Denisa Kostovicova

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Seeking Justice in a Divided Region: Text Analysis of Regional Civil Society Deliberations in the Balkans

Dr Denisa Kostovicova

Associate Professor of Global Politics

Department of Government

London School of Economics and Political Science

Houghton Street

London WC2A 2AE

United Kingdom

e-mail: d.kostovicova@lse.ac.uk

ABSTRACT

Contemporary conflicts are seldom contained within nation-states. The cross-border nature of violence has prompted scholars to call for a regional approach to transitional justice. This article furthers our understanding of the regional dimension of post-conflict justice by addressing the puzzle of whether discourse in regional-level debates is different from that in national or local level debates. It applies a communicative deliberation perspective by focusing on the patterns of talk during civil society deliberations on post-conflict justice. Empirical evidence is based on the unique regional civil society-led process in the Balkans that aims to establish a regional fact-finding commission, known by its acronym RECOM. Critiquing state-centered approaches to the study of transitional justice, this study conducts mixed method research and applies text analytic techniques appropriate for the investigation of a large volume of regional-level data. Quantitative text analysis is carried out by applying

a dictionary method to over a half a million words of RECOM's text data. It finds that regional-level debates have a higher level of restorative discourse than non-regional debates. Qualitative analysis of discursive frames explores this finding further, and shows that deliberators' endorsement of the regional approach to transitional justice rests on a set of historical, present and future considerations, underpinned by a sense of regional consciousness.

ACKNOWLEDGMENTS

INTRODUCTION

Contemporary conflicts are seldom contained within nation-states. Victims and perpetrators often come from different sides of a border, as in the Balkans, the Great Lakes Region, or the Middle East. This phenomenon has implications for post-conflict transitional justice. Sriram and Ross have identified an 'impunity gap' in the pursuit of post-conflict justice, whether by judicial or non-judicial instruments.[1] State-centered transitional justice mechanisms are unable to offer satisfactory justice in the context of cross-border violence in the post-Cold War period. Scholars have responded to the implications of the cross border nature of conflict by calling for a regional approach to transitional justice.[2] These calls point to the need for long overdue dialogue of transitional justice scholars with those in conflict studies, where the study of the regional dimensions of conflict has entered its third decade.[3]

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[1] Chandra Lekha Sriram and Amy Ross, 'Geographies of Crime and Justice: Contemporary Transitional Justice and the Creation of "Zones of Impunity",' *The International Journal of Transitional Justice* 1 (2007): 45-65.

[2] Vesna Bojicic-Dzelilovica and Denisa Kostovicova, 'Introduction.' In *Austrian Presidency of the EU: Regional Approaches to the Balkans*, ed. Denisa Kostovicova and Vesna Bojicic-Dzelilovic (Vienna: Centre for the Study of Global Governance, LSE, and the Center for European Integration Strategies, 2006), 21-22; Iavor Rangelov and Ruti Teitel, 'Transitional Justice,' in *The Handbook of Global Security Policy*, ed. Mary Kaldor and Iavor Rangelov (Chichester: Wiley Blackwell, 2014), 348.

[3] Nadine Ansorg, 'How does Militant Violence Diffuse in Regions? Regional Conflict Systems in International Relations and Peace and Conflict Studies', *International Journal of Conflict and Violence* 5 (2011): 173-187.

At the core of the concept of a regional conflict is a recognition of 'many and multifaceted linkages' between conflicts in neighboring countries.[4] Regional dimensions of conflicts have become prominent with the rise of globalization. Global interconnectedness has erased a clear distinction between the inside and outside of nation-states,[5] with significant implications for contemporary conflicts.[6] As Ansorg sums up, wars '[…] expand to a multiplicity of transnational actors of violence and security that correlate in complex relations and often compete for political control and the monopoly of violence in a region.'[7]

Regional dimensions of conflict are consequential for peace efforts.[8] The cross-border nature of commission of war crimes and human rights violations poses a challenge for post-conflict justice. While juridical separation between victims and perpetrators has presented obstacles to legal redress, the physical separation of ethnic groups into ethnically homogenized states or sub-state entities helps entrench ethno-centric interpretations of truth and justice. It follows then that constraints posed by borders in the pursuit of truth and justice can be more appropriately overcome by adopting a regional approach to transitional justice. But what precisely would a regional approach entail? Apart from focusing on a need to overcome an exclusive focus on the nation-state, scholarly calls for a regional approach to transitional justice have thus far remained vague. A regional approach could be understood both in relation to regional institutions as well as regional civil society. Similarly, the scholarly inquiry could focus on regional norms, identity or discourses. In sum, theorizing about a regional perspective on transitional justice is at its inception.

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[4] Peter Wallensteen and Margareta Sollenberg, 'Armed Conflict and Regional Conflict Complexes, 1989-97,' *Journal of Peace Research* 35 (1998): 624

[5] Anthony Giddens, *Runaway World: How Globalisation is Reshaping our Lives* (London: Profile Books, 2002).

[6] Herfried Muenkler, *The New Wars* (Cambridge: Polity, 2005).

[7] Ansorg, supra n 3 at 173.

[8] Wallensteen and Sollenberg, supra n 4 at 625.

This article contributes theoretically, empirically and methodologically to answering the question raised by this special issue: is a regional approach consequential for transitional justice, and if so, how? I focus on the discourse of regional civil society actors. Specifically, I address the puzzle of whether debates about transitional justice held at a regional level are different from debates held at a national level. To assess the merits of a regional approach, I conduct a mixed method investigation of the content of civil society deliberations and apply text analysis to a large volume of text data on transitional justice. This study furthers the transitional justice scholarship by showing that a regional approach to transitional justice has an impact on how actors deliberate about transitional justice: regional-level debates have a higher content of restorative discourse, while deliberators' endorsement of a regional approach is underpinned by a sense of regional consciousness.

The article draws on empirical evidence from a unique, regional civil society initiative in the Balkans that advocates the establishment of a regional fact-finding commission, the Coalition for the Regional Commission for Establishing the Facts about War Crimes and other Serious Human Rights Violations in the former Yugoslavia from January 1991 to the end of 2001, known by its acronym RECOM.[9] By doing so, this study critiques and complements predominant state-centered approaches to the study of post-conflict justice and makes a broader contribution to the field of transitional justice in three ways:[10] first, it captures the agency of local societies in contrast to focusing on norm-promoting global actors and institutions; second, with its 'bottom-up' perspective and its focus on civil society,

[9] Henceforth, RECOM is used to denote the civil society initiative for establishing the regional commission.

[10] Kora Andrieu, 'Civilizing Peacebuilding: Transitional Justice, Civil Society and the Liberal Paradigm,' *Security Dialogue* 41 (2010): 544; Victoria Baxter, 'Civil Society Promotion of Truth, Justice, and Reconciliation in Chile: Villa Grimaldi,' *Peace & Change* 30 (2005): 120; David Backer, 'Civil Society and Transitional Justice: Possibilities, Patterns and Prospects,' *Journal of Human Rights* 2 (2003): 297.

it adds to analyses focused on the institutions of the state; and, lastly, it overcomes the limitations of methodological nationalism, for which a nation-state serves as 'the main grid through which social scientists see the world.'[11] Guiding scholarly inquiry and data collection, methodological nationalism is inappropriate for studying the regional dimension of transitional justice. This study recognizes the need to 'abandon inherited habits of formulating questions and pursuing answers in terms of territorial-national-state-society entities,'[12] and offers a model for analyzing regional-level transitional justice data.

This article is structured as follows. I first review the debate on the role of civil society in relation to post-conflict transitional justice and make the case for the study of processes unfolding within civil society, from a communicative deliberative perspective that focuses on the patterns of discourse. I proceed by introducing the case study of a regional transitional justice-seeking process in the Balkans. I then present the study's data and methods, followed by a presentation and analysis of the findings. In the conclusion I reflect on theoretical and methodological implications of the study of transitional justice from a regional perspective, and chart avenues for future research.

CIVIL SOCIETY, DELIBERATION AND TRANSITIONAL JUSTICE

Appreciation of Habermas' theory of communicative action helped scholars in the field of transitional justice recognize dialogic interaction as a means of reconstructing divided

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[11] Ulrich Beck, 'The Analysis of Global Inequality: From National to Cosmopolitan Perspective', in *Global Civil Society Yearbook,* ed. Mary Kaldor et al. (Oxford: Oxford University Press, 2003): 45-55, 45.

[12] Jan Aart Scholte, 'Globalization Studies: Past and Future: A Dialogue of Diversity,' *Globalizations* 1(2004): 106.

societies through non-confrontational engagement with the violent past.[13] In contrast to strategic action, where actors are interested solely in achieving their interests, at the crux of communicative action is the idea of communicative actors sharing knowledge in order to arrive at mutual understanding.[14] Drawing on Habermas, scholars have centered on two interrelated questions: *where* and *how* can communication promote post-conflict justice. The *where* question has been animated by Habermas' idea of the public sphere, defined as 'the sphere of private people com[ing] together as a public,'[15] which affirmed the importance of civil society in transitional justice processes. The *how* question has led scholars to focus on specific requirements of a deliberative communicative exchange, and why deliberation would be conducive to the goals of transitional justice, such as peace and reconciliation.

Many scholars have singled out the discursive conception of civil society, embodied by the ideas of public sphere and deliberation, as most promising for transitional justice.[16] One of the main challenges for transitional justice scholarship and practice is the perception by relevant stakeholders in post-conflict environments (including perpetrators and victims) that the practice of transitional justice is illegitimate. Yet, the success of transitional justice instruments 'depends upon their ability to establish and maintain legitimacy with ordinary

[13] Jürgen Habermas, *The Theory of Communicative Action.* Vol. 1, Reason and the Rationalization of Society (Cambridge: Polity Press, [1984] 2004).

[14] Zsuzsanna Chappell, *Deliberative Democracy: A Critical Introduction* (Basingstoke: Palgrave Macmillan, 2012), 26

[15] Jürgen Habermas. *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society,* translated by Thomas Burger with the assistance of Frederick Lawrence (Cambridge: Polity Press, [1962] 1989), 27.

[16] David Crocker, 'Transitional Justice and International Civil Society: Toward a Normative Framework,' *Constellations* 5 (1998): 492; Ernesto Verdeja, *Unchopping a Tree: Reconciliation in the Aftermath of Political Violence* (Philadelphia: Temple University Press, 2009), 143-147; Andrieu, supra n 14 at 567.

citizens.'[17] Therefore, civil society is seen as key to promoting and legitimizing post-conflict justice as a mediator between distant international criminal tribunals and domestic publics, as well as between universal human rights norms and local contexts. In domestic settings, civil society challenges nationalist narratives that promote ethno-centric interpretations of conflict and hinder post-conflict reconciliation.[18] Civil society can thus help foster an 'accountability environment'[19] by democratizing the debate about the criminal past during transition from conflict to peace.[20]

Critical perspectives have challenged the role of civil society in promoting transitional justice. The NGO-ization of civil society resulting from external donors' engagement with 'a narrower slice of the civil society cake',[21] which in reality has a plurality of forms (groups,

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[17] James L. Gibson, 'The Truth about Truth and Reconciliation in South Africa,' *International Political Science Review* 26 (2005): 344

[18] Mark Freeman and Jaspreet K. Saini, 'Transitional Justice and Civil Society,' *Südosteuropa Mitteilungen* 47 (2007): 62-71.

[19] Jo-Marie Burt, 'Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations,' *International Journal of Transitional Justice* 3 (2009): 386.

[20] Eric Gordy, *Guilt, Responsibility and Denial: The Past at Stake in Post-Milosevic Serbia* (Philadelphia: Pennsylvania University Press, 2013); Stiina Löytömäki, 'The Law and Collective Memory of Colonialism: France and the Case of 'Belated' Transitional Justice,*' International Journal of Transitional Justice* 7 (2013): 205-223; Iavor Rangelov, *Nationalism and the Rule of Law: Lessons from the Balkans and Beyond* (Cambridge: Cambridge University Press, 2014).

[21] Jude Howell and Jenny Pearce, *Civil Society and Development: A Critical Exploration* (Boulder London: Lynne Rienner Publishers, 2001), 114.

associations, networks, etc.),[22] has undermined the ability of civil society to promote accountability. Seen as being in the pockets of international donors and distant from other grass roots organizations, NGOs are derisively labelled as 'peace-profiteers.'[23] Also, according to critics, the adoption of universal human rights language and norms by these NGOs has alienated local constituencies from transitional justice initiatives.[24] Consequently, NGOs have been seen as directly responsible for delegitimizing transitional justice.

The two perspectives on civil society that either endorse or critique civil society activism have been studied within a diffusion paradigm, which refers to the spread of transitional justice as norm and practice.[25] Here the focus has been on the ability of civil society to promote universal norms of justice and human rights in order to transform post-conflict states and societies. This outward-oriented paradigm overlooks processes that unfold *within* civil society. The theory of democratic deliberation helps us address this lacuna in the scholarship and look inside a civil society initiative to understand civil society's role in legitimizing transitional justice.

To this end, particularly advantageous is the conceptualization of the 'civil public sphere' as '"space", where individuals without official status can communicate and attempt to persuade one another through argumentation and criticism about matters of general

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[22] Denisa Kostovicova and Vesna Bojicic-Dzelilovic, 'Introduction: Civil Society and Multiple Transitions – Meanings, Actors and Effects,' in *Civil Society and Transitions in the Western Balkans*, ed. Vesna Bojicic-Dzelilovic et al. (Basingstoke: Palgrave Macmillan, 2013),1-25.

[23] Mary Kaldor et al., 'War and Peace: The Role of Global Civil Society,' in *Global Civil Society 2006/7*, ed. Mary Kaldor et al. (London: Sage Publications, 2007), 111.

[24] Jelena Obradovic-Wochnik, 'Serbian Civil Society as an Exclusionary Space: NGOs, the Public and 'Coming to Terms with the Past',' in Vesna Bojicic-Dzelilovic et al., supra n 31.

[25] Hun Joo Kim, 'Structural Determinants of Human Rights Prosecutions after Democratic Transition,' *Journal of Peace Research* 49 (2012): 305-320.

concern.'[26] When matters of criminal past are concerned, the fact that civil society as a deliberative space is removed from the state is consequential. Post-conflict states (or at least some of their elements) are by rule implicated in the past violence, as peace rarely coincides with complete regime change. Furthermore, post-conflict states are often defined by consociational arrangements that institutionalize ethnic logic.[27] Conceiving civil society as space enables people from different ethnic groups, who also often live in segmented communities, to meet. It also allows 'communicative freedom,'[28] which releases deliberators from pressure to comply with ethnically-centered views. Civil society as a space paves the way for the transformative logic of communication both at a micro-individual and macro-social level.

In the Habermasian perspective, the question of where the communication unfolds is linked with the question of whether and how procedural requirements of deliberation are fulfilled during communication. One answer to this question has come from theorists of democratic deliberation, who have traditionally studied the institutional political sphere in established democracies and have recently turned to the study of divided societies. They were puzzled by the question whether deliberation, defined as a reasoned exchange of arguments that considers views of others, can take place despite the legacy of conflict,[29] and

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[26] Jean L. Cohen, 'American Civil Society Talk,' Civil Society Working Paper No.6 (College Park, Maryland: National Commission on Civic Renewal, 1997), 7 in Crocker, supra n 32 502.

[27] Ian O'Flynn, *Deliberative Democracy and Divided Societies* (Edinburgh: Edinburgh University Press, 2006), 141-162.

[28] James Bohman, 'Transnationalizing Peacebuidling: Transitional Justice as a Deliberative Process,' in *Jus Post Bellum and Transitional Justice,* ed. Larry May and Elizabeth Edenberg (Cambridge: Cambridge University Press, 2013), 298.

[29] John S. Dryzek, 'Deliberative Democracy in Divided Societies: Alternatives to Agonism and Analgesia,' *Political Theory* 33 (2005): 218-242; O'Flynn, supra n 31; Jürg Steiner, *The*

whether participants in ethnically mixed deliberative settings would inevitably side with their

ethnic kin. Testing this assumption on empirical evidence, scholars have found that

deliberation across the ethnic divide is challenging, but, nonetheless, possible.[30]

This result is by no means intuitive. Deliberation requires high procedural standards

during a communicative interaction, such as reciprocity, reason, respect, equality and other-

regarding logic, when weighing and articulating arguments. These demands are particularly

high for divided post-conflict societies.[31] Conflicts tend to entrench ethnically centered

perspectives. Empirical studies of deliberation across ethnic divides have spurred theorizing

about prospects for 'deliberative reconciliation.'[32]

Scholars of deliberative democracy and peace-building have converged on a view

that deliberation can help reconstruct post-conflict societies along inclusive civic, as opposed

to exclusive ethnic, lines.[33] But the notion of deliberation as a form of 'communicative

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Foundations of Deliberative Democracy: Empirical Research and Normative Implications
(Cambridge: Cambridge University Press, 2012).

[30] Didier Caluwaerts and Kris Deschouwer, 'Building Bridges Across Political Divides:
Experiments on Deliberative Democracy in Belgium,' *European Political Science Review* 6
(2014): 427-450; Robert C. Luskin et al., 'Deliberating Across Deep Divides,' *Political
Studies* 62 (2014): 116-135.

[31] Juan E. Ugarriza and Didier Caluwaerts, *Democratic Deliberation in Deeply Divided
Societies: From Conflict to Common Ground* (Basingstoke: Palgrave Macmillan, 2014).

[32] Ian O'Flynn, 'Review Article: Divided Societies and Deliberative Democracy,' *British
Journal of Political Science*, 37 (2007): 731-735.

[33] Magdalena Dembinska and Françoise Montambeault, 'Deliberation for Reconciliation in
Divided Societies,' *Journal of Public Deliberation*, 11 (2015): 1-35; Bashir Bashir,
'Accommodating Historically Opressed Social Groups: Deliberative Democracy and the

justice'[34] comes with a major caveat. Scholars who have studied divided societies have premised their studies of deliberation explicitly on the avoidance of divisive subjects. We now know that divided societies can deliberate about education,[35] for example, but do not know how deliberators engage directly with the legacy of war crimes.

I address this theoretical gap and contribute to the empirical study of deliberation engaged directly with the legacy of mass atrocity. I draw on Ellis' explicit focus on communication, which is implicit in deliberation. A communicative deliberation approach aims to 'transmit new ideas and information but also to cultivate improved communicative competence and more fully engaged collaboration designed to manage conflicts.'[36] Garbett has pointed out the importance of coherence between a transitional justice process and its outcome.[37] This study looks at legitimation of transitional justice as a means of managing conflict by studying the alignment between the transitional justice discourse and its outcome.[38] To do so, this article's empirical investigation turns to 'patterns of talk' in civil society deliberations on transitional justice.[39] The regional dimension of these patterns is

Politics of Reconciliation,' in *The Politics of Reconciliation in Multicultural Societies*, ed. Will Kymlicka and Bashir Bashir (Oxford: Oxford University Press, 2008), 48-70.

[34] Kirk Simpson, 'Victims of Political Violence: A Habermasian Model of Truth Recovery,' *Journal of Human Rights* 6 (2007): 326.

[35] Luskin et al., supra n 46.

[36] Donald G. Ellis, *Deliberative Communication and Ethnopolitical Conflict* (New York: Peter Lang, 2012), 77.

[37] Claire Garbett, 'The Truth and the Trial: Victim Participation, Restorative Justice, and the International Criminal Court,' *Contemporary Justice Review*, 16 (2013): 207

[38] It is distinct from empirical efforts to measure the quality of deliberation, which is in line with a narrower focus on deliberation as such.

[39] David M. Ryfe, 'Does Deliberative Democracy Work?,' *Annual Review of Political Science* 8 (2005): 60.

investigated by studying a regional civil society-led transitional justice initiative in the

Balkans, which is reviewed in the following section.

THE RECOM INITIATIVE: THE BACKGROUND OF A REGIONAL JUSTICE-SEEKING PROCESS

The aspiration to establish a regional mechanism for transitional justice to address the

criminal legacy of the Balkan wars, a textbook example of regional conflict, defines the

RECOM process. This process started in 2006, when three prominent NGOs from the region

- the Documenta from Croatia, the Investigative-Documentation Centre from Bosnia and

Herzegovina, and the Centre for the Humanitarian Law - initiated a debate involving all

ethnic communities in the Balkans over what would be the most appropriate response to the

legacy of mass atrocity in the region. These debates gave birth to the idea of a regional fact-

finding commission. The subsequent founding of the Coalition for RECOM in 2008

formalized the process of regional justice-seeking.[40] The Coalition has attracted the

membership of some 2,000 human rights groups and individuals throughout the region.

The perceived failings of the International Criminal Tribunal for the former Yugoslavia

(ICTY), the primary instrument of transitional justice at the time, galvanized support for the

idea of a regional, victim-centered approach to transitional justice. Activists responded to its

inability to bring about reconciliation in the region and to acknowledge the victims. While the

ICTY has removed the possibility of impunity, ICTY proceedings and verdicts have been

politicized by local elites and publics unwilling to give up an ethnic perspective on

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[40] Nataša Kandić, 'RECOM: A New Approach to Reconciliation and a Corrective for Criminal Justice,'

Forum for Transitional Justice 4 (2012): 78-80; Denisa Kostovicova, 'Airing Crimes, Marginalizing Victims:

Political Expectations and Transitional Justice in Kosovo', in *The Milosevic Trial: An Autopsy,* ed. Timothy

J. Waters (Oxford: Oxford University Press, 2013).

victimhood.[41] Moreover, as a retributive transitional justice instrument, it was never geared towards particular needs of victims for acknowledgment of their suffering.

The RECOM initiative conducted consultations with a range of stakeholders, including civil society associations, victims, veterans, lawyers, artists, journalists, academics, and youth from all areas of the former Yugoslavia. This process was unique in its inclusion of the entire region. Initially, the consultations had a broad focus on how to address war crimes in the region. Once the idea of a regional restorative approach was articulated, it focused on the draft Statute of the proposed regional commission. The RECOM initiative conducted 134 one- or two-day long meetings at the regional, national and local level, and 10 fora (larger regional meetings) from 2006 to 2010. The Statute of a regional coalition was adopted in 2011.[42] Encouraging respect for all speakers regardless of their ethnicity and inviting expression of disagreement, consultations provided a 'peaceful dialogical mechanism', where transitional justice is understood as an 'intersubjective mode of deliberation.'[43] The RECOM Coalition is still active but has had difficulty winning consistent support from state authorities for this project.

This unique civil society-led regional process has attracted the interest of scholars. However, their studies approached the regional RECOM process from a nation-state-centered perspective, whether in Bosnia and Herzegovina, Kosovo, Croatia or Serbia.

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[41] James Gow et al., ed. *Prosecuting War Crimes: Lessons and legacies of the International Criminal Tribunal for the former Yugoslavia* (London: Routledge, 2013).

[42] Proces REKOM. *Konsultativni process o utvrdjivanju činjenica o ratnim zločinima i drugim teškim kršenjima ljudskih prava počinjenim na području nekadašnje SFRJ*. Beograd: Fond za humanitarno pravo. 2011.

[43] Kora Andrieu, 'Political Liberalism after Mass Violence: John Rawls and a "Theory" of Transitional Justice,' in *Transitional Justice Theories*, ed. Susanne Buckley-Zistel et al. (New York and Abingdon: Routledge, 2014), 98.

Shaped by the diffusion paradigm, such research has spotlighted the RECOM Coalition's (in)ability to affect public policy, while a focus on power and ideology informed the scrutiny of the RECOM's internal dynamics. [44] The discourse of the RECOM debates has not received adequate attention, because the analysis of the content of these debates has been based on an odd consultation session transcript, and has lacked any systematic (or replicable) qualitative or quantitative analysis of the RECOM data.[45] We are left with some insight into the domestic politics surrounding the RECOM process and power politics within it, and, paradoxically, no understanding of the effect of the regional dimension. This study begins to fill the theoretical and empirical gap on the RECOM process by applying methods that overcome state-centrism in studying the RECOM deliberations and can cope with the vast amount of data in a research process that is replicable.

DATA

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[44] Arnaud Kurze and Iva Vukusic 'Afraid to Cry Wolf: Human Rights Activists' Struggle of Transnational Accountability Efforts in the Balkans,' and Jill A. Irvine and Patrice C. McMahon, 'From International Courts to Grassroots Organizing: Obstacles to Transitional Justice in the Balkans,' in *Transitional Justice and Civil Society in the Balkans*, ed. Olivera Simic and Zala Volcic (New York: Springer, 2013), 201-216 and 217-239; Anna Di Lellio and Caitlin McCunn (2013), 'Engineering Grassroots Transitional Justice in the Balkans: The Case of Kosovo,' *East European Politics and Society*, 27 (2013): 129-148.

[45] For example, on content analysis and transcript selection, see Jamie Rowen, 'Mobilizing Truth: Agenda Setting in a Transnational Social Movement,' *Law & Social Inquiry*, 37 (2012), 695; Heleen Touquet and Peter Vermeersch, 'Changing Frames of Reconciliation: The Politics of Peace-Building in Former Yugoslavia,' *East European Politics and Societies and Cultures*, 30 (2016): 55-73.

The RECOM process has generated unique regional-level data that allows us to identify and analyze regional as opposed to non-regional (national and local) patterns of discourse. Despite their availability on the RECOM's website,[46] the transcripts of RECOM's consultations have not been studied rigorously. This neglect is due in part to the sheer volume of the data; the RECOM corpus of some 4 million words is simply too large to make manual content analysis feasible or practicable.[47] One way to address this problem is to apply computer-assisted quantitative text analysis, which approaches text as data and is suited for tackling large volumes of text.

The language of these transcripts has also stood in the way of this technique. Translations of mutually unintelligible languages in the region are available (for example, from Bosnian-Croatian-Serbian into Albanian, and vice versa). However, availability of transcripts in mutually intelligible Bosnian, Croatian and Serbian does not help overcome the problem. The violent break-up of former Yugoslavia resulted in 'cultural and linguistic separation.'[48] Close variants of what used to be the Serbo-Croat language spoken in Serbia, Croatia, Montenegro, and Bosnia and Herzegovina before the wars have grown even further apart.

Therefore, pre-processing of RECOM's text data for this study unfolded in three stages. First, 20 transcripts were selected, encompassing all consultations deliberating about the draft Statute of the regional commission. Second, the entire corpus, which

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[46] See http://www.recom.link/sr/115677-2/page/5/

[47] Justin Grimmer and Brandon M. Stewart, 'Text as Data: The Promise and Pitfalls of Automatic Content Analysis Methods for Political Texts,' *Political Analysis* 21 (2013): 267-297.

[48] Piotr Kuhiwczak, 'Translation and Language Games in the Balkans,' in *Word, Text, Translation*, ed. Gunilla M. Anderman and Margaret Rogers (Clevedon: Multilingual Matters, 1999), 222.

amounts to 581,292 words (See Table 1), was translated into Serbian by the author, with some research assistance. Linguistic and lexical uniformity made the RECOM data suitable for computer-assisted quantitative text analysis methods. Third, the metadata corresponding with the variations in the level of consultations (regional vs non-regional) was added.

Table 1: Descriptive statistics of the RECOM corpus

	Regional level	Non-regional level
Number of debates	11	9
Number of tokens	314,866	266,426
Number of types	174,114	140,064

METHODS

Focusing on the regional dimension of transitional justice, this article investigates whether the alignment between the communicative process and its outcome is a feature of regional or of non-regional consultations. This is a mixed method study, combining quantitative and qualitative text analysis of the RECOM's data: a dictionary method, which is a quantitative text analysis method and—to the knowledge of the author—the first application of such quantitative text analysis method in the field of transitional justice; and a qualitative discursive framing method, itself assisted by a computer-assisted technique. This study applies an explanatory sequential design, where quantitative results are used to select the direction for a qualitative study, while qualitative data 'help explain quantitative results that need further exploration.'[49]

Dictionary Method

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[49] Daphne C. Watkins and Deborah Gioia, *Mixed Methods Research* (Oxford: Oxford University Press, 2015), 30-31. Cf. Gonzales Castro, 'A Methodology for Conducting Integrative Mixed Methods Research and Data Analyses,' *Journal of Mixed Methods Research*, 4 (4), 2010: 342-360.

Text analysis includes 'techniques for the social scientific study of communication.'[50] The selection of an appropriate quantitative text analytic model hinges on the research question and the quantities of interest.[51] An array of text analysis methods have been widely used in political science. Scholars have analyzed large volumes of text, including parliamentary debates, committee meetings, party manifestos, political speeches, and newspaper reports. The digital revolution and the rise of social media have added to the variety of data, now available on an unprecedented scale. The analytic techniques of quantitative text analysis have been used to further our understanding of conflict,[52] but they have yet to be used to further scholarship on transitional justice. In this study, I apply a dictionary method.

According to Popping, a 'dictionary is a concrete representation of the investigator's theory as it is related to verbal data.'[53] As a quantitative text analysis method, the dictionary is used for classification of texts into categories. As Grimmer and Stewart specify, this means 'inferring either the category of each document, the overall distribution of documents across categories, or both.'[54] Researchers may apply existing dictionaries,[55] or, alternatively,

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[50] Roel Popping, *Computer-assisted Text Analysis* (London: Sage Publications, 2000), 1.

[51] Grimmer and Stewart, supra n 65 at 4.

[52] For an application of a similar method in conflict studies, see Stephane J. Beale et al., 'Theorizing and Measuring Emotions in Conflict: The Case of the 2011 Palestinian Statehood Bid,' *Journal of Conflict Resolution*, 60 (2016): 718-747.

[53] Popping, supra n 68 at 44.

[54] Ibid., 8.

[55] For a review of a range of available machine-readable dictionaries used across disciplines, see Lori Young and Stuart Soroka, 'Affective News: The Automated Coding of Sentiment in Political Texts,' *Political Communication*, 29 (2012): 205-231.

create 'a problem-specific dictionary.'[56] For this study, I constructed a dictionary to measure the restorative dimension of the RECOM consultations, in order to assess whether restorative discourse aligns with the restorative aim of this process.

Dictionary-based methods use the relative frequency of keywords to measure the extent to which each category is present in a document or set of documents. The dictionary method approaches text data as a bag of words. This approach, which allows the transformation of text into quantitative data, regards words as semantically independent and disregards word order.[57] The power of the word count-based methods relies on 'the invaluable role that good statistical work can play in bringing out patterns in the data.'[58]

The substantive content of the dictionary is at the heart of the research design.[59] Its construction represents a challenging step in the research process, in contrast to its automated application, which is straightforward and simple. As an analytical construct, dictionaries 'must point to but also distinguish between phenomena.'[60] In other words, they

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[56] Grimmer and Stewart, supra n 65 at 9. Matthijs Rooduijn and Teun Pauwels, 'Measuring Populism: Comparing Two Methods of Content Analysis,' *Western European Politics*, 34 (2011): 1272-1283.

[57] For a justification of why words, and not more complex units of analysis, such as phrases, are used see Michael Laver and John Garry, 'Estimating Policy Positions from Political Texts,' *American Journal of Political Science* 44 (2000): 625.

[58] Roberto Franzosi, *From Words to Numbers: Narrative, Data, and Social Science* (Cambridge: Cambridge University Press, 2004), 231.

[59] Thomas Däubler et al., 'Natural Sentences as Valid Units for Coded Texts,' *British Journal of Political Science*, 42 (2012): 938.

[60] Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology*, 2nd ed. (Thousand Oaks: Sage Publications, 2004), 181.

need to capture variation in phenomena of interest. This is accomplished by identifying words that distinguish categories.

In this study, the dictionary-based measurement of the restorative dimension of the RECOM consultations centers on a relatively narrow concept category of restorative justice.[61] It is a non-hierarchical, single-category dictionary. The concept category is defined as 'existing of words and phrases that are aggregated and that represent a theoretical concept relevant for the investigator's theory.'[62] The *a priori* strategy in the construction of a dictionary is appropriate for a theory-based dictionary, where theory is used to compile at least a preliminary set of entries forming the basis for a search instrument.[63] Such a dictionary is user-defined, while a rigorous theory-led approach serves to address criticism that dictionaries necessarily contain a subjective component.[64] Theoretical insights from the transitional justice scholarship on restorative justice guided the identification of initial entries. The preliminary list was refined by taking into account local meanings of universal concepts associated with restorative justice (See Table 3, Appendix).

The finalization of the list, and the specific form of the search terms included in it, require extensive empirical verification to ensure that 'words are assigned to concepts with high validity.'[65] An important step in the construction of a dictionary is disambiguation of

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[61] Popping, supra n 68 at 46. Narrow should be understood here as focused, as opposed broad, e.g. a dictionary that would aim to capture all dimensions of transitional justice.

[62] Ibid., 45.

[63] Alan Brier and Bruno Hopp, 'Computer assisted text analysis in the social sciences,' *Quality and Quantity* 45 (2011): 112

[64] Matthias R. Mehl, 'Quantiative Text Analysis,' in *Handbook of Multimethod Measurement in Psychology*, ed. Michael Eid and Ed Diener (Washington, D.C.: American Psychological Association, 2006), 154

[65] Popping, supra n 68 at 46.

words. It is accomplished by checking how words are used in the context and applying a range of techniques to pin down a theoretically relevant meaning of a search term. The input from the expert coder is needed for this task that cannot be automated, which results in a hybrid technique.[66]

Search entries in the dictionary for measuring the restorative dimension of the RECOM's consultations were explored in their context to minimize the ambiguity in the dictionary.[67] The included words are in a form of wild-card search entries.[68] The author checked to ensure that this strategy did not have the unintended effect of introducing ambiguity.[69] This format was chosen in order to deal with the highly inflected form of the Serbian language. Lastly, the dictionary was applied to the RECOM's corpus, taking individual words as a unit of measurement, and a document (i.e. text of a consultation) as a unit of analysis.[70] The analysis was carried out by using quanteda, the R package for managing and analyzing text.[71]

Discursive Frames Analysis

A qualitative discursive frames analysis addresses the question of how participants in the regional justice-seeking process construct and understand a regional approach to transitional justice. It provides further explanation of the result of the quantitative text analysis that identifies the prevalence of the restorative dimension of transitional justice

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[66] Laver and Garry, supra n 75 at 625 (fn 12); Popping, supra n 68 at 46-52.

[67] Laver and Garry, supra n 75 at 625.

[68] These represent a form of entry that captures all forms of a particular sub-string. Popping, supra n 51 at 50.

[69] Ibid., 51; Christopher D. Manning et al., *An Introduction to Information Retrieval* (Cambridge: Cambridge University Press, 2008), 51-52.

[70] Cf. Rooduijn and Pauwels, supra n 74 at 1275.

[71] Ken Benoit and Paul Nulty, quanteda available at http://github.com/kbenoit/quanteda.

discourse at the regional level-debates. Frames analysis has been utilized in political communication and social movements research. According to Chong and Druckmann, the major premise of the framing theory is 'that an issue can be viewed from multiple perspectives and evaluated on different bases [.].'[72] The study of representation and meaning is therefore at the core of frames analysis.[73] Reversing the logic of social movement research, with its focus on the construction of grievance,[74] frames analysis in this article probes the construction of redress for past wrongs. This construction sheds light on broader processes of justice-seeking, since frames analysis also provides insights into the processes of legitimizing different policy positions.[75] Frames analysis is interpretative, since it allows us to trace cognitive patterns and multiple meanings. By doing so, it 'problematizes

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[72] Dennis Chong and James N. Druckman, 'Identifying Frames in Political News' in *The Sourcebook for Political Communication Research: Methods, Measures, and Analytical Techniques*, ed. Eric P. Bucy and R. Lance Holbert (New York: Routledge, 2011), 239.

[73] For an overview of different conceptualizations of framing across disciplines see K. Fisher 'Locating Frames in the Discursive Universe,' *Sociological Research Online* 2 (1997): 1, http://www.socresonline.org.uk/2/3/4.html.

[74] David A. Snow et al (1986), 'Frame Alignment Processes, Micromobilization and Movement Participation,' *American Sociological Review*, 51 (1986): 466; Lasse Lindekilde, 'Discourse and Frames Analysis: In-Depth Analysis of Qualitative Data in Social Movement Research' in *Methodological Practices in Social Science Research*, ed. Donatella Della Porta (Oxford: Oxford University Press, 2014): 203.

[75] A. Triandafyllidou and A. Fotiou, 'Sustainability and Modernity in the European Union: A Frame Theory Approach to Policy-Making,' *Sociological Research Online* 3 (1998), 18, http://www.socresonline.org.uk/3/1/1/.html.

and challenges existing authoritative views and framings of reality.'[76] The strategy for the identification of frames was two-fold. The initial formulation of frames was deductive. The prior deductive categories, which were assigned to text, were theoretically defined,[77] drawing on arguments that a regional approach to transitional justice is needed because of the changed nature of conflict. It was combined with an inductive identification of frames,[78] which involves an iterative process of formulation, subsumption and revision of categories emerging from text.[79] Identification of frames was conducted by using a Key-Word-in-Context (KWIC) function, in order to be able to tackle the large volume of text contained in the RECOM text corpus.[80] This computer-assisted technique provides 'lists of all occurrences of a word and the context (e.g. sentence etc.) around it.'[81] Computerized searches were conducted based on a selection of relevant words and phrases, such as 'regional approach', 'regionally,' etc., in order to identify lexical environments in which they

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[76] David A. Snow, 'Framing Processes, Ideology, and Discursive Fields,' in *The Blackwell Companion to Social Movements,* ed. David A. Snow et al. (Malden, MA: Blackwell Publishing, 2004), 380-412.

[77] Philipp Mayring, 'Qualitative Content Analysis,' Forum: Qualitative Social Research, 1 (2000): 3.

[78] Chong and Druckman, supra n 90 at 240.

[79] Mayring, supra 95 at 3.

[80] The analysis was conducted on an extended corpus of 28 transcripts of the RECOM consultations. 8 additional transcripts refer to consultations in the same period, but were not dedicated to the Statute as such. They provide additional verification of frames identified during the deliberations focused on the Statute.

[81] Simeon J. Yates, 'Researching Internet Interaction: Sociolinguistics and Corpus Analysis,' in *Discourse as Data: A Guide for Analysis,* ed. Margaret Wetherell et al. (London: Sage Publications, 2001), 111.

occur.[82] Ultimately, specific frames concerning a regional approach to transitional justice were linked to arguments and concepts associated with them.[83] Discourse and communication are central to the production of reality and allow a researcher to study 'aspects of the constructive process *and* its products.'[84] Accordingly, the aim of discursive frames analysis is to identify the 'conceptual scaffolding'[85] of the regional approach to transitional justice.

FINDINGS AND ANALYSIS

A Restorative Dimension of Discourse and the Regional Level of Justice-Seeking

Through the application of the dictionary method to the RECOM text data, this study investigates whether the coherence between the outcome, i.e. the creation of a restorative transitional justice instrument, and restorative discourse during deliberations, is a feature of regional or non-regional deliberations. The theoretical interest in the restorative dimension of discourse (and not of retributive justice terms, for example), stems from the fact that RECOM's deliberations on the Statute dealt with the remit of a regional fact-finding commission after this restorative justice instrument had already been endorsed. It was a response to a lack of legitimacy of retributive transitional justice embodied by ICTY trials.

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[82] Lynne Flowerdew, 'Corpus-based Discourse Analysis,' in *The Routledge Handbook of Discourse Analysis*, ed. James Paul Gee and Michael Handford (London and New York: Routledge, 2014), 180.

[83] Chong and Druckman, supra n 90 at 241.

[84] Margaret Wetherell, 'Debates in Discourse Research,' *Discourse Theory and Practice: A Reader*, ed. Margaret Wetherell et al. (London: Sage Publications, 2001), 392-393.

[85] David A. Snow and Robert D. Benford, 'Ideology, Frame Resonance, and Participant Mobilization' in *From Structure to Action: Comparing Social Movement Research Across Cultures, International Social Movement Research*, ed. Bert Klandermans et al. (Greenwich, CT.: JAI Press, 1988), 213.

The alignment between the process and the outcome provides insight into internal discursive legitimacy within deliberations on transitional justice.

Therefore, I constructed a dictionary to measure the restorative dimension of discourse comparatively on regional-level as opposed to non-regional level debates. The results of the application of the dictionary measuring the restorative dimension of discourse show that regional-level consultations have a slightly higher restorative dimension of discourse,[86] measured by the proportion of words in the restorative dictionary,[87] after applying tf-idf weighting (see Table 2).[88]

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[86] Validation of a method is critical for any quantitative text analysis. For this purpose, either 'human gold standards' achieved by hand coding or other quantitative text analytic techniques can be used, cf. Grimmer and Stewart, supra n 65 at 9-13. Face validity refers to the accuracy of the dictionary in measuring what it intends to measure, i.e. whether regional consultations are actually more restorative, cf. Krippendorff, supra n 78 at 313-314; Rooduijn and Pauwels, supra n 74 at 1276. The results obtained by applying the dictionary are consistent with results of another text analytic technique, correspondence analysis, that provide evidence that regional-level consultations have a restorative justice theme, Denisa Kostovicova and Aude Bicquelet, 'Regional Approach to Transitional Justice: Testing the RECOM initiative in the Balkans,' International Studies Association (ISA) Annual Convention, Atlanta, 16 March 2016.

[87] This is consistent with the χ^2 test on the raw count of non-restorative and restorative terms in regional and non-regional consultations (after removing numbers and punctuation), which suggests that the association between the level of transitional justice debates and the restorative content of discourse in the sample is statistically significant. See Table 4, Appendix.

[88] tf-idf weighting is a mechanism 'for attenuating the effect of terms that occur

Table 2: Restorative dimension of discourse by the level of RECOM debates

	Regional level	Non-regional level
Mean proportion of words	0.008	0.006

This finding is important for a deliberative democratic perspective on transitional justice. It demonstrates that at the regional level, as opposed to the non-regional level, the debate about transitional justice has more content dealing with restorative justice, and, in that sense, is more closely aligned with the aim of establishing a restorative transitional justice instrument. The regional level debates were also characterized by greater ethnic diversity of participants. This indicates that increasing the multi-ethnic composition in debates on transitional justice is conducive to better focused discussions on overcoming the conflict. In sum, the findings show that the level at which justice-seeking takes place has a consequential impact on how the communicative process unfolds. In line with the rationale behind the mixed method research design, the next section uses discursive frames to explore the quantitative analysis result that regional level debates are different from non-regional level debates.

Why a regional approach? Discursive Frames Analysis

A qualitative analysis of discursive frames probes how support for a regional approach to transitional justice is constructed. The focus here is on the buy-in into the process in the Statute-drafting stage, after a regional approach was accepted by the RECOM Coalition. Seven frames can be identified, of which only one aligns closely with the scholarly argument proposing a regional approach to transitional justice based on the changed nature of

too often in the collection to be meaningful for relevance determination.' Manning et al., supra 87 at 118.

conflicts fought in the post-Cold War period. Discursive frames along with illustrative quotes by the speakers during the RECOM consultations are presented below.

1) *Character of conflict frame*

This frame is closely aligned with the scholarly argument that the cross-border nature of crimes requires a regional response. It was summarized to me succinctly by a participant in the RECOM process, who believed in the need for a regional approach to transitional justice 'because we were killing each other regionally.'[89] This view is echoed in the RECOM consultations, as speakers refer to 'multinational, regional wars' fought on the territory of the former Yugoslavia.[90] For them, the 'regional character' of the conflict implies that 'perpetrators are in one state, evidence in another, and everything else is elsewhere.'[91] This regional dimension therefore necessitates a regional approach to transitional justice, because a regional commission will 'encompass all countries of former Yugoslavia, and have access to all witnesses, and, especially victims, who are in other states. Therein lies its power.'[92]

2) *Empathy frame*

The empathy frame, which is also the most prevalent frame, reflects a consensus by all participants in the RECOM consultations that victims lack acknowledgment of their pain and

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[89] Personal interview, Zdravko Grebo, Professor of Law, University of Sarajevo, Sarajevo, 11 December 2015.

[90] Regionalne konsultacije sa mladima i organizacijama mladih o Nacrtu statuta REKOM, Podgorica, Montenegro, 29 May 2010.

[91] Regionalne konsultacije s civilnim društvom o Inicijativi za osnivanje REKOM, Skopje, Macedonia, 3 July 2010.

[92] Konzultacije s organizacijama civilnog društva u Vukovaru i Vukovarsko-srijemskoj županiji o nacrtu statuta REKOM, Vukovar, Croatia, 14 July 2010.

their suffering, both from members of other ethnic groups and also within their own communities. The persistence of an exclusive claim to victimhood in the region partly results from the physical separation of victims and perpetrators in different states, but also from consociational institutional arrangements that support ethnic separation, such as those in Bosnia and Herzegovina and in Kosovo. As one speaker put it:

> The victims are acknowledged at a national level, but this is not sufficient to address their need that the other side should hear about their suffering. Victims' faith in humanity is seriously shaken by the fact that the other side – the side that is responsible – is unwilling to hear about what had happened to them. Thus, the victims need an acknowledgment at a regional level and their voice should be heard at a regional level.[93]

In addition, the empathy frame also refers to internal dynamics within the Balkan states. In this sense, it has less to do with ethnicity and more to do with domestic politics. Victims feel marginalized and manipulated by their own political elite, who acknowledge victims only when it is politically expedient and without following up with policies advancing the rights of victims. Consequently, the empathy frame refers to restoration of dignity to all victims through the incorporation of multiple perspectives, ensured by a regional process,[94] which offers recognition of the suffering even of those who do not belong to one's own ethnic group. As another speaker explained, '[…] the commission has to be regional because the victims do not have a nationality.'[95]

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[93] Regionalne konsultacije sa mladima i organizacijama mladih o Nacrtu statuta REKOM, Podgorica, Montenegro, 29 May 2010.

[94] Lokalne konzultacije s civilnim društvom o nacrtu statuta REKOM, Knin, Croatia, 2 September 2010.

[95] Regionalne konsultacije sa veteranima o nacrtu statuta REKOM, Skopje, Macedonia, 18 December 2010.

3) Credibility frame

The credibility frame reflects the participants' view that the legitimacy of justice intervention is paramount. The pursuit of transitional justice may look like an adoption of a global norm, but it may actually have little or nothing to do with either justice or fairness, and have everything to do with political expedience. For the participants in the RECOM's process, where impartiality is of utmost importance, national commissions have become discredited.

> A monoethnic commission that would deal with a multiethnic reality is not likely to be credible, since it would be always objected for its partiality. The argument in favor of the RECOM is that a national commission is unable to address causes or effects that are attributed to other states. It seems to me that it would be riskier to have several national commissions than one regional commission.[96]

However, a regional approach to transitional justice is not necessarily seen as a rejection of all national-level post-conflict justice initiatives. Participants are unequivocal in their respect for official initiatives and instruments that do advance post-conflict justice and consider national and regional level initiatives to be 'complementary, while the regional level has a higher dimension that is more comprehensive and encompassing.'[97]

4) Necessity frame

The necessity frame refers to practical obstacles concerning the attainment of justice at a national level. These obstacles have an ethnic as well as a procedural dimension. The ethnic dimension has to do with difficulties encountered by victims seeking justice in the states

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[96] Regionalne konsultacije s novinarima/kama i urednicima/ama o Nacrtu statuta REKOM, Ljubljana, Slovenia, 9 October 2010.

[97] Regionalne konsultacije sa veteranima o nacrtu statuta REKOM, Skopje, Macedonia, 18 December 2010.

where they are and were a minority during the conflict, although that minority may have had support from a neighboring state, as was the case with Serbs from Croatia. Thus, a mother seeking justice for her killed son said:

> I cannot get either moral or financial satisfaction in the state where I live.
> That means that […] I can only hope for the establishment of the
> commission that will work fairly, and I hope that most of those present
> here or at least their families will live to testify before that commission one
> day.[98]

This frame also has a procedural dimension, where regional cooperation is seen as a necessity because of wide disparities among Balkan states in their ability to provide justice. These include disparities in their legal capacities, laws and definitions (of victims and perpetrators, for example) and different legal entitlement for victims. The regional approach that would define and introduce uniform standards through the regional commission's national offices is therefore seen as a necessary and practical solution. Such standardization, which includes a uniform model of collection and processing of information on human rights violations is considered essential for establishing a set of credible facts and an important precondition for moving forward.[99]

5) Cognitive frames

The cognitive frame demonstrates that the advocacy of a regional approach resonates with participants' understanding of regionalism as an experience of life in a common state, i.e. the former Yugoslavia. One participant articulated this understanding by saying that 'we are a

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[98] Regionalne konsultacije sa udruženjima žrtava i porodicama žrtava, Prishtina, Kosovo, 17 Decembar 2010.

[99] Regionalne konsultacije sa veteranima o nacrtu statuta REKOM, Skopje, Macedonia, 18 December 2010.

region that still lives in the heads of the people who remember that they used to live in the same state.'[100] At the same time, such an understanding of regionalism is perceived to have a 'huge potential that can help us do something regionally.'[101] The association of region with life in the common state before the war corresponds to an understanding of regionalism as co-existence in close territorial proximity after the war. As another speaker put it:

> regardless of religious, national, cultural and other differences, we still
>
> have to live together and to cooperate […] on the territory of the region of
>
> the former Socialist Federal Republic of Yugoslavia.[102]

A retroactive assigning of regionalism onto the reality of the defunct federal Yugoslav state, that itself was never considered a region either by people who lived in it or by outsiders, is of interest for the question of how regions emerge as cognitive constructs. For the purpose of this article, this frame is of interest because it demonstrates that the pursuit of transitional justice rests on and, simultaneously, contributes to the creation of regional consciousness.

6) Conflict-prevention frame

The conflict-prevention frame is closely related to the cognitive frame that recognizes that people are destined to live together, and that, according to one speaker:

> the processes of facing the past are closely connected, and should
>
> always include a perspective on what is happening to our first neighbor,
>
> […] but also to all our neighbors in neighboring states.[103]

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[100] Regionalne konsultacije s civilnim društvomo Inicijativi za osnivanje REKOM, Skopje, Macedonia, 3 July 2010.

[101] Ibid.

[102] Konsultacije sa lokalnom zajednicom o osnivanju i mandatu REKOM, Bratunac, Bosnia and Herzegovina, 27 Novembar 2010.

Participants in the RECOM consultations associate a regional approach with conflict-prevention, because they recognize the risks for peace and security in case of avoiding to face the criminal past. This realization is one of the historical lessons, as explained by a speaker:

> this region is a region where one trauma is laid on top of another trauma,
> and then when they are all piled up, they are swept under the carpet, so
> that every war that breaks out is bloodier than the previous one.[104]

Therefore, a regional approach to transitional justice offers a possibility of ending the historical cycle of violence. In the words of another speaker:

> The future of the region where we all live together depends on our
> readiness, but also on our humanity to accept responsibility and establish
> the truth. People who fought in the war know themselves that they'd spent
> that time in several states created during the break-up of former
> Yugoslavia.[105]

A regional approach is singled out because a 'regional commission, whilst establishing facts regionally, through an official mechanism, can be a barrier to denial of crimes, which is very important for the victims.'[106] Participants are aware that the establishment of such facts in

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[103] Regionalne konsultacije s novinarima/kama i urednicima/ama o Nacrtu statuta REKOM, Ljubljana, Slovenia, 9 October 2010.

[104] Ibid.

[105] Regionalne konsultacije sa veteranima o nacrtu statuta REKOM, Skopje, Macedonia, 18 December 2010.

[106] Regionalne konsultacije s civilnim društvom o Inicijativi za osnivanje REKOM, Skopje, Macedonia, 3 July 2010.

the aftermath of conflict is unprecedented in the region. [107] Many believe that establishing

these facts would contribute to 'the prevention of future conflict, i.e. final stabilization of the

region, its full democratization and regionalization.'[108] Such a future is based on repairing

relationships, since, in the words of one participant, 'our regional relations as countries, but

also our relations as people, have been broken.'[109] The future-oriented, transformative

understanding of a regional approach is examined in the next and last frame.

7) Europeanizaton frame

The Europeanization frame reveals that for participants in the RECOM process the pursuit of

transitional justice goes beyond a societal transformation focused on the legacy of mass

atrocity. In this respect, the pursuit of transitional justice, as Teitel has put it, is constitutive of

transition.[110] For those involved in justice-seeking in the Balkans, this implies adoption of

liberal values as a criterion for reclaiming a position in the European family of nations in

general and in the European Union in particular. According to one speaker, the assertion of

a new European identity is a rejection of ethnic logic:

> […]European elites view us as a semi-periphery of democracy and liberal
>
> consciousness. This is the first step in the direction of us to think in a
>
> European way, so that Europe can see that we too can resolve something
>
> together and reach joint conclusions and solutions concerning war

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[107] Nacionalne konsultacije s udruženjima žrtava I porodica žrtava o nacrtu Statuta REKOM,
Belgrade, Serbia, 3 July 2010.

[108] Nacionalne konsultacije sa lokalnim zajednicama o Inicijativi za osnivanje REKOM,
Podgorica, Montenegro, 14 Septembar 2010.

[109] Regionalne konsultacije s civilnim društvom o Inicijativi za osnivanje REKOM, Skopje,
Macedonia, 3 July 2010.

[110] Ruti Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000), 6.

criminals and their renunciation. That means, war criminals are all equal,

whether it is an Albanian, Serb, Croat or other, and all victims are equal.[111]

This qualitative analysis of the discursive framing of a regional approach indicates that the

buy-in into this particular justice strategy goes far beyond a nature of conflict frame, which

responds to the cross-border character of contemporary conflicts. As this analysis has

shown, the regional approach to transitional justice is justified by a wide range of arguments.

They provide a broad basis, or 'scaffolding', on which the idea of a regional commission

rests. A unifying assumption cutting through all these is the idea of a regional consciousness

that allows participants to recognize their common history of conflict, common contemporary

and region-wide challenges (foremost among them the marginalization of victims of all

ethnicities), and their common future destiny. Paradoxically, the fact that Yugoslavia was not

perceived as a region prior to the outbreak of conflict in the 1990s is inconsequential. The

results of discursive frames analysis add a new perspective to the findings of quantitative

text analysis. Consultations held at a regional level brought together members of all different

ethnic communities. Frames analysis indicates that these consultations brought to life the

sense of regionalism. The sense of commonality—common regional identity, common

suffering, and common striving for redress—appears to have focused communicative

deliberation on the restorative task at hand.

CONCLUSION

This article has explored a regional approach to transitional justice, heeding the call of

scholars that the regional nature of contemporary conflicts necessitates a regional approach

to post-conflict justice. It has examined the regional dimension of transitional justice through

the lens of discourse and considered how regional debates, as opposed to national or local

debates, affected transitional justice-seeking. This effect was measured by analyzing

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[111] Nacionalne konsultacije sa lokalnim zajednicama o Inicijativi za osnivanje REKOM,

Podgorica, Montenegro, 14 September 2010.

communicative deliberation within a regional civil society-led justice-seeking process. The study found that regional-level debates demonstrate a higher level of the restorative dimension of discourse, which aligns the regional-level debates more closely with the aim of the restorative justice-seeking process. Analysis of the meaning of a regional approach to transitional justice, as constructed by participants themselves, sheds additional light on these results. It shows that participants' buy-in into the regional transitional justice process rests on a broad set of considerations defined by historical, present and future considerations, all of them underpinned by a regional consciousness. Regional-level debates can be seen as an embodiment of that consciousness, focusing minds on the restorative aim of the process.

The restorative dimension of regional-level justice-seeking was identified by viewing civil society as deliberative space, an approach that has brought the patterns of communication into analytical focus. Fischer reminds us that we still do not know how societies establish discourses that promote some degree of consent on facts on war crimes.[112] By focusing on the regional dimension of deliberation, this paper has revealed a blind spot in the scholarship on deliberation in divided societies, which has stayed firmly fixed in a national paradigm.[113] My findings indicate that concepts of deliberation and reconciliation should be both reexamined from a regional perspective while taking into consideration the idea of regional deliberative reconciliation.

Despite tackling a vast amount of text data from a justice-seeking process involving nearly 6,000 people from different ethnic groups, this study is ultimately the study of a

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[112] Martina Fischer, 'Transitional Justice and Reconciliation: Theory and Practice,' in *Advancing Conflict Transformation. The Berghof Handbook II*, ed. B. Austin et al. (Opladen/Framington Hills: Barbara Budrich Publishers, 2011), 421.

[113] The idea of transnational deliberation in the scholarship on deliberative democracy is exclusively linked to deliberation within the European Union and its institutions.

deliberative 'mini public.' The dynamics of communication in a broader public sphere, or macro deliberation, was beyond the scope of this study.[114] Future empirical research needs to investigate comparatively micro- and macro-levels of deliberation, especially since deliberative legitimacy achieved during deliberation may not extend automatically to those who did not take part in the process.[115] How do micro- and macro-levels of deliberation interact, and what effects do they each have on legitimation of transitional justice?

This study has also shown that we need to sharpen our tools for analyzing the micro-level of discourse in order to learn more about deliberation and transitional justice. Scholars have acknowledged that a focus on methods is key to pushing the frontiers of knowledge in the field of transitional justice.[116] This applies to the analytic possibilities both of new methods, such as quantitative text analysis, which is yet to be embraced by transitional justice scholars, and of mixed methods. This application of a relatively simple quantitative text analysis method has allowed us to identify the restorative dimension of a regional level-discourse while overcoming the limits of a state-centered epistemology and methodology in the study of transitional justice. The next step is to apply more sophisticated text analytic techniques to drill deeper into the RECOM data longitudinally and comparatively, including at the level of speakers' utterances, to further deepen our understanding of the regional

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[114] In line with this scope condition, this study did not investigate other materials, such as information leaflets and reports produced by the RECOM Coalition aimed at the broader public and states in the region.

[115] Bohman, supra n 44 at 292.

[116] Kirsten Ainley, 'Evaluating the Success of Transitional Justice in Sierra Leone and Beyond,' in *Evaluating Transitional Justice: Accountability and Peacebuilding in Postconflict Sierra Leone*, ed. Kirsten Ainley et al. (Basingstoke: Palgrave Macmillan, 2015), 257. Nicola Palmer et al., 'Introduction: Ways of Knowing Atrocity: A Methodological Enquiry into the Formulation, Implementation, and Assessment of Transitional Justice,' *Canadian Journal of Law and Society* 30 (2015): 180.

approach. Lastly, mixed method research on transitional justice has led to new knowledge in the field of transitional justice, through its underlying principles of deeper exploration and validation. Mixing text-analytic methods is not just theoretically productive. This study confirms Baxter's observation that multi-method research design in the study of transitional justice is also necessary in a field where many of the questions being asked 'fall outside the scope of conventional research strategies,'[117] and, therefore, require innovation both in research design and methods.

Appendix

Table 3: Restorative justice dictionary

Restorative justice terms	
stakeholders	victims
process	facts
	truths
	apology
	reckoning
	remorse
	forgiveness
	condolences
	suffering
values	dignity
	empathy
	self-confidence
	solidarity
	piety
	sympathy

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[117] Victoria Baxter, 'Critical Challenges for the Development of the Transitional Justice Research Field,' in *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, ed. Hugo Van Der Merwe et al. (Washington, D.C.: United States Institute of Peace Press, 2009), 328.

outcomes	future
	reconciliation
	memorialisation
	trust
	understanding
	coexistence
	tolerance
	safety
	peace

Table 4: Restorative dimension of discourse by the level of RECOM debates

	Non-restorative terms	Restorative terms
Non-regional debates	228,635	2,117
Regional debates	270,165	3,093

χ^2 = 56.037, df = 1, *P*-value < 0.001