discussed in more detail below. The final type of justice issue concerns the *post-agreement phase*; that is, matters of implementing and

complying with commitments made and their soundness over time with changing circumstances (Albin, 2001).

In any specific case, particular types of justice may receive more attention than others. If a negotiation is already well established and accepted, the focus may fall more on principles to guide an agreement than on how the talks are structured and conducted. This is the case of the European acid rain negotiations. If, by contrast, the negotiation concerns some issue where just outcomes are not feasible politically or physically -- as with a disputed indivisible good for which no adequate compensation exists -- the process or procedure used to settle the problem assumes great importance. Finally, if parties return to the table to discuss a settled issue whose terms are not honored by all parties, resentment over the injustice of 'free-riding' may overshadow other principles.

Distributive justice

This project focuses on principles of *distributive justice*; that is, general standards for allocating collective benefits or burdens among the members of a group or community. They are principles of *outcome justice* in contrast to, the justice of the process and procedures from which outcomes result. The authors chose to examine *four principles* of distributive justice in agreements: *equality, proportionality, compensation, and need*. The importance, in concept and practice, of these principles is well recognized and established in the research literature. They can, however, assume many meanings and be subjected to conflicting interpretations and applications in particular situations. As further discussed below, a guide for operationalizing justice was developed to provide definitions and distinguishing indicators for each principle.

There are several reasons for focusing attention on distributive justice. One is that the content of agreements deals mostly with the allocation of gains and burdens. These are matters of distributive justice. Another reason is that the four distributive principles are well recognized and established in the research and practice literatures. Given the project's overarching purpose, it was important to select principles which are widely seen as capturing essential aspects of justice. A third reason is that these principles are suited to the project's methodological requirements. They are defined external to particular parties and situations, and reliable indicators for them are more easily developed. Thus, there is no need to capture the parties' perceptions in measuring the concepts. This means that tracking these principles in agreements does not depend on subjective information about the parties' own views and of the manner in which the agreement was negotiated. Other major principles of justice, such as "impartiality" and "a balanced settlement of conflicting claims," do, however, rely on more subjective information (Albin, 2001).

Durability of Agreements

Research on the conditions and requirements for durable peace – usually defined more or less as the absence of organized violence – has exploded in recent years (e.g., Page Fortna, 2004; Nilsson, 2006). Yet there are still few clearly stated or reasonably comprehensive definitions of what constitutes a "durable" agreement. The Uppsala Conflict Data Program (UCDP) in Sweden defines a peace agreement as durable "as long as it is implemented." Furthermore, such an agreement "... has failed the date when one of the parties states that the agreement is annulled, or if violence clearly shows that one or both parties have left the agreement."² Progress has been made in defining various degrees of success in implementing peace agreements, although there is also some contention about the

² Source: http://www.pcr.uu.se/database/definitions_all.htm

meaning of success with both optimistic (Stedman, Rothchild, and Cousens, 2002) and pessimistic (Paris, 2004) views being expressed.

The authors developed *a definition of durability* of negotiated agreements along the following dimensions.

1. *The duration of the agreement over time:* This refers to the number of years it remains in force legally and/or effectively. It captures the effects of justice in particular on the overall agreement itself. An agreement may endure legally and effectively even if violations by some parties take place. In fact, this is quite a common phenomenon. On the legal side, however, some agreements do specify under what conditions they will no longer be in force.

2. *The implementation of and adherence to the agreement by parties:* This definition captures the parties' behavior and commitment to the agreement. This concerns the steps and measures taken to carry out the commitments made either by primary or third parties. It also concerns honoring and living by the terms of the agreement over the longer term.

Drawing on these two definitions, our decision is that an agreement is durable as long as it is reasonably effective in serving its stated goals. This usually means that there are few (if any) violations, or that violations have at least not undermined the central objectives of the agreement. There may be breaches and other problems, but the agreement is durable to the extent that it manages to do what was intended by the signatories.

Justice and Durability

The key hypothesis explored in this study is that just agreements result in more durable agreements. It may be argued as a corollary that the more principles of justice contained in the content of an agreement, the more durable the agreement. Our attention to

the post-agreement phase complements the research that seeks to relate considerations of justice to the negotiation process and to conflict more generally. Although not evaluated systematically to date, the hypothesis has been examined in earlier research. In the context of civil wars, Rothchild (2002) argued that proportionate representation increases the chances of implementing peace agreements. With regard to human rights, Bell (2004) has claimed that agreements last longer when human rights stipulations are included in the text. The distinction made by Zartman and Kremenjuk (2005) between forward and backward-looking outcomes is relevant. These authors show that forward-looking notions of justice – concerned with building improved relationships – lead to more successful outcomes than backward-looking concepts concerned with settling past grievances and demands for reparations. However, contrary arguments have also been made. Snyder and Vinjamuri (2003/04) claimed that durability can be undermined by including justice in their terms. And, Putnam (2002) demurs as well by arguing that the normative context for agreements, such as human rights, does not influence their durability. These contending views can be regarded as competing hypotheses. They are addressed by our analyses

Coding distributive justice

The project developed two documents to be used by coders when evaluating the presence and importance of distributive justice in specific peace agreements. The first was a guide for analyzing and coding negotiated agreements. For each of the four principles of distributive justice - equality, proportionality, compensation, and need – the guide provides a definition, key indicators and examples of application (see Figure 1). Its purpose is to help coders recognize and identify the principles in the texts of agreements. These principles are not always mentioned by name in the texts. Even when they are not, they may still be

present and at work in an agreement. Coders were instructed to judge the presence of each of the four principles. A principle is regarded as being present when it is clearly -- beyond reasonable doubt – central to the agreement, even if not mentioned by name or regarded as a justice issue.

The second document was a coding sheet with a series of questions to answer for each agreement. The first set of questions concerns identifying *the presence of justice (or not)* in the agreement: Are any of the principles -- equality, proportionality, compensation, or need -- reflected in the terms of the agreement, either explicitly by name or, if implicitly, clearly so beyond reasonable doubt? For each of the four principles found in the agreement: In what part(s) of the agreement is the principle found? Is it/are they explicitly stated, or implicit (beyond reasonable doubt)? Is the principle strictly applied (the agreement reflects a model/'exact' application of the principle), or does it rather guide or influence the agreement's provisions (not a strict application)? The second set of questions asks the coder to assess *the importance of justice* in the agreement. "Importance" is measured in two ways: the extent to which a justice principle is central to an agreement's core terms, and the number of principles included in an agreement.

For each justice principle included the coder is asked to evaluate how significant it is for the core terms of the agreement, and to give it a score on a scale from 0 to 1.5 as follows:

1.5: Highly significant (at heart of agreement and its core provisions; without this principle the agreement would be fundamentally different);

1.25: Between highly significant and important

1.00: Important (included in some of the main terms of the agreement)

.75: Between important and marginal

.50: Marginal (included, but for lesser – not core - issues in the agreement)

0: The principle is not mentioned or implied in the agreement

The scores for each principle are added to get the agreement's total "justice score". That score ranges from 0 (no principle included) to a maximum of 6 (all four principles included and all are highly significant for the agreement's core provisions).

Insert Figure 1 here

Coding durability

Durability is assessed with two sets of questions. One set concerns duration over time; that is, the number of years it has remained in force legally and in practice. We limited our examination to the five-year period following the date when the agreement was implemented, not when it was signed, if different. The coder is asked whether the agreement is still in force in three respects: legally, effectively (i.e., the agreement serves its goals reasonably well in practice), and in the eyes of the parties -- no party has stated, or acted in such a way as to declare that the agreement is annulled. Then an overall assessment is made of whether the agreement was still in force after five years. If not, the time span of the agreement is specified as well as the manner in which it was annulled. If so, the number and identity of those parties who had signed and ratified the agreement within two months of its entry into force are specified.

Another set of questions asks whether and to what extent parties have implemented and complied with the terms of the agreement, or violated it, in the five-year period. Only those parties who had signed and ratified the agreement within two months of its entry into force are included. Moreover, only implementation and any violations of the terms of the *original*

agreement are studied, not later additions. The coder is asked to indicate which of the following best describes the status of the agreement during the entire five-year period.

1. The agreement has been fully implemented (complied with) by all parties, no violations have occurred.
2. There have been minor implementation breaches/violations defined as: only a few parties have violated the agreement, *and* these violations have not significantly affected the goals of the agreement.
3. There have been “medium” implementation breaches/violations defined as: some parties have violated the agreement, *and* these violations have undermined some goals of the agreement.
4. There have been serious implementation breaches/violations (without abrogation) defined as: a significant number of parties have violated the agreement, *and* these violations undermine the goals of the agreement in significant ways.

Finally, based on the answers to the two sets of questions, the coder is asked to rate the overall durability of the agreement in the five-year period on the following scale:

1. Perfect
2. Highly durable
3. Good
4. Some elements of durability
5. Very poor or non-existent

Evaluating the codes: The 1994 Oslo Protocol on Acid Rain in Europe

The justice and durability codes were evaluated and further refined using a well-documented and complex case known to the authors. This is the 1994 Oslo Protocol on Further Reduction of Sulphur (SO₂) Emissions in Europe, negotiated under the 1979

Convention on Long-Range Transboundary Air Pollution within the United Nations Economic Commission for Europe. The Protocol broke new ground at the time in three respects: by establishing emission targets based on "critical loads", a measurement of susceptibility to ecological damage from acid rain; by emphasizing the importance of equitable distribution of abatement costs; and by introducing strong compliance provisions. Its overall aim was to reduce the gap between critical loads and the 1990 levels of SO₂ emissions by 60 per cent, using three target years (2000, 2005 and 2010). This was designed as a first step towards reaching critical loads. The emission cuts required of individual states varied widely, with the greatest reductions to be made by wealthier countries and smaller ones by poor countries.

The codes operated quite well in this case. Three of the four principles were found to be at work in the agreement, giving it a total justice score of 3.25: proportionality (ability to pay), rated "highly significant"/score of 1.5; compensatory justice (compensation for excessive costs of emission cuts), rated "between highly significant and important"/score of 1.25; and equality (equal number of seats for each party on a conciliation commission), rated "marginal"/score of 0.5. Proportionality and compensatory justice were implicit in the agreement (not stated by name) and not strictly applied, but did strongly influence the terms of the agreement. The equality principle was explicitly stated and strictly applied.

With regard to durability, the agreement was clearly still adhered to in all three respects (legally, effectively, and in the eyes of parties) five years after its entry into force. The process of ratifying the agreement has been slow among the signatory states, particularly in East and Central Europe. By August 1998, when the Protocol entered into force, 27 European countries and the EU were parties to it and 16 of these had ratified it. By the end of 2006,

total ratifications had increased to 21. Among those parties who had ratified the agreement by 1998, however, only minor implementation breaches have been found which have not significantly undermined the essential goals of the Protocol. The overall rating of the agreement's durability was "highly durable" (a score of '2' on the scale). The codes are consistent with the justice-durability hypothesis. As a single case, however, the results do not provide a test of the hypothesis. Evaluation of the hypothesis requires a larger number of cases. We turn now to a discussion of those cases and the procedures used to analyze them.

A Peace Agreements Data Set

Downs and Stedman (2002) provide a data set well suited for evaluating the justice-durability hypothesis. The sixteen peace agreements were negotiated during the 1980s and 1990s: The earliest was the 1980 agreement on Zimbabwe implemented by the British; the most recent was the second agreement concerning Angola implemented by the UN (1994-1999). These authors coded difficulty of the conflict environment and willingness of international actors to intervene.

Eight indicators of difficulty included the number of warring parties (2 or more), intervention in the absence of a peace agreement (present/absent), likelihood of spoilers (likely/unlikely), a collapsed state (with or without a governing capacity), number of soldiers (more or less than 50,000), disposable natural resources (warring parties do or do not have access), the presence of hostile neighboring states (stable or unstable region), and wars of secession (wars fought over national sovereignty or over other issues). The either/or codes were summed for an index that varies between 0 (very low difficulty) and 8 (very high difficulty).

Three indicators of interest and commitment by international actors included regional power interest (statement made of a security interest in the conflict), willingness of other states to provide financial resources for an intervention, and willingness to take risks by committing soldiers to the conflict. The three dichotomous codes were aggregated for an index that varied from 0 (low willingness) to 3 (high willingness). The difficulty and willingness scores are shown for each case in Table 1. In addition, these authors provided a judgment of the implementation outcome as success, partial success, and failure. We scored the outcomes on a scale that varied from a low of 1 (failure) to a high of 3 (success).³ These scores are shown in Table 1 as well.

Each of the 16 agreements was also coded for principles of distributive justice. Complete texts of all the agreements were assembled for coding: The agreements varied in length from five (the agreement between the government of Nicaragua and YATAMA) to 52 pages (the agreement between the Republic of Rwanda and the Rwandese Patriotic Front). Although longer texts provide more opportunities for statements related to justice, the emphasis of this project on significance of the principles reduces the problem: We are interested more in the centrality of each principle than in the number of times it is mentioned. Each of the four principles of distributive justice was coded on a two-step centrality scale: Highly central (2), important (1.5), and marginal (1). A more finely-tuned scale was created to capture mixed judgments: between important and highly central (1.75) and between marginal and important (1.25).⁴ Aggregating the

³ Note that for this analysis the outcome codes are taken from Downs and Stedman (2002). Our five-step durability scale (discussed above in the section on "Coding Durability") is used for the qualitative analyses to follow.

⁴ Note that the justice scale used for these cases ranged from a low score of 0 to a high of 8. The scale ranged from 0-2 for each principle. The scale was modified for the student and expert coding. The range

scores across the four principles resulted in a scale ranging from 0 (no principles in the agreements) to 8 (all principles are highly central). The index scores are shown in Table 1. They range from a low of 0 (Angola II) to a high of 4.5 (Mozambique) with an average score of 2.9. For many of these cases principles of distributive justice do not play a central role in the agreement. The texts are concerned more with issues of peace than with justice.

Insert Table 1 here

Analyses and Results

Both quantitative and qualitative analyses were performed. The data shown in Table 1 are suited for correlational analyses. The variables can be construed in the form of a 4 x 4 correlation matrix, with a total of 12 pair-wise coefficients. These bi-variate correlations are, however, inflated or attenuated due to multi-collinearity, which means that all the variables in a set are correlated with each other. Thus, we also performed partial correlations to address this problem: For example, the variation contributed by the difficulty variable is removed from the correlation between justice and outcomes. This type of statistical control provides confidence in the calculated bi-variate correlation; it reduces the chances that the correlation is misleading. It does not, however, provide a strong argument for causation: In this example, that justice principles lead to more durable agreements. That argument is strengthened with the use of focused-comparison methods.

was from 0-1.5 with a maximum score of 6. The latter scale is presented in the earlier section on “Coding Distributive Justice.” The scale range does not affect the correlations.

Based on the logic that supports laboratory experiments, the focused-comparison method relies on the selection of a small number of similar cases rather than representative sampling of a large number of different cases. Cases are chosen because they are similar in most respects. They differ on only one or a few independent variables. For example, both cases are difficult but vary in terms of the number of justice principles in the agreement; or, both cases are easy but vary in the number of principles. These comparisons were performed with selected cases from the peace agreements data set. However, the limited number of cases -- and availability of documented agreements -- challenges the *ceteris paribus* assumption of “all other things being equal.” Within these practical limitations, an attempt was made to match the comparison cases as closely as possible: For example, cases from the same region. These analyses complement the statistical analyses. They bolster the causal argument while forfeiting the generality or robustness contribution. (For more on the relative strengths and weaknesses of these methods, see Druckman, 2005.) We turn next to the results of the correlational analyses followed by the focused-comparisons.

Correlational results

The correlational analyses were performed in a sequence where later steps build on previous results. First, correlations were computed among the four variables across the 16 cases. Second, the correlation matrix was factor analyzed. Partial correlations between pairs of variables were also calculated. Next, anomalous cases -- many (few) justice principles but breached (durable) implementation -- were examined more closely. The understanding developed from these examinations led to some adjustments in the data

set. Bi-variate and partial correlations were re-computed. Implications for the justice-durability relationship are summarized, paving the way for the qualitative work to follow.

The correlation matrix is shown in Table 2. Key results are as follows.

The strongest (and highly significant) correlation is between difficulty and outcome. This correlation actually increases when the willingness variable is removed by partial correlation (from $-.66$ to $-.76$). It decreases somewhat when justice is removed (from $-.66$ to $-.60$). Thus, difficult conflict environments are associated with difficult implementations of peace agreements.

The next highest correlation is between justice principles and outcomes. The $.40$ correlation is not statistically significant but suggests a directional association with number of principles (more) and implementation success (more). A similar correlation is obtained between justice and difficulty ($-.38$). When the effects of difficulty are controlled, the correlation between justice and outcomes drops to $.22$. The correlation increases to $.45$ (borderline significance) when willingness is controlled through partial correlation.

Correlations with the willingness variable are quite low: difficulty and willingness ($.17$), willingness and justice ($-.06$), willingness and outcomes ($.33$).

Insert Table 2 here

A two-factor solution emerges from the analysis of the correlation matrix. As shown in Table 3, high loadings for the difficulty, justice, and outcome (implementation) variables were obtained for the first factor. This factor explains about 50% of the variation in the correlations. Only the willingness variable loads on the second factor, which explains 29% of the variation. This result indicates a clear separation between

willingness to intervene and the cluster of difficulty-justice-outcomes. Indeed, the willingness variable produces the weakest correlation with each of the other variables.

Insert Table 3 here

These results suggest that difficulty of the conflict environment is the primary influence on the implementation of peace agreements. Justice plays a more modest role in implementation, a role that is relatively independent of difficulty; note the small correlation between justice and difficulty. However, a closer look at the data reveals a different pattern. The modest correlation between justice and outcomes is due, at least in part, to a few cases. Failed implementation occurred in both Rwanda and Somalia despite the large number of justice principles included in those agreements. The successful implementation of the El Salvador accord occurred despite the relative low centrality of principles in the agreement. Further probing suggests explanations for these anomalous findings. Let us consider the cases of Rwanda and El Salvador.

Anomalous cases

Rwanda. A question raised by our codes is, why did an unsuccessful outcome (coded as '1') occur in a moderately difficult environment (coded as '3') where several justice principles were addressed (coded as '4'). Insight into this anomaly is provided by Paris' (2004) account of the Arusha Accords signed in 1993.

The Accords were signed by a Hutu president under considerable pressure from opposition groups, expatriate Tutsis, and international donors such as the World Bank. In fact, a stern warning from the World Bank that funds would be cut off precipitated the signing. Given their dependence on these funds, which subsidized at least 70% of its public investment, the Rwandan president had little choice but to acquiesce. Yet, the

acquiescence was in name only and served the short-term goal of sustaining the funding. It ignited serious conflict within the country, particularly a rift between the president and members of his own regime who were strongly against the Accords. Tensions mounted against the regime – indeed the president was isolated on the Accords issue – and the conflict spread widely across the country. The Tutsis became scapegoats and the country was plunged into a vicious civil war. The war culminated in the mass murder (between April and July 1994) of 80% of Rwanda's Tutsi population. To a large extent, these developments sprung from efforts to prevent the Accord from being implemented. Extremist members of the regime were spoilers intent on undermining the agreement that their own president signed.

The Arusha Accords are an example of a coerced agreement. An embattled president viewed this decision as the least costly alternative in the short run. This was a tactical mistake with dire consequences both for his regime and the country. The principles of justice reflected in the agreement – even though (to an extent) forward-looking in word – were meaningless in deed. This history helps us understand an apparent anomaly in the coding, namely, several justice principles and a failed implementation. Based on this understanding, two hypotheses are suggested for later analyses:

Agreements signed between negotiators that represent divided parties are less durable than those signed by negotiating representatives of consensual parties.

The relationship between principles of justice and durability depends on the extent to which the principles are adhered to during the implementation period.

The false justice implied by these developments leads to a decision to drop the Rwanda case and re-compute the correlations across the other 15 agreements.

El Salvador. Another question raised by our codes is why only a few principles of justice (coded as '2.5') were reflected in an agreement that was successfully implemented (coded as '3'). A closer look at the implementation period provides further understanding of this apparent anomaly.

The Chapultepec peace agreement of 1992 held because the rebel FMLN became a participating party in the political system. Other features of the agreement did not hold (see Paris, 2004). The economic and social reforms stipulated in the agreement did not transform the society. The sources of conflict – poverty, lack of political representation, and crime – remained. In fact, the conditions actually deteriorated with increased poverty and crime following the agreement. It is on these matters, rather than peace or cease fire, that justice principles are particularly relevant. Justice addresses issues of political participation and social problems such as discrimination. When these principles are not central to an agreement, as in this case, the sources of conflict and deprivation remain. A deeper look at the justice-durability question reveals a disparity between peace (achieved in this case) and a forward-looking justice (not achieved). Hence, the distinction made by Zartman (2005) between peace and justice is relevant.

This agreement illustrates the importance of justice principles. According to the difficulty code ('1'), the conflict environment surrounding the agreement was not difficult. Thus, it comes as no surprise that a comprehensive peace agreement was negotiated. Nor is it surprising that the conditions that fueled the conflict remain. Indeed, it is easier to achieve settlements (such as cease fires), which are often backward-looking,

than resolutions that address the heart of conflicts (see Druckman, 2002, for this distinction). When justice issues are not central to an agreement, resolutions are less likely to occur. It may also be the case that the type of justice matters. Developing mechanisms or institutions for assuring justice in the future is likely to contribute more to resolution than seeking retribution for past behavior. Principles of equality and proportionality are more forward-looking than compensation and need. In this regard, note the coding decisions for El Salvador: Need (coded as '1.5'), compensation (coded as '1'). There is no mention of either equality or proportionality!

Based on this understanding, two hypotheses are suggested for later analysis:

Equality and proportionality principles are more likely to be contained in agreements that address the sources of conflict.

Compensation and need principles are more likely to be contained in agreements that address the symptoms of conflict.

The distinction between symptoms and root causes leads to a reconsideration of our coding of the implementation period. The success code of '3' should be changed to partial success ('2'). The changed code is included in the re-analyses to follow.

Re-computing the correlations

The two adjustments in the data set consisted of dropping the Arusha Accord and altering the outcome for El Salvador from a code of '3' to '2.' A correlation matrix, shown in Table 4, was produced for the four variables across 15 cases. The key results are as follows:

. The correlation between difficulty and outcome is about the same: -.66, -.65.

. A slightly reduced correlation between difficulty and outcome occurs when justice is controlled. The $-.65$ correlation drops to $-.57$ (significant at the $.03$ level).

. The correlation between difficulty and outcome decreases when willingness is controlled, from $-.76$ to $-.71$. (significant at the $.004$ level).

. The correlation between justice and outcomes is increased from $.40$ to $.56$ (significant at the $.03$ level). The correlation is about the same when willingness is controlled ($.57$). .

. The correlation between justice and difficulty is about the same ($-.38$, $-.37$).

. An increased correlation occurs between justice and outcomes when difficulty of the conflict environment is controlled. The correlation of $.22$ increases to $.46$ (significant at the $.10$ level). The correlation is the same when both difficulty and willingness are controlled.

Insert Table 4 here

The factor analysis of these correlations result in the same separation of the variables as shown in Table 3 above: The first component consists of the difficult-justice-outcome cluster; only willingness loads on to the second factor (see Table 5). The factor loadings for justice are stronger on the first factor and weaker on the second than those obtained in the analysis of 16 cases.

Insert Table 5 here

These results indicate that justice matters. Principles of justice contribute to the success of implementing peace agreements. However, difficulty remains the primary influence on implementation. These results show a stronger correlation between justice and outcomes (durability) than was obtained with the 16 cases. But, as in the 16-case

analysis, the partial correlation between justice and outcomes, controlling for difficulty, is reduced: from .56 to .46 in the 15-case analysis.

This pattern of correlations is depicted in the form of the model presented in Figure 2. The implied causal path is based on the assumption that the negotiated outcome occurs in the context of a (prior) conflict environment and precedes implementation. Justice principles are shown to moderate the relationship between difficulty and outcomes.⁵ When many justice principles are included in an agreement, the negative effects of difficulty are reduced. Similarly, when only a few principles are included in an agreement, the negative impact of difficulty is heightened. It may also be suggested that many principles increase durability in less difficult conflict environments. These conclusions are explored further in the analyses to follow.

Insert Figure 2 here

Focused comparisons

Four cases were chosen from the data set for further analyses. As discussed above, the idea is to compare cases matched on difficulty but varying in terms of justice. Two low-difficulty cases from the same region (Central America) are Guatemala and El Salvador. The former is an example of a high-justice agreement; relatively few principles surface in the latter agreement. Two high-difficulty cases are Cambodia and Bosnia. Although these cases differ in several ways, they are both considered to be partial successes and had similar histories of international intervention. The former agreement contains few principles of justice; the latter has relatively many principles. The analysis

⁵ Similar results were obtained from a regression analysis. A significant main effect was obtained for difficulty, a borderline effect for justice ($p < .10$) and a borderline interaction between difficulty and justice. The interaction bolsters our interpretation of a moderating effect of justice on the relationship between difficulty and outcomes.

addresses the question: Does justice influence implementation when the difficulty of the conflict environment is controlled at similar levels?

An initial evaluation of the hypothesis was performed with students in a class on diplomatic negotiation held at the Australian National University. A dozen students were divided into four groups of three. Each group was assigned a case and instructed on how to use the forms described earlier for making judgments of justice and durability. The justice scale ranges from a high of 1.5 (the principle is highly significant) to a low of .5 (the principle is marginal). A score of 0 is assigned when the principle does not surface in either an explicit or implicit way in the text. The durability scale ranges from perfect (1) to very poor or non-existent (5) durability.

Each group had the complete text of the agreement and was given reading material on the five-year implementation period. They were given three days to complete the assignment. The results were recorded and presented at a retreat de-briefing. Following are the results of the groups' judgments and the pair-comparison findings.

Guatemala: 4.5 (Justice), 4 (some elements of durability)

The high justice score reflects compensatory and needs principles (backward-looking) addressed primarily by the rebel group (URNG), not the government. The weak durability contradicts the judgment of success shown in Table 1 above. According to Paris (2004; source used by the students), the underlying sources of the conflict were not addressed and, in fact, the economic recovery only served to increase the tensions in the society. This is similar to the post-agreement situation in El Salvador. (The justice coder provides detailed information on the rationale and location of statements on which the codes are based.)

El Salvador: 2.75 (Justice), 3 (good on durability)

These scores corroborate our coding of few justice principles. The students' coding of durability is consistent with our discussion above in the section on anomalous cases. Justice principles were not significant and the sources of conflict (poverty) were not addressed. Thus, our decision to alter the outcome score for the correlation analysis is supported.

Bosnia: 4 (Justice), 3 (good on durability)

These codes corroborate our judgment on justice principles as well as on durability (partial success). A more forward-looking justice is reflected in the predominance of equality and proportionality principles. Perhaps this is what the US mediation at Dayton had in mind, but used coercive tactics to bring it about.

Cambodia: 2.75 (Justice), 4 (some elements of durability)

The students coded more justice principles -- especially equality and proportionality -- than we did. The judgment of partial success shown in Table 1 above is perhaps a bit more optimistic than the students' reading of the implementation period.

The results of the pair-comparison control for difficulty are as follows:

Bosnia vs. Cambodia: High difficulty with many (Bosnia) or few (Cambodia) principles. Bosnia was good on durability, Cambodia was coded as having some elements. This provides support for the relevance of justice principles.

Guatemala vs. El Salvador: Low difficulty with many (Guatemala) or few (El Salvador) principles. El Salvador was coded as somewhat stronger on durability than Guatemala. This result does not support the importance of justice principles. However, on closer inspection, the opposite result is apparent. Our appraisal of El Salvador above suggests

poor durability. The compensatory and needs principles found in the Guatemala agreement were based on the initiative of the rebel group and did not address the underlying sources of the conflict. This interpretation lends support to the justice-durability hypothesis: Few principles and poor durability for El Salvador; superficial (backward-looking) justice and poor durability for Guatemala.

These results bolster the argument that justice principles matter. They make a difference in both high and low-difficulty conflict environments. And, according to the correlational patterns and regression results, the two variables interact; they act together in influencing the durability of peace agreements. The interaction can be depicted in the form of a 2 x 2 matrix shown in Figure 3:

Insert Figure 3 here

Case Experts

The focused-comparison design is being implemented as well with case experts. To date, experts have been recruited for the cases of El Salvador (Kjell-Ake Nordquist), Cambodia (Ramses Amer), Bosnia (James Goodby), Rwanda (Gilbert Khadiagala), and Somalia (Terrence Lyons). Judgments for Cambodia, Bosnia, Rwanda, and Somalia have been completed. Convergent validation can be assessed by comparing these judgments to those made by the diplomacy students, for the cases of Bosnia and Cambodia, and by us, for the cases of Rwanda and Somalia.

Overall, considerable similarity in the ratings was obtained. In fact, for most cases the ratings for both justice and durability are identical. On Cambodia both the students and the case expert assigned codes of '2.75' for justice and '4' on durability. The ratings for Bosnia of '5' for justice principles and '4' on durability (some elements) are

comparable to the students' ratings of '4' and '3.5' respectively. Those done for Rwanda are '4' on justice principles and '5' on durability (very poor). These are also similar to our ratings of '4' on justice and '1' on outcomes (failed implementation) by Downs and Stedman.⁶ And, the expert codes for Somalia are '3.5' on justice and '5' on durability (very poor). These are almost the same as our coding of justice principles ('3.5') and the Downs-Stedman judgment of failed implementation. The very similar ratings for each of these cases provide strong evidence for convergent validation. It will be interesting to discover whether similar convergence occurs for El Salvador. As well, we look forward to performing a focused comparison on this set of cases.

Implications and Next Steps

The analyses performed for this project show that the durability of peace agreements depends, at least in part, on principles of distributive justice. The relationship is moderated – or trumped – however by factors in the environment that exacerbate or attenuate the intensity of conflict. These factors are referred to as 'difficulty.' By including difficulty variables in the analyses we provide a more complex rendering of the hypothesis. It is not surprising that agreements are more difficult to implement in environments where the incentives for continued fighting outweigh those for making peace. Examples of these conflict environments were Sri Lanka, Lebanon, Liberia, Cambodia, Somalia, Bosnia, and Sierra Leone. It is interesting to note that, despite the difficulty, some of these agreements were a partial success. For some of these partial successes – Lebanon, Somalia, Bosnia – justice principles were in play. And, the case of

⁶ The cases of Rwanda and Somalia were coded on an eight-point justice scale (0-2 for each of the four principles) for the correlation analysis. They were judged on a six-point scale by the experts (0-1.5 for each case). Thus, identical scores are not identical ratings for these cases. They are however very similar.

Zimbabwe illustrates success in a moderately difficult environment where several principles played a central role in the agreement. For three failed cases – Angola I, Angola II, Sierra Leone – few justice principles came into play. Thus, justice can offset the negative effects of the conflict environment; it can also reinforce the positive effects of an environment that is more conducive to peace.

The focused comparison results strengthen the argument that justice plays an important role in peace agreements. By selecting cases in each quadrant of a justice-difficulty matrix -- all combinations of high and low on both variables -- we were able to evaluate the relationship between justice and durability. In effect, we have created independence between these variables. This advantage of the matched-case procedure complements the strengths of statistical analysis of a large number of different cases. The students' judgments for the high-difficulty cases support the hypothesis. Their decisions on the low-difficulty cases are less supportive: both these cases were poor on durability. However, upon closer inspection, the opposite interpretation is apparent: The justice principles in the Guatemala agreement were backward-looking. These findings illustrate the value of complementary research approaches. The quantitative analyses provide evidence for a general relationship between justice and durability. The qualitative work provides a deeper appreciation for the role played by justice during implementation. Results obtained from these complementary analyses converge on the discovery of moderating effects of justice on the relationship between difficulty and durability, in the form of a statistical path model (Figure 2) and a 2 x 2 classification matrix (Figure 3). Both analyses illuminate the value of control, first by using partial correlations and then by selecting cases on the independent variables.

The role of justice in implementation is further strengthened when the willingness variable is taken into account. The factor analyses show that this variable is independent of justice, difficulty, and outcomes. The correlation analyses indicate stronger relationships between justice and outcomes than between willingness and outcomes. Further, the justice-outcome and justice-difficulty correlations change little when willingness is controlled. An interpretation of these findings is that durability depends more on justice principles – especially if they are adhered to during implementation – than on support from regional states. This may be due, at least in part, to the strength of these actors’ commitments. Their interest may wane through the long period of implementation in both more and less difficult conflict environments. It may also be due to the offsetting effects of intervention, namely, interveners both fuel and reduce the conflict. Simply put, they may actually interfere with implementation. Their role may be more useful when they serve as third parties in the negotiation process, as illustrated by Mozambique, Bosnia, Sri Lanka and other cases in the data set.

The framework and analyses reported in this paper are first steps in a larger program of research. A number of next steps are contemplated. First, however, a few refinements to the current analyses are planned. These include reliability testing of the justice and durability codes as well as analyses of the experts’ judgments. The former entails providing independent coders with a sampling of the texts from all the cases along with the coding rules. The latter consists of performing focus comparisons with the experts’ justice-durability scores and probing for further insights provided by their written elaborations about the cases. Further evidence for reliability – or for convergent validation – comes from comparisons of judgments made by students and experts. To

date, impressive convergence in judgments is evident for four cases, Cambodia, Bosnia, Rwanda, and Somalia.

Second, the hypotheses generated from analyses of the anomalous cases, Rwanda and El Salvador, can be evaluated with the current data set. Two of these hypotheses posit a relationship between type of principle and agreements: specifically, equality and proportionality principles are more frequent in agreements that address sources of conflict; compensation and need principles are found more often in agreements that focus on symptoms. The former is conducive to longer term resolutions; the latter to shorter-term settlements. Cross-tabulations between type of principle (equality/proportionality vs. compensation/need) and type of agreement (sources or symptoms) would provide the evidence. The other two hypotheses focus on the implementation period. They highlight differences within each of the parties and adherence of both parties to justice principles. These are new variables to be added to the data set. Each can be coded from case studies that describe the post-settlement period in some detail. (Sources include the cases discussed in Stedman et al., 2002, and in Paris, 2004.) Information about the implementation period can also be gathered from interviews with scholar-experts such as those recruited for this project.

Going further, we can examine the agreement texts for other kinds of justice principles: structure, process, and procedures. Such an examination requires developing hypotheses, constructing coding rules, accumulating material on the process, and performing analyses. An example of two hypotheses are:

. Structural and process justice are correlated: The more equal the representation of the parties, the less they rely on coercive or deceptive tactics.

. Outcome justice co-varies with process and procedural justice: More principles of distributive justice and found in agreements that emanate from fair processes.

A challenge to process analysis is the general lack of appropriate documentation. Few cases are catalogued in the way that Hume (1994) describes the round-by-round discussions on Mozambique. However, a small number of well-documented cases may be sufficient for performing focused comparisons.

Third, the justice-durability framework developed for this project applies as well to agreements negotiated in other domains. Our demonstration case of the Oslo Protocol on Acid Rain illustrates the relevance of the framework to cases concerned with the regional and global environment. That particular case showed a strong relationship between justice principles (3.25 on a six-step scale) and durability (highly durable). By adding other environmental cases, we can build a data set comparable to the one assembled for peace agreements. This domain can also be extended to domestic cases. A dissertation in progress by Will Hall has accumulated detailed round-by-round information about 30 cases of assisted (third parties) and unassisted negotiations over domestic environmental issues. Although he is concentrating on the occurrence of turning points during the process, Hall will also code the conversations for justice principles and examine implementation. Similar efforts can be made to assemble data bases on trade cases. The ten cases analyzed by Druckman (2001) are a start. The Cameron and Tomlin book on NAFTA (2000) provides an example of the sort of documentation available in this domain. With data-sets in hand, a three-way comparison of domains (peace, environment, trade) would reveal the generality (or context-specificity) of the justice-durability hypothesis.

Fourth, connections between peace agreements and peace-building activities can be explored. The question of whether forward-looking agreements enhance the prospects for societal transformation remains to be evaluated. This project and others have developed indicators at the micro level for types of peace agreements and the role of justice principles in those agreements. Less has been done along these lines at the macro level of societal change or transformation. The Downs-Stedman index of difficulty provides information relevant to the prospects for change. The index does not, however, capture evolving institutional processes (as in transitions to democratic systems) or the sorts of institutional overhauls needed for larger transformations to occur. The development of macro-level indicators would facilitate performing analyses that connect micro with macro-level processes. These analyses address some larger consequences of principles of justice. They are part of an agenda for research and surface in proposals submitted to the European Union and the Ministry of Foreign Affairs of Norway for future research.

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Figure 1

A Guide for Coding Negotiated Agreements

PRINCIPLES	INDICATORS	Examples
<p>EQUALITY: <i>identical or comparable</i> distribution of resources and burdens</p> <p>Key distinguishing feature: Uniform allocation in absolute terms, <i>not</i> in proportion to or based on any differences between parties.</p> <p>All other principles (see below) involve some kind of differential or preferential treatment and allocation.</p>	<p>a) Equal measures (Often leads to unequal costs or benefits -unequal shares - for parties.)</p> <p>b) Equal shares</p> <p>c) Equal treatment</p>	<p>a) - equal percentage reductions - equal caps/ceilings/freezes e.g., in arms arsenals, pollution levels (irrespective of any differences, e.g. in previous or present contributions, responsibility, etc.)</p> <p>b) - equal division of resources, benefits, and burdens (irrespective of any differences in e.g. preferences, needs, contributions)</p> <p>c) - equal rights, favors, privileges Example: 'Most-favored-nation' principle in international trade regime: Any favor/privilege extended to a country must be extended to all other WTO countries.</p>
<p>PROPORTIONALITY: distribution of resources/ burdens <i>in proportion to</i> relevant inputs (notably contributions, assets and abilities)</p> <p>Key distinguishing feature: The focus on proportionality commonly means that allocations (e.g., of resources, obligations) become <i>differentiated</i> as parties' inputs often vary. Equal allocations (equal treatment) only if relevant inputs are equal.</p>	<p>a) Ability to pay</p> <p>b) Contribution to/responsibility for the resource or burden to be allocated</p>	<p>Distributions in proportion to:</p> <p>a) level of economic development, national/per capita income</p> <p>b) - current pollution levels (e.g., per capita or of total global pollution levels)</p> <p>- past pollution levels / pollution levels to date</p>
<p>COMPENSATORY JUSTICE: distribution of resources to</p>		

<p>indemnify undue costs inflicted upon a party in the past or the present</p> <p>Key distinguishing feature: Links resource distributions to identifiable wrongdoings or unjust burdens, irrespective assets (e.g., current wealth).</p> <p>The objective is to rectify specific injustices.</p> <p>Relevant contributions may be taken into account, e.g. in determining what damage or costs are indeed undeserved. (Thus countries with low levels of greenhouse gas emissions to date may receive compensation for undertaking protective measures, while countries with high responsibility for the existence of the climate change problem may not.)</p>	<p>Compensation for specific and unjustified costs/damage incurred, e.g.:</p> <p>--unprovoked damage</p> <p>--no responsibility for problem negotiated</p> <p>-- excessive costs or few gains to be had from an agreement in absolute terms or relative to other parties</p> <p>--previous measures already taken to resolve problem if these mean that new measures will be more costly or demanding for a particular party than they otherwise would have been.</p>	<ul style="list-style-type: none"> - Financial compensation, technical assistance (e.g., to cover costs of meeting treaty obligations regarding a problem largely caused by others, or to cover the costs of an agreement of less/little gain to oneself; or to cover costs which fall excessively on certain parties by nature of the problem) - The 'polluter pays' principle (financial compensation for unprovoked environmental harm done to another party) - Credit (e.g., money or lower requirements) for earlier measures taken by a party to resolve the problem, if this means that e.g. new measures will be more costly or demanding because of earlier ones already taken.
<p>NEED: distribution of resources to meet present needs - in proportion to the strength of need (the more needy, the greater the allocation) and/or to the point of reaching some basic level of well-being.</p> <p>Key distinguishing feature: Links resource distributions to the fulfillment of basic wants (some general standard of well-being to which everyone is supposedly entitled), whatever their origin and irrespective of contributions.</p>	<p>a) Aid to help meet basic needs</p> <p>b) Exemptions, extended deadlines, lower targets or other preferential treatment for parties "in need" (e.g., LDCs) in order to:</p> <ul style="list-style-type: none"> --(help) meet basic needs; --avoid negative effects on these of having to carry 'the full load' of an agreement as other parties. 	<ul style="list-style-type: none"> a) Developmental, financial, technical, other aid to help meet basic needs b) - Int. trade: Less/slower removal of trade barriers in LDCs, to protect infant/less competitive industries. Preferential access to foreign markets. - Environment: Smaller/slower protective measures in poorer countries, to avoid negative effect on economic development

Figure 2.

A Statistical Path Model

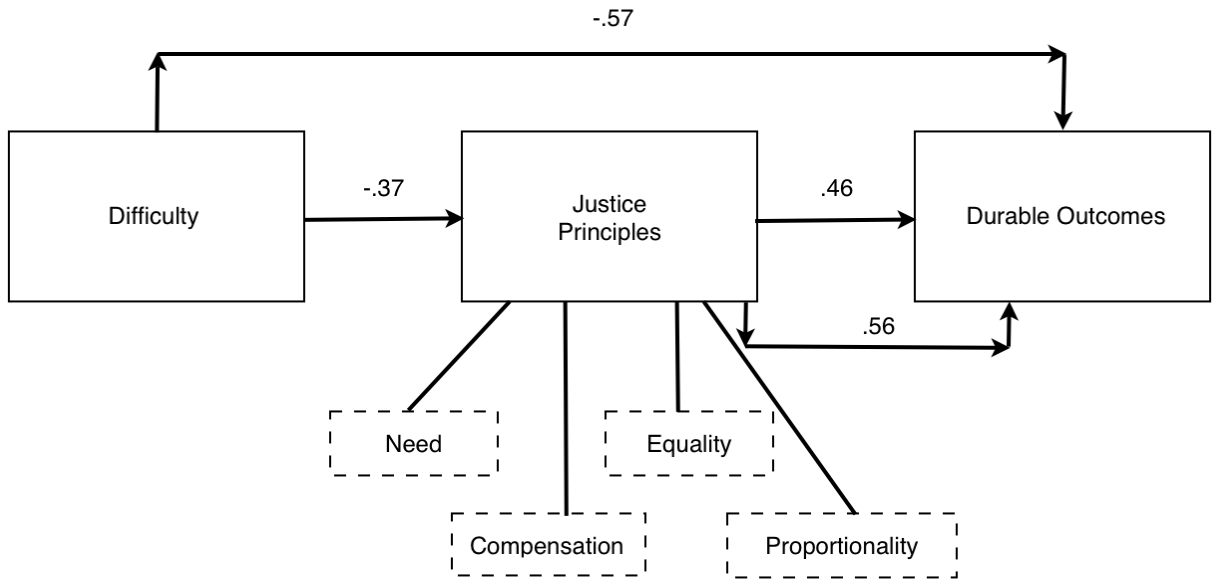


Figure 3.

A 2 x 2 Matrix of Impacts on Durability.

		<i>Conflict Difficulty</i>	
		High	Low
<i>Justice Principles</i>	Many	Moderate durability/partial success	Highly durable
	Few	Poor durability	Moderate durability/partial success

Table 1

Peace Agreements Data Set

Case	Difficulty score*	Willingness score**	Justice score***	Outcome****
Zimbabwe (a)	4	1.0	3.75	3
Sri Lanka	6	1.7	3.0	1
Namibia	0	1.7	4.25	3
Nicaragua	1	1.5	3.5	3
Lebanon	5	2.7	3.0	2
Liberia	6	2.1	1.25	2
Angola I	4	0.4	2.75	1
Cambodia	5	2.2	1.5	2
Mozambique	3	1.2	4.5	3
El Salvador	1	1.5	2.5	3
Somalia	5	1.4	3.5	1
Rwanda	3	0.4	4.0	1
Angola II	4	0.9	0	1
Bosnia	6	2.2	3.5	2
Guatemala	0	1.5	3.25	3
Sierra Leone	6	0.7	2.0	1

(a) The cases are listed in a rough chronological order from the Zimbabwe agreement of 1980 to the Sierra Leone agreement in 1996.

- * scale range from 0-8; high scores, more difficulty
- ** scale range from 0-3; high score more willingness
- *** scale range 0-8; high score, more principles in text
- **** scale range 1-3; high score, more successful

Table 2

Correlations Among the Variables (16 Cases)

	Difficulty	Willingness	Justice	Outcomes
Difficulty		.165	-.375	-.658**
Willingness			-.059	.326
Justice				.404
Outcome				

** Correlation is significant at the .01 level

Table 3

Factor Analysis Results (16 cases)

<i>Variable</i>	<i>Factor I Loadings</i>	<i>Factor II Loadings</i>
Difficulty	-.842*	.271
Willingness	.114	.972*
Justice	.684*	-.223
Outcome [durability]	.888*	.304

* Substantial loading on the factor

Table 4

Correlations Among the Variables (15 Cases)

	Difficulty	Willingness	Justice	Outcome
Difficulty		.142	-.367	-.647**
Willingness			.051	.245
Justice				.561*
Outcome				

** Correlation is significant at the .01 level

* Correlation is significant at the .05 level

Table 5

Factor Analysis Results (15 Cases)

<i>Variable</i>	<i>Factor I Loadings</i>	<i>Factor II Loadings</i>
Difficulty	-.797	.361
Willingness	.139	.969*
Justice	.761*	.019
Outcome [durability]	.914*	.151

* Substantial loading on the factor