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PROCEDURAL JUSTICE IN PEACE NEGOTIATIONS

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A Note to the Global Fellows Forum Participants:
This is a tentative research plan. It presents the background, purposes, and methodology of a comparative case study analysis to be conducted during my Global Research Fellowship. Even though this is merely a research plan, I will be happy to receive your comments and suggestions regarding the conceptual framework as well as the research aims and methodology.

Abstract
The purpose of this research is to identify and assess feasible strategies for implementing procedural justice standards in peace negotiations. Procedural justice measures such as participation, transparency, and reason-giving—which offer opportunities to affected stakeholders to present their views and preferences and have them considered by peace negotiators—can make an important contribution to the legitimacy and sustainability of peace agreements. They can promote negotiator responsiveness toward those affected by their decisions and can also enhance rational bargaining and increase compliance. At the same time, however, the incorporation of procedural justice guarantees into peace negotiations may entail serious costs, including delays and the loss of maneuvering space for negotiators. This delicate balance suggests that the question of how to design and implement procedural justice principles in peace negotiations is a crucial one. Surprisingly, this question has not as of yet been seriously addressed in academic literature. In this research I seek to begin to fill this gap. For this purpose I will conduct a comparative analysis of the procedural justice aspects of past peace negotiations, mapping out methods of civil participation, information dissemination, and reason-giving. I will assess the relative advantages and hindrances of each of these methods, and explore alternatives. The main goal of this research is to offer peacemakers a “procedural justice toolkit” that would help them make informed, context-sensitive choices regarding procedural justice mechanisms. The research can also assist international lawmakers in developing appropriate procedural justice standards for peace negotiations. Specifically, I will apply the insights gained in the study to the situations in Israel/Palestine, Cyprus, and Sri-Lanka, and suggest ways to apply procedural justice principles to future peace negotiations in these countries.
I. THE PROBLEM: REPRESENTATION DEFICITS IN PEACE NEGOTIATIONS

Peace negotiations represent a unique juncture of national and transnational decision-making. The national character of peace negotiations stems primarily from the fact that most contemporary conflicts are intra-state conflicts, fought between a government and an opposition group or several such groups. Most contemporary peace negotiations are thus essentially national constitutional processes aimed at the reallocation of political power within a state. However, inter-state peace negotiations, they too, have an important national decision-making dimension, which can be described as “Level II” bargaining among the domestic constituencies of each of the governments that are parties to the “Level I” peace negotiations. Alongside these national processes, peace negotiations of both intra- and inter-state nature are usually significantly impacted by pressures and incentives presented by third-party governments and international organizations that are involved in the peace process as mediators, donors, or peacekeepers (I shall call these actors “third party facilitators” or “peace facilitators”). Finally, intra-state as well as inter-state peace negotiations often yield consequences for neighboring and even distant countries and populations that are not involved in the process.

So peace negotiations are influenced by and have influence on a range of domestic and foreign actors, without there being a necessary match between those who take the decisions and those who are affected by them. This suggests that peace negotiations are susceptible to a double—internal and external—representation deficit: Internally, domestic groups may find themselves sacrificing their essential interests because their government has deferred to the demands of better organized or otherwise more powerful domestic groups, or because it yielded to pressures exerted by the counterpart government or by third party facilitators. However, all of these actors are also influenced by external pressures and incentives from third party facilitators, which may further exacerbate the representation deficit.

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1 See CHRISTINE BELL, ON THE LAW OF PEACE: PEACE AGREEMENTS AND THE LEX PACIFICATORIA 308 (2008) (assessing that 91% of the peace agreements signed since 1990 are intra-state agreements).
2 Robert Putnam has famously suggested conceiving of international negotiations as “two-level games” that occur simultaneously at two different levels: international and domestic. At the international level (Level I), each of the negotiating governments seeks to promote its goals while accommodating the other party's requirements in order to reach an agreement. At the domestic level, the various constituents of each party struggle among themselves to shape the agenda pursued by their government at the first level. The outcomes of international negotiations are thus determined by the interplay between “across the table” and “behind the table” politics. See ROBERT D. PUTNAM, DIPLOMACY AND DOMESTIC POLITICS: THE LOGIC OF TWO-LEVEL GAMES, 42 INTERNATIONAL ORGANIZATION 427 (1988).
3 At the domestic level, two kinds of interests tend to be under-represented. First are the diffused interests of “latent majorities” trumped by the well-identified interests of small groups capable of collective action. See: MANCUR OLSON, THE LOGIC OF COLLECTIVE ACTION (1965); JEFFREY M. BERRY AND CLYDE WILCOX, THE INTEREST GROUP SOCIETY 5 (5th edition, 2009). The second type of interests that suffer from chronical under-
third party facilitators. Externally, non-citizens may be required to bear the externalities of a peace agreement without having had any influence on its terms.

To be sure, internal and external representation deficits—or problems of disregard, as they have been recently defined⁴—are not unique to peace negotiations; they exist to various degrees and in various forms in many other settings of national and transnational decision-making.⁵ Yet I argue that representation problems in peace negotiations warrant special attention, for several reasons. First, in peace negotiations these problems are exacerbated by the fact that talks are often conducted under a veil of secrecy and ambivalence, which makes it particularly hard for affected stakeholders to monitor negotiators' choices and to properly appreciate the influence of third party facilitators upon their decisions. Second, peace negotiations usually implicate the most fundamental security, economic, and cultural interests of domestic stakeholders, and can also impose a serious burden on foreign stakeholders. Third, as it appears, peace negotiations are relatively immune from judicial criticism.⁶

A few examples may help to illustrate the problems of representation that arise in peace negotiations and their potential implications. The first example is taken from the case of Afghanistan. In 2001, following the overthrow of the Taliban Government, representatives of all major Afghan ethnic groups and factions met in Bonn under UN auspices to negotiate the establishment of a new government. Negotiations resulted in a peace agreement that was detrimental to Afghan women in at least two senses. First, the new government institutions established under the Bonn Agreement were largely exclusive of women.⁷ Second, the Agreement paved the way for defining Islamic law in the Constitution of Afghanistan as the representation in domestic decision-making processes are the interests of “unpopular minorities” that are unable to form coalitions with other groups. See John Hart Ely, Democracy and Distrust: A Theory of Judicial Review 135 (1980); Bruce A. Ackerman, Beyond Carolene Products, 98 Harv. L. Rev. 713, 732-735 (1985).

⁴ See Richard B. Stewart, Solving the Problem of Disregard in Global Regulatory Governance: Accountability, Participation and Responsiveness (working draft, August 2013).
⁶ [Shortly explain and demonstrate the deference of national and international courts when it comes to “political questions”, foreign affairs, and peacemaking].
supreme law of the country, which trumps even international human rights law. These arrangements significantly compromised Afghan women's right to equality, and they did so with the full support of the UN Secretary General Special Representative for Afghanistan, Lakhdar Brahimi, who designed and brokered the Bonn peace process. Brahimi sought to reach an agreement that would be acceptable to all dominant Afghan factions, including the most conservative among them. The Bonn peace negotiations thus demonstrate how the interests of vulnerable domestic groups that are not perceived as potential “spoilers” who may resort to violence in the case they are not satisfied with the terms of peace are easily compromised in the name of peace. It also shows that third party facilitators who are eager to achieve a peace agreement can support and promote such compromises.

Another category of domestic stakeholders whose interests are often played down by peacemakers is non-violent ethnic minorities. In Bosnia, for example, the Dayton Peace Agreement provided for a power-sharing arrangement that allocated all seats in the Bosnian House of Peoples and Presidency to Bosnian “constituent peoples”, i.e., Bosniaks, Serbs, and Croats, and thus prevents other Bosnian citizens—such as Jews and Roma—from being elected to these central government institutions. In Israel, some prominent politicians have proposed that under a future Israeli-Palestinian permanent status agreement, the Israeli “Triangle” area, which is densely populated by Israeli Arab citizens, would be transferred to the Palestinian State in exchange for the annexation of some West Bank Jewish


9 When he presented his plan for peace in Afghanistan to the UN Security Council, Brahimi explained that the main goal for political transition in Afghanistan was to create “a broad-based government that would be representative of all groups in the country”, and that the solution must be “home-grown, so that it enjoys the support of all the internal and external players, and so that there are no spoilers from the inside or outside who would disrupt its implementation”. He also noted, apparently implying to the exclusion of women, that: “The processes being proposed are not perfect. The provisional institutions whose creation is suggested will not include everyone who should be there”, See SRSG for Afghanistan, Briefing to the Security Council (Nov. 13, 2001), available at http://www.un.org/News/dh/latest/afghan/brahimi-sc-briefing.htm.

settlements to Israel. This proposal is strongly opposed by Israeli Arabs, but as much as it depends on the preferences of the Israeli Government, it may become a reality if a peace agreement is eventually signed.

The external representation deficit associated with peace negotiations can be demonstrated in the Israeli-Jordanian 1994 Peace Treaty. In this treaty, Israel and Jordan divided the waters of the Jordan River between them while ignoring Palestinian rights over the same waters. Having no status in the Israeli-Jordanian peace process and a weak international position in general, there was little that the Palestinians could do to affect the terms of the treaty and secure their future water rights. A year later, when Israelis and Palestinians negotiated their own water arrangements under the framework of the Oslo peace process, Israel refused to discuss any possible re-allocation of the Jordan River waters to Palestine on the grounds that it was bound by its previous commitment to Jordan.

2. PROCEDURAL JUSTICE AS A REMEDY TO REPRESENTATION DEFICITS

One possible way to address representation deficits of the kind described above is to incorporate into peace negotiations procedural justice (PJ) guarantees such as participation, transparency, and reason-giving. These measures can provide under-represented domestic groups as well as foreign stakeholders who might be adversely affected by the terms of peace opportunities to receive timely information about negotiator choices and to bring their own perspectives into the peace process. It can also provide them with better opportunities to monitor and respond to decisions that undermine their legitimate interests, whether through political channels (e.g., national elections or international diplomacy) or by asserting their rights in national or international courts. All in all, PJ measures can

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11 SHAUL ARIELI, HADAS TAGARLI, AND DOUBI SCHWARTZ, INJUSTICE AND FOLLY: ON THE PROPOSALS TO CEDE ARAB LOCALITIES FROM ISRAEL TO PALESTINE (2006).
12 See ibid.
14 [Add reference].
15 I have noted earlier that national and international courts tend to be very restrained when it comes to peace negotiations and usually refuse to intervene. Yet as the decision of the ECtHR in the Finci case demonstrates, in some cases courts nevertheless criticize and even dismiss peace arrangements. The possibility of such criticism as well as the need to defend their peacemaking policy choices in court may certainly deter governments from adopting some injurious peace arrangements.
increase negotiator answerability toward those impacted by their decisions and promote a more equitable allocation of the burden of peace.\footnote{\textsuperscript{16}}

The Bonn Peace Talks on Afghanistan, which were previously mentioned as an example for peace negotiation representation deficits, can also be invoked to demonstrate the potential of PJ measures to reduce such deficits. Initially, not even one woman was invited to participate in the Bonn Talks. However, in response to pressures exerted by international women organizations, the UN Special Representative eventually decided to invite two women delegates to participate in the talks (alongside twenty-three men delegates).\footnote{\textsuperscript{17}} In parallel to participating in Talks, these two women attended the Afghan Women’s Summit that was convened in Brussels, briefed the Summit participants on the negotiations, and reported back to Bonn.\footnote{\textsuperscript{18}} While the described participation of women in the Bonn process was far from sufficient, two achievements can arguably be attributed to it: First, two women were nominated as ministers in the provisional Afghan government established under the Bonn Agreement. Second, the agreement provided that once convened, women would also be represented in the Afghan parliament. Against the background of complete exclusion of women from public life in Afghanistan and the initial disregard of gender issues by the architects of the Bonn process, this minimal representation of women in the new government institutions may be seen as a limited but significant progress, which can at least in part be attributed to women participation in the talks.

In addition to their intrinsic value in terms of promoting democratic legitimacy and equality, PJ measures also have an important instrumental value in that they can contribute to the achievement and implementation of peace agreements. Adherence to PJ principles can be instrumental for achieving a peace agreement because it supports rational decision-making. As Jürgen Habermas and others have argued, a properly constructed public

\footnote{\textsuperscript{16} PJ measures are often described in governance literature as accountability-promoting mechanisms. In a recent study, Richard Stewart revisits the terminology commonly used in global governance literature and suggests restricting the use of the term “accountability” to institutionalized mechanisms under which “specified account holders have the authority to make specified power holders give account for their conduct and impose sanctions or secure other remedies for deficient performance or unlawful conduct”. Transparency, reason-giving, and participation that is not accompanied by decision-making power are defined by Stewart as “other responsiveness-promoting measures”. According to the new terminology proposed by Stewart, unlike accountability mechanisms, which tend to have determinate consequences for institutional decisions or actors, responsiveness-promoting practices are typically “softer”, their reach is more diffuse, and their influence more indeterminate. See Stewart, supra note 4, at 8 & 10.}


\footnote{\textsuperscript{18} Ibid., at 255.}
deliberation that enables the free transmission and processing of views and information and that is oriented to reaching understanding is the key for reason-based policies. In the context of peace negotiations—which are often hindered by negative emotions, false interpretations of reality, poor evaluations of potential gains and risks, risk-aversion, and other cognitive biases—the importance of rational and informed decision-making cannot be overemphasized. The external deliberation produced by participation mechanisms, combined with the internal deliberation into which negotiators are compelled when they document and explain their decisions, can thus advance rational and cooperative bargaining that can generate an agreed-upon solution to conflict.

As noted, PJ measures can be instrumental not only for concluding peace agreements but also for implementing them. Studies in social psychology have shown that when people participate in decision-making processes and perceive them as fair and legitimate, they are more likely to accept their outcomes and comply with them regardless of their substance. Recent empirical studies suggest that this correlation between PJ and compliance, which has been identified in various decision-making processes, also holds for peace processes.

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22 See ROBERT E. GOODIN, REFLECTIVE DEMOCRACY, Ch. 9 (2003) (distinguishing between the external-collective and internal-reflective aspects of deliberation and contending that the latter is a second-best alternative to the former, dictated by the infeasibility of genuine external "face-to-face" deliberation in large-scale political units); Kristian Skagen Ekeli, Constitutional Experiments: Representing Future Generations Through Submajority Rules, 17 JOURNAL OF POLITICAL PHILOSOPHY 440 (2009) (drawing a similar distinction between interpersonal and intrapersonal deliberation).


24 See Anthony Wanis-St. John and Darren Kew, Civil Society and Peace Negotiations: Confronting Exclusion, 13 INT’L NEGOT. 11 (2008) (finding a direct correlation between civil society involvement in peace negotiations and the durability of peace); Cecilia Albin & Daniel Druckman, Equality Matters: Negotiating an End to Civil Wars, 56 JOURNAL OF CONFLICT RESOLUTION 155 (2012) (finding a correlation between procedural justice in negotiations and equality in the terms of the peace agreement, and between such equality and the durability of the peace agreement).
In view of the unfortunate statistics about the poor implementation and non-durability of peace agreements, compliance-promoting mechanisms can be particularly valuable in this context.

3. ASSOCIATED PROBLEMS AND RISKS

Alongside its intrinsic and instrumental benefits, the incorporation of PJ principles into peace negotiations may also entail serious costs. First, the plurality of views and interests that PJ brings to the bargaining table can significantly complicate the already difficult task of finding an agreed upon solution to a violent conflict. Second, PJ measures can be very time consuming and cause delays in the conclusion of a peace agreement. A third concern is that under close public scrutiny political leaders would be hesitant to make concessions and tend to tough and non-cooperative bargaining. Finally, there is a risk that rather than providing opportunities to vulnerable groups to influence negotiators, PJ mechanisms would be used by powerful groups to further enhance their leverage over negotiators. Even worse, such mechanisms may play into the hands of ‘spoilers’ attempting to stall peace efforts.

4. THE IMPORTANCE OF PJ STRATEGIES

The delicate balance between the potential gains and risks of adherence to PJ principles in peace negotiations suggests that the question of how to design and implement PJ mechanisms in such negotiations is a crucial one. The salience of this question also stems from the fact that PJ measures may be useless if they do not fit the circumstances of the peace process in which they are employed. Thus, for example, when the conveners of the Bonn Peace Talks decided to include women in the process, they turned to women who had lived out of Afghanistan. Although these women may not have been the most authentic representatives of the needs and preferences of rural Afghan women, selecting them as

27 The women delegates in the Bonn talks were Sima Wali and Amina Afzali who had lived in exile for many years.
delegates in the talks seems to have been an adequate solution in a time when local Afghan women would risk harassment and even death if they took part in political life.  

So far, the crucial question of how to design PJ measures for peace negotiations has not been addressed in the academic literature. The main purpose of my research is to begin to fill this gap. For this purpose I will conduct a comparative analysis of PJ mechanisms that were used in past peace negotiations. I will map out methods of participation, transparency, and reason-giving, assess as their appropriateness in different circumstances, and explore alternatives. The main goal of this case study analysis is to provide peacemakers with practical tools to help them make informed, context-sensitive choices of PJ mechanisms. The study can also assist international lawmakers in developing appropriate PJ standards for peace negotiations.

5. Applicable International Standards

In recent years, international law has witnessed a proliferation of procedural standard-setting. This trend has evolved in two main directions. First, as the authority of transnational administrative agencies has been expanded to face global challenges, new procedural obligations have been adopted by or applied to these bodies to compensate for the lack of democratic checks and balances at the supranational level of governance. Participation, transparency and reason-giving standards have been introduced into decision-making processes in such diverse areas of global governance as trade, development, and counter-terrorism. Second, and somewhat less intensively, international lawmakers have set PJ standards for national decision-making processes that have effects beyond state borders or that are otherwise considered to be of international concern.

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29 Another major barrier for the effective participation of Afghan women in the peace process was illiteracy. According to the UN, in 2001 only 5% of Afghan Women were able to read and write. See UN Secretary-General Report on Discrimination against Women and Girls in Afghanistan, UN Doc. E/cn.6/2002/5, p. 5-6 (Jan. 28, 2002).


31 For example, the Appellate Body of the WTO asserted that member states considering the adoption of import restrictions have a duty to give notice to affected parties, to disclose to them all relevant information, to give them opportunities to present their views, and to provide them with reasons for decisions taken. See
A few of these Global Administrative Law PJ standards appear to have implications for peace negotiations. Most notably, UN Security Council Resolution 1325 on Women, Peace, and Security urges the promotion of women’s participation in peace processes in several ways: It requires national governments to ensure increased representation of women in all conflict resolution mechanisms;\(^{32}\) encourages the Secretary-General to implement a strategic plan of action calling for an increased assignment of posts to women at decision-making levels in conflict resolution and peace processes;\(^{33}\) and calls upon all actors involved in peace negotiations to consider the special needs of women and girls in post-conflict transitions, to ensure protection for their human rights, and to adopt measures that support local women’s peace initiatives and indigenous processes for conflict resolution.\(^{34}\) These requirements are reiterated in Security Council Resolution 1820, which “[u]rges the Secretary-General and his Special Envoys to invite women to participate in discussions pertinent to the prevention and resolution of conflict… and encourages all parties to such talks to facilitate the equal and full participation of women at decision-making levels.”\(^{35}\)

Another vulnerable group that has been granted special procedural protection of relevance to peace negotiations is internally displaced persons (IDPs). The U.N. Guiding Principles on Internal Displacement provide that IDPs should be able to fully participate in the planning and management of their return or resettlement and reintegration.\(^{36}\) Although these provisions do not explicitly refer to peace negotiations, they do imply that when negotiators discuss the future of IDPs they should invite the latter to participate in discussions.

Other international PJ instruments that may be applicable to peace negotiations are the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), and the “good governance” policies adopted by some development aid agencies. The Aarhus Convention

\(^{33}\) Ibid., parag. 2.
\(^{34}\) Ibid, parag. 8.
\(^{36}\) Guiding Principles on internal Displacement, Principle 28. These non-binding principles were prepared by the Representative of the U.N. Secretary General on Internally Displaced Persons and endorsed by the U.N. Commission on Human Rights and by the General Assembly,
specifies a range of procedures for governments to adopt in order to ensure participation of
all interested stakeholders in environmental decision-making as well as access to relevant
information.\textsuperscript{37} Given that environmental issues are often addressed in peace negotiations
(e.g., the allocation and management of natural resources, the amelioration of war-induced
environmental harm, or the construction of peace parks), parties to the Aarhus Convention
that are engaged in peace negotiations can find themselves legally obligated to implement
some PJ measures. As for good governance standards, these have been increasingly
presented by the World Bank and other financial aid agencies as a condition for financial
assistance for developing countries. Such standards often include PJ requirements. For
example, the World Bank's environmental and social safeguard policies provide that
governments receiving financial aid from the Bank should ensure that development
programs are prepared in consultation with local populations who might be adversely
affected. In view of these norms, it may be advisable for a government negotiating a peace
agreement that provides for externally-funded development projects to account for the
views and preferences of affected populations already during negotiations.\textsuperscript{38}

While the scope and reach of international PJ norms that are directly or indirectly
applicable to peace negotiations is still limited, it seems safe to assume that further PJ
norms that bear implications for peace negotiations will evolve in the near future. As noted,
the present study can support these developments by improving the ability of international
lawmakers to set adequate standards that take into account the special complexities of peace
processes, and by providing peacemakers a 'procedural justice toolkit' to assist them in the
implementation of applicable standards.

6. Procedural v. Substantive Constraints

PJ is not the only way to address representation deficits in peace negotiations and obtain a
more equitable allocation of the burden of peace. These goals can also be promoted by
applying substantive justice constraints to peace negotiations, that is, by asserting which
arrangements cannot be adopted in a peace agreement regardless of the procedures through
which they have been achieved. Of course, the contents of peace agreements are already
\textsuperscript{37} Add Citation. As of 2012, the Convention has been ratified by 45 European states and the European Union.
\textsuperscript{38} See Sabino Cassese, \textit{Global Standards for National Administrative Procedure}, 68 LAW & CONTEMP.
PROBS. 109, 113 (2005).
limited by many different domestic and international legal norms dealing with human rights, criminal responsibility, environmental protection, humanitarian law, refugee law, and more. However, the implications of many of these norms for peace negotiations and peace agreements are often ambiguous, contested, or under-explored. Some non-binding “soft law” instruments have been put in place in recent years in order to clarify and further develop international legal norms that regulate the contents of peace agreements. These instruments assert explicit limitations on the power of peace negotiators to decide on population transfers, to grant amnesties to war criminals, or to deny reparations from victims. The scope of these soft law instruments is still limited however, and there are many other potentially problematic peace arrangements (e.g., those pertaining to the internal allocation of natural resources or to power-sharing) that are not explicitly regulated by international law.

It is beyond the scope of this research to discuss the promises and challenges of imposing substantive constraints on the contents of peace agreements or to assess possible strategies for the development and application of such constraints. I have addressed some of these issues elsewhere and concluded that some substantive justice requirements should be explicitly applied to peace agreements to complement the PJ ones. Yet in my view procedural constraints should be generally preferred over substantive ones as a means for promoting justice and equality in peace processes. The main reason for that is that substantive requirements intrude into sovereign discretion and undermine national self-determination much more than procedural ones. They do not tell democratically elected representatives how to make decisions, but rather what decisions to make. Especially in the context of peace negotiations, which often deal with core questions of national identity, it is important to allow the society in transition to shape its future in light of its particular circumstances and preferences. International legal standards can never be sensitive enough to the specific needs of circumstances of each of the countries to which they are applied. This is also true to some degree for procedural norms, yet the latter are less values-oriented


40 See Michal Saliternik, International Regulation of Peacemaking (Doctoral Dissertation).
and more flexible than substantive constraints. In any event, international lawmakers should be mindful to adopt peacemaking PJ standards that are as pluralist and context-sensitive as possible, bearing in mind that peace processes are embedded within complex historical, political, and cultural circumstances and have far-reaching implications on peoples’ futures.

7. RESEARCH METHODOLOGY

As noted, in order to assist international lawmakers and peacemakers in designing and implementing appropriate PJ mechanisms for peace negotiations, this research will offer a comparative case study analysis of PJ measures that were used in past peace processes. The main elements of this comparative analysis are as follows:

Selection of case studies
The peace processes that will be analyzed are Cambodia (1991), El Salvador (1992), Mozambique (1992), Guatemala (1996), Northern Ireland (1998), Macedonia (2001), Democratic Republic of the Congo (2002), Liberia (2003), Indonesia-Aceh (2005), and South Sudan (2005). Depending on available sources, this list may be modified as the research progresses. Selection of these case studies has been based on three criteria: First, a fairly significant degree of PJ measures has been a prerequisite—only negotiations in which PJ measures were actually employed and were not marginal to the process were deemed relevant for a detailed analysis of implementation methods. To locate these cases, I relied on two recent empirical studies that examine the relationship between civil society participation in peace negotiations and the durability of peace settlements, which are, to the best of my knowledge, the only published works that provide systematic assessments of the level of PJ in past peace negotiations. Unlike the present research, these works do not look into the specific methods and mechanisms, but rather offer quantitative evaluations of the level of participation in different peace processes.

The second criteria for selecting the above mentioned case studies has been the geographic diversity of the countries involved and the diversity of the political and socio-economic

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circumstances surrounding negotiations. Third, in order to focus on contemporary peace processes, the time period has been limited from 1990 to 2012.

Sources
The review and analysis of the selected case studies will be based on documented accounts of past peace negotiations, mainly books, articles, chapters in edited volumes, special reports, and interview transcripts (oral histories). I will also consider to conduct some interviews with individuals who were involved in these processes. I expect to be able to find most of the relevant books and articles in the NYU libraries and electronic databases. Special reports and oral histories will be located in the libraries of institutions specializing in conflict resolution such as the United Nations Dag Hammarskjöld Library (New York, N.Y.); the Ron Silver Library of the U.S Institute of Peace (Washington, D.C.); and the library of the Program on Negotiation at Harvard University (Cambridge, MS).

Methods of Analysis
In the first phase of the study, which should span about five months, I will collect and review the sources to compose a range of PJ mechanisms employed in the case studies and to identify major themes and questions that warrant comparative analyses. On the basis of a pilot study that I conducted on three case studies (El Salvador, Mozambique, and Northern Ireland) and of the few existing thematic studies concerning PJ in peace negotiations, I can already point out four tentative sets of themes and questions that appear to be worth investigating, which are concerned with:

1) The technical characteristics of the PJ mechanisms that were employed: Did civil society representatives receive a seat at the negotiation table? Through which channels did negotiators provide information and explanations to the public? Were foreign stakeholders informed or consulted with about planned arrangements that might have adversely affected them?

2) The political, socio-economic, and security circumstances that surrounded negotiations and that may be relevant in the choice of PJ measures. These include,

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44 See, e.g., Catherine Barnes Democratizing Peacemaking Processes, ACCORD 13 (2002); Wanis-St. John & Kew, supra note 6; Thania Pfaffenholz et al., Civil Society and Peace Negotiations: Why, Whether and How They Should Be Involved (Oslo Forum Background Papers, 2006); David Lanz, Who Gets a Seat at the Table?, 16 INT’L NEG. 275 (2011).
for example, the level of democracy in the country, the strength of civil society organizations, the depth of hostility and distrust between affected groups, the accessibility of electronic media, and the extent of international interest in the conflict.

3) The difficulties that surfaced during negotiations due to the employment of PJ measures, such as the prolongation of discussions or the misuse of sensitive information.

4) Assessments of PJ measures by negotiators, mediators, and stakeholders: Were these measures perceived as fair, legitimate, and sufficient? Did they place a serious burden on negotiators? Were they believed to make any difference?

In the study’s second phase, which should take another five months, I will carefully analyze the research sources to address common themes, and will try to offer an integrative analysis of the PJ elements that were found in the case studies. However, I will not seek to provide quantitative assessments of the research evidence, nor will I attempt to establish direct causality between the different aspects of PJ that will be discussed. Rather, the aim of the comparative case study analysis proposed here is to provide a map of PJ schemes for peace negotiations and to offer some insights into the considerations that may be relevant for designing PJ measures in a given peace process. Ultimately, I intend to apply the insights gained in the study to unresolved conflicts (e.g., Israel-Palestine, North Caucasus, and Sri-Lanka) and suggest ways to apply PJ principles to future negotiations.