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Norm contestation and reconciliation: evidence from a regional transitional justice process in the Balkans

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ABSTRACT

We have limited understanding of how ethnic groups can achieve an agreement on tackling the legacy of war crimes, because transitional justice scholars have been focused primarily on challenges to post-conflict reconciliation. Addressing this gap, we investigate whether contestation over the norm of transitional justice prevents inter-ethnic reconciliation, operationalized by us as reconciliatory discourse. Empirical evidence is drawn from the study of debates conducted by a transnational advocacy network (RECOM), which proposes a regional fact-finding commission in the Balkans. Applying text analysis to identify key themes in these debates, we find reconciliatory discourse in those debates where there is norm contestation. Also, the spatial scale of a transitional justice process matters. We identify different patterns of discourse at different levels of debates. Debates containing

norm contestation are associated with ethnically-centered arguments at the national level, but with sustained scrutiny of proposed solutions at the regional level despite ethnic divisions.

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Introduction

Transitional justice is the study and practice of how states and societies engage with past wrongs (Teitel 2000). Post-conflict justice practices are deemed to be crucial for promoting discussion about the violent past and for providing a pathway to reconciliation (Cohen 2001, 96; Backer 2003). While transitional justice has become an accepted norm of international peace-making (Vinjamuri 2003-04, 142; Sharp 2015, 152), its implementation in post-conflict contexts has turned out to be a deeply contested process. Sites and sources of contestation are many. In post-conflict contexts, transitional justice as a global norm is at times resisted due to a perceived tension with local norms (Sokolić 2016). The norm of transitional justice is also contested between ethnic groups (Kostić 2008), as well as within ethnic groups (Gordy 2013).

Contestation of the norm of transitional justice is invariably equated with elusive reconciliation. This article queries the relationship between norm contestation, understood as "a mode of critique through critical engagement in a discourse about [the norms] (Wiener 2017, 109)," and reconciliation. It asks: does norm contestation necessarily prevent reconciliation? We explore how ethnic groups achieve an agreement on addressing the war crimes legacy despite deep divisions. In doing so, we further our understanding of the dynamics of inter-ethnic reconciliation in the aftermath of mass atrocity. This article complements the dominant agenda in transitional justice research that focuses on negative, unintended effects of transitional justice norms that stymie its emancipatory goals (Subotić 2009). We argue that the field also needs to investigate whether a divisive impact of contestation of transitional justice can be overcome, and how.

3

Reconciliation is broadly understood as societal transformation in the aftermath of conflict (Chapman, 2009), yet there remains a lack of scholarly consensus on the concept's precise meaning, on the different levels of reconciliation, or how to achieve it (Pankhurst 1999). As Kriesberg (2001, 60) notes, "[r]econciliation is never total, never including all members of antagonistic parties, not including every dimension of reconciliation completely, nor being fully reciprocal between parties." While recognizing the ambiguity of the concept in theory and practice, we approach reconciliation as a discursive process, rather than an outcome. More precisely, we define reconciliation as a steady process of overcoming "obstacles presented by – among other things – culture, race, religion and politics" through communication (Komesaroff 2008, 5). Cohen (2001, 238) specifies that "[w]hen rhetoric of reconciliation is genuine, it looks for tolerance, forgiveness, social reconstruction and solution of social conflicts in ways other than punishment." Although reconciliation may not ever be total, it still represents "a radical way of confronting the past (Ibid., 239)." In this article, we investigate whether contestation of the norm of transitional justice is at odds with reconciliation understood as reconciliatory discourse.

We explore the effects of norm contestation by examining the process of norm adoption in transnational activist networks (TANs). Empirical evidence is drawn from a regional civil society network in the Balkans, known by its acronym RECOM, which advocates the establishment of a regional fact-finding commission. Norm adoption is an understudied aspect of network activity (Carpenter 2011), in contrast to later stages in a norm "life cycle" (Finnemore and Sikkink 1998), such as diffusion of norms (Carpenter 2007, 101). We are guided by the 'local turn' in the scholarship on transitional justice, to which we also contribute. Like the theories of critical peace-building, this scholarship brings into focus the

4

local agency (Baker and Obradovic-Wochnik 2016, 288-289). We investigate the local

dimension of norm contestation and justice-seeking by going beyond the currently

prevalent approaches, which evaluate the 'local' almost exclusively in the context of the

"justice cascade" (Sikkink 2001), framed by the diffusion of norms from the global to the

local level. In contrast, we study how a range of disparate local actors, with different

identities, interests and values, contest various aspects of the norm of transitional justice,

during its operationalization into an elaborate policy proposal.

The paper proceeds as follows. A theoretical approach focusing on norm adoption is

outlined, proposing a study of contestation of aspects of norms, rather than of norms

themselves, within a transnational advocacy network. The case study of the RECOM

network is then introduced. It is followed by sections that detail the data and method, and

present our findings. The conclusion reflects on the broader theoretical implications of this

work, which finds that norm contestation does not necessarily prevent reconciliatory

discourse.

Norm adoption and contestation in transnational advocacy networks

Transitional justice is a contested subject and area of practice involving a multitude of post-

conflict actors. These actors may have conflicting positions about the violent past and face

political constraints (Zalaquett 1991-1992; Orentlicher 2007), which shape their views on

transitional justice, and may include their opposition to it. When addressing the issue of

norm contestation, transitional justice scholars have queried: whose norm is it? And, how

well does it represent various stakeholders' interests or resonate with their values? Yet,

they have stopped short of unpacking the norm itself. We address this gap in the scholarship by introducing a sociological definition of norms into theorizing of TANs. Approaching a TAN as a space of contestation, we foreground contestation about aspects of the norm of transitional justice. TANs are also sites of discursive interaction (cf. Watts, 2004, 254). Thematic patterns of these interactions provide a novel perspective on the effects of norm contestation.

Networks, including the TANs, are voluntary arrangements. Membership in a network is not binding, and members enjoy the option to exit. Neither members nor their commitments can be "locked in." This means that networks need to produce benefits for their members, which ensure their continued existence (Sikkink 2009, 230). In line with this conceptualization, we investigate the construction of norm consensus about transitional justice around which network members coalesce. While networks constrain actors, they are also simultaneously constituted by "subjective meaning and motivation, including the *normative commitment* of their actors" (Emirbayer and Goodwin 1994, 1413). Norm consensus reinforces a stake in the existence of the network form. It also reinforces the message that a network sends out to its targets, such as states or international organizations (van Raaij 2006, 267).

Furthermore, emphasis in the network theory scholarship has generally been on reciprocity and trust in a network form, as opposed to other organizational forms premised on a more adversarial posture (Podolny and Page 1998, 61). TANs are "a space for the negotiation of meanings," while the political learning within the network also involves "normative shifts in understanding of shared identities and responsibilities" (Keck and Sikkink 1998, 215-6). Learning and subsequent adjustments within a network are outward-oriented (Bob 2007),

because the goal is to enhance the efficiency of the network in order to bring about normative change in its targets. However, the possibility that a norm, its meaning and prescription *within* the network may be contested, or even manipulated, has been all but dismissed until recently.

O'Toole and Meier (2006, 271) have criticized the prevalent understanding of networks as neutral producers of collective goods, which derives from "an implicitly benign perspective regarding the importance and necessity of using multiple interdependent social actors, often multiple organizational actors, to achieve collective purposes." Their argument resonates with the political approach to TANs, which is premised on recognition of differential interests and capabilities of network nodes (Kahler 2009, 11-16; cf. Lake and Wong 2009, 130), while powerful network members get to determine the adoption of specific norms. The political approach conceives of the process of norm adoption as contentious: a norm is either adopted in a given form, or it is not. It thus stops short of allowing for the possibility of contestation of aspects of the norm. The definition of norms in sociological studies enables analysis of the contestation over the aspects of a norm *rather* than the norm itself.

The understanding of norms in the international relations literature, preoccupied with TANs, are informed by a diffusionist perspective that stresses their prescriptive, rule-like character, which is consistent with a theoretical preoccupation with explaining norm-induced change. Finnemore and Sikkink (1998, 891-2) argue that appropriateness of a given behavior is established in reference to the judgements of a community or a society, i.e. a shared assessment. Sociologists studying norms have queried their shared quality, which is "an essential ingredient of a norm," and shifted attention to variance centered on aspects of a

given norm, for example, intensity or strength in individuals' attachment to the norm (Jasso and Opp 1997, 948). Normative disagreements appear to be more frequently centered around degrees of adherence to an agreed-upon normative system, as opposed to the outright rejection of the norm (Rossi and Berk, 1985, 343). Consequently, it is not necessarily contestation between different norms, but contestation among different aspects or segments (Wiener 2014, 19-20) of a norm, that can provide analytical traction. This is particularly relevant for the RECOM process in the Balkans, where participants agreed on the norm of transitional justice through establishment of facts of war crimes. But, they, simultaneously, disagreed about specific aspects and applications of that norm, that Deitelhoff and Zimmermann (2013, 5) call "applicatory contestation." It is reflected in the debates about the articles of the draft Statute of the proposed regional fact-finding commission, which we study.

Norm adoption, as Carpenter (2007, 115) puts it, is premised on "the possibility of contestation." As we demonstrate above, contestation may also concern aspects of a norm, rather than a norm itself. Contestation creates a challenge for the researcher: "understanding how multiple insider sympathists negotiate disagreements about framing new ideas will require methodologies that can trace and capture this process (Ibid)." In addition, norms prompt justification for action and leave an extensive trail of communication among actors that we can study (Finnemore and Sikkink 1998, 892). In this article, we apply a bespoke text analysis technique to investigate one such trail contained in the transcripts of the RECOM's consultations.

The RECOM network in the Balkans: the background

The Coalition for RECOM, which is the abbreviation for the Regional Commission for Establishing the Facts about War Crimes and other Serious Human Rights Violations in former Yugoslavia from 1 January 1991 to 31 December 2001, is "a network of non-governmental organizations, associations, and individuals who support and affirm the Initiative for RECOM" (Jakovčić 2009). The RECOM initiative is a type of a transnational advocacy network, which is defined by "the centrality of principled ideas or values" (Keck and Sikkink 1998, 1). This locally-driven civil society network advocates the establishment of a regional fact-finding commission. It emerged as a response to the complex legacy of conflict in the successor states of the former Yugoslavia, and to the limits of the international criminal justice strategy focused on the perpetrator and punishment (Nettelfield 2012). In contrast to the International Criminal Tribunal for former Yugoslavia at The Hague, the RECOM is concerned with victims and seeks to acknowledge their suffering as a means for promoting reconciliation (*Istorijat inicijative o osnivanju REKOM-a* 2009).

Three non-governmental organizations (NGOs): Documenta from Croatia, the Research and Documentation Centre from Bosnia and Herzegovina, and the Centre for the Humanitarian Law from Serbia, launched a debate on how best to address the legacy of mass atrocity in May 2006. It resulted in the establishment of the Coalition for RECOM in October 2008, marking the beginning of a regional transitional justice process in the Balkans (Kandić 2009). The coalition membership includes nearly 2,000 NGOs, victims, veterans, lawyers, artists, journalists, academics, and youth – from all ethnic groups in the former Yugoslavia. The leading NGOs envisaged the consultations as a public platform for debating transitional

justice. The network reached out more broadly to local communities and involved some 6,000 people in a consultative process. The consultations about a regional approach to transitional justice were held at the regional, national and local levels, with sessions lasting from half a day to two days. The network also consulted on the commission's Statute, which was adopted in 2011, and encompassed all aspects of the commission's work: the aims of the commission, the country location of its seat, the make-up of the commission, its relationship with criminal justice, etc. Support from the Balkan states for a regional transitional justice instrument has not been forthcoming. Nevertheless, the RECOM process provides valuable insight into how a norm of post-conflict justice is contested inside a TAN, and to what effect.

This unique transnational advocacy network has been studied through the lens of norm diffusion, qualifying the RECOM's approach to justice-seeking as an imposed agenda (Rowen 2012, 699) and dismissing its advocacy as alienating discourse (Obradovic-Wochnik 2013). A power politics approach attributed norm adoption to the assertion of power by the RECOM's leading NGOs (Rowen 2012, 705-708). Exploring the substance of debates, scholars drew attention to divisive inter-ethnic and intra-ethnic positions in this multi-ethnic network (Irvine and MacMahon 2013; Kostovicova 2010), the rejection of concepts, such as truth and reconciliation (Touquet and Vermeersch 2016, 65-68), and the discussions over definitions, such as that of a victim (Kurze and Vukusic 2013). Lastly, scholars revealed domestic opposition to inter-ethnic cross-border collaboration in justice-seeking (Kostovicova 2013; Di Lellio and McCunn 2013).

The empirical evidence and analytic traction produced by this scholarship are limited by the methods of qualitative inquiry applied in the study of the RECOM process. Scholars have

scrutinized at best a handful of transcripts of consultations, or only just one. They have

provided some insight into normative disagreements, but have been unable to reveal

comprehensively patterns either of discourse or contention throughout this multi-year,

multi-ethnic process. Similarly, mechanisms or conditions explaining the findings have

remained outside the purview of these studies (for example, all studies are conducted at the

national level, overlooking the regional dimension of the RECOM's available data).

Furthermore, these studies have conflated RECOM's Statute and non-Statute consultations

(Rowan 2012). Their distinction is essential because it embodies different types of

contention. Our consideration of relevant variables and application of a quantitative text

analysis method allows us to overcome these conceptual and methodological limitations.

Data and method

We analyze the transcripts of 21 consultation sessions held by the RECOM initiative. The

RECOM's data base, which is publicly available on the RECOM's website, includes transcripts

of 134 consultations and 10 regional and international fora about transitional justice.[1] We

are interested in the stage of the consultative process that included consultations on the

draft Statute of the regional commission as well as general consultations about a regional

approach to transitional justice from 29 May 2010 to 23 January 2011. The transcripts were

selected by a purposive sampling strategy (Oliver 2006, 245), capturing variation in relation

to country locations of consultations, the types of participants (victims, general civil society

or professionals), and the level of consultations (local, national or regional). RECOM's

transcripts are available in Serbian, Bosnian, Croatian, Montenegrin, Slovenian, Macedonian

and Albanian languages,[2] and were prepared for computer-assisted text analysis by

translating the entire corpus into a single variant of the Serbian language.[3] The textual data

amounts to 488,737 words, and consists of two corpora: a contentious corpus (14

consultations about the draft Statute, whose articles were contested) and a non-

contentious corpus (7 general consultations).[4] These corpora contain 2,893 speeches by

moderators and discussants. Each speech was tagged with variables indicating

characteristics of speakers and consultations.[5] The total of 868 speakers (100 moderators

and 768 discussants) took part in the analyzed consultations.[6] The high number of

discussants, who brought their diverse viewpoints into the norm adoption process, reflects

the broad nature of the RECOM's consultations.

We build on the analytical traction gained by applying quantitative text analysis to study

transitional justice and the RECOM data (Kostovicova 2017). Here, we apply a computer-

assisted method, implemented with the Alceste software,[7] drawing on its applications by

other scholars, and their analyses of political speeches (Schonhardt-Bailey 2005; Schonhard-

Bailey 2013), parliamentary debates (Schonhardt-Bailey 2008; Bicquelet et al. 2012; Weale

et al. 2012) and opinion polls (Brugidou 2003). The Alceste method is suited for identifying

themes in political debates and their association with specific variables of interest for the

analysis (Weale et al. 2012, 647; Schonhardt-Bailey 2008). In this study variables of interest

are the level at which the consultations were held: regional, national and local; and the type

of speaker: moderator or discussant.

The Alceste software is designed to quantify the text in order to extract its most significant

structures (Brugidou 2003), by relying upon co-occurrence analysis, which is the statistical

analysis of frequent word pairs in a text corpus.[8] It conducts a particular reading of the text

that does not take into account the meaning of words (Vallès 2014, 128). In its initial phase,

the software breaks down the corpus into Context Units (*CUs*) of two different kinds: Initial

Context Units (ICUs) and Elemental Context Units (ECUs). ICUs are sampling units

corresponding to the divisions of the text specified by the user, to which one or several

variables can be assigned. In the analyses below, each speech by a discussant or a

moderator constitutes an ICU. The corpus is then fragmented into ECUs, which are "gauged

sentences that the program automatically constructs based on word length and punctuation

in the text" (Schonhardt-Bailey 2005, 705). ECUs are classified according to the distribution

of their vocabulary, producing a number of classes of words that should be representative

of the main themes of the analyzed text.

Identifying which class a sentence from a RECOM consultation will fall into is a statistical

function entirely dependent upon the structural properties of that corpus. Most important

among these properties is the frequency of association or co-occurrence of used key terms,

in this case, by participants in consultations. Consequently, *post hoc* qualitative

interpretation by an analyst is required to give overall meaning to the classes (Bara et al.

2007). This is done by examining the key terms and sentences within each class (Vallès 2014,

128). In sum, this method "[...] guards against researchers and coders infusing their own

biases into the coding. Second, it can provide an impression of a voluminous data corpus

within a very short space of time. Third, and following on from that, the issue of reliability

which arises with human coding is no longer relevant" (Schonhardt-Bailey 2005, 703). Next,

we present and analyze the results of the application of the Alceste method to the RECOM's

textual data.

Results and analysis

We seek to find out whether contestation, stemming from diversity of perspectives among participants about different aspects of the regional commission, prevents reconciliation, understood as reconciliatory discourse. These perspectives are underpinned by ethnicity but also intersect with participants' identities as victims, human rights activists, lawyers, journalists, teachers, etc. We compare two corpora. One is the corpus that contains non-contentious consultations. These debates aimed to solicit participants' views and opinions on the regional commission. In our study, their transcripts make up the corpus without norm contestation. By contrast, the other corpus contains contentious consultations. They are characterized by intense contestation over different articles of the regional commission's Statute. Therefore, their transcripts comprise the corpus with norm contestation, and, more precisely, the contestation over different aspects of the norm of transitional justice. We present the findings first by comparing the themes in the non-contentious and contentious consultations, and then explore these findings by focusing on the level of debates. We draw on different tools provided by the Alceste analysis, of which "two are particularly useful – characteristic words and characteristic ECUs" (Schonhardt-Bailey, 2008, 395). Tables 1 and 2 summarize, respectively: the classes and their size, measured by the percentage of all ECUs classified within each class (Ibid.); their labels with a short descriptive summary, which is based on the interpretative analysis of the most representative ECUs (Ibid., 396); the most characteristic meaningful words and their Phi coefficients,[9] which indicate the theme or frame of argument that unifies a class (Ibid., 385), and the variables, including the strength of association with a given class or theme. The

analysis below illustrates a class with representative ECUs selected from the first ten Phi values for each class with the most meaningful words in bold.[10]

Thematic analysis: comparing non-contentious and contentious consultations

Non-contentious consultations

There are four classes in non-contentious consultations that are presented below (see Table 1).

Class 1 is an *explanatory* class. It explains why a regional commission should be established, the origins of the idea of the regional commission since 2008, and the commission's aims as well as the working methods of the commission. This class, which is associated with the role of moderators, also outlines the commission's contribution to the goals of transitional justice, along with its intended effect on institutional reform and recognition of victims, as in:

> also, the fourth **goal** of the **commission** is to **contribute** so that the **political** elites and **societies** in signatory **states**, those who endorse the **establishment** of the RECOM, should accept the **facts** about the **war crimes** and other **grave violations** of **human rights**

Class 2 is a *procedural* class, weakly associated with moderators, that offers insight into the running of the consultations. From this class we learn about the spirit of the debate. The stress is on openness of the debate, solicitation of a variety of different views and welcoming of all critical comments and suggestions, as in:

you will absolutely **get** the **floor**, but since there are many who would like to speak, i will

not be able to give the **floor** to everyone, and **please** if you can stick to two, three

minutes, be as concise and with as many concrete suggestions

Class 3 is a *reflective* class. Participants reflect on the challenges and hopes for the regional

commission, associated with discussants. This class is particularly focused on the

engagement with broader society and political elites in pursuit of justice. Such

preoccupation reflects participants' awareness of a need to ensure the legitimacy of their

initiative by winning popular support, as in:

my starting position is that this commission should not be influenced **politically**. i share

that fear too. that would not be good, the commission will not **succeed** in that **case**, do

you understand

Class 4 is an *interpretative* class. This class, associated with discussants, sheds light on the

role of an ethnic dimension in a transitional justice process. Prominent in this class is the use

by the participants of the concept of ethnicity to interpret what happened during the

conflict, and as an obstacle to post-conflict justice, as in:

Example 1: that's what he[11] **said**, too, that the situation that is not ripe for reconciliation

in the **context** of the investigation of war crimes. many say, as do **serb** representatives

in the **croatian** parliament, many immediately ask by posing questions, who **started**,

why did they **start** it, and how? which is why the other **speaker** responded that we

should avoid politics

Example 2: that is discrimination in the constitution of the **republic** of **serbia**, but also of

croatia, **bosnia**, **national minorities** are only mentioned. **definitely**, a distinction should

be made between **national minorities** and the indigenous **national minorities**

Table 1. Non-contentious corpus: classes, key words and key variables

Classes and their distribution (%)	Class name and description	Key words and φ	Key variables and φ
Class 1 43%	*Explanatory* (justification of the regional commission and its aims)	rights (0,23) commission (0,21) victims (0,21) human (0,21) facts (0,17) former (0,16) crimes (0,15) societies (0,14) yugoslavia (0,14) conflicts (0,14) regional (0,13) war (0,13)	moderator (0,21) national level (0,06) local level (0,04)
Class 2 20%	*Procedural* (protocol and formalities of running a consultative session)	thank (0,22) please (0,17) monte (0,16) negro (0,16) questions (0,15) hope (0,14) president (0,14) draft (0,13) greet (0,13) municipalities (0,13) colleagues (0,12)	moderator (0,08) local (0,05)
Class 3 26%	*Reflective* (consideration of challenges and expectations from the regional commission)	issue (0,17) people (0,15) think (0,15) want (0,11) good (0,10) see (0,10) campaign (0,09) aware (0,09) works (0,08) signatures (0,08)	discussant (0,13) national level (0,05)
Class 4 11%	*Interpretative* (ways of understanding conflict and obstacles to post-conflict justice)	serbs (0,19) roma (0,16) never (0,16) committed (0,15) done (0,14) live (0,13) minorities (0,13) croats (0,13) slovenia (0,13) bosnia (0,13) nationality (0,13) culpable (0,13)	discussant (0,26) regional level (0,18)

Contentious consultations

Unlike the non-contentious consultations, the contentious consultations have an *argumentative* and *reconciliatory* class, while sharing an *explanatory*, *interpretative* and *procedural* class with the non-contentious consultations (see Table 2).

Class 1 in this corpus is *explanatory*, focusing on the prospective regional commission's tasks, and is associated with moderators. Because it is about the Statute and its specific provisions, the debate is more detailed. As in the non-contentious consultations, participants are focused on the commission's broader contribution to transitional justice, but also strive to debate merits of different versions of the draft articles of the Statute, as in:

> under **point** (a) is to **collect** data on **gross violations** of **human rights** and **war crimes**, provide their **detailed account** and present patterns of **violations** and their **consequences**. that means that the **fundamental task** of the **commission** is to **collect** data on the cases of **violations** of **human rights**, that is **war crimes**

Class 2 is an *argumentative* class that is unique to the contentious consultations. It is more specific than the *explanatory* class in this corpus. It provides insight into how participants scrutinize specific propositions in the draft Statute, how they challenge and query them, and how they demand improvements. It demonstrates participants' sustained and serious engagement with minute details of the proposed Statute, and, by extension, their commitment to the transitional justice process and to finding appropriate solutions, as in:

Example 1: but the reliability of that statement will have to be verified. therefore i do

not support repression when it comes to taking **statements**. the **principle** of

voluntarism is the principle that should prevail. exceptionally, and in an agreement with

signatory states that could mediate obtaining the **statements** from persons of interest,

who do not respond to the summons from the **RECOM** to **give** a **statement**

Example 2: **point** 2 of **article** 46 envisages that three cumulative and not alternative

conditions must be fulfilled for the **commission** to publish a **person**'s name in the final

report. the third conditions is that this person must be given an **opportunity** to respond

to the findings within a reasonable **period**

Class 3 is a *procedural class* that reveals how the consultations are unfolding in terms of

procedure, such as soliciting comments and suggestions from the participants. Like this class

in the non-contentious corpus, it is associated with moderators. However, unlike it, this

class in the contentious corpus is much more focused on the actual production of the

Statute document, as in:

this is not the **document** that is being created by a fictitious **working group** of experts,

without **considering** the voice of the citizens, on the contrary, you are shaping this

document and therefore please feel very motivated to join in the **discussion** and tell us

what you think would be useful **suggestions**, and ask **questions** about the sections that

you do not think are clear

Class 4 in the contentious consultations is an *interpretative* class. In this class, as in the

corresponding one in the non-contentious corpus, an ethnic dimension comes to the fore

and is associated with the discussants. Ethnicity proves to be central for explaining and

understanding how and why the conflict broke out. However, ethnicity is also understood as an obstacle to efforts to come to terms with the past, as in:

> Example 1: i **know** that representatives of the **serbian government**, at every summit where they participate, they get up and leave when the **name** of **kosovo** is mentioned. as long as **kosovo** is mentioned i have an impression that they will be leaving, and this project will come to nothing

> Example 2: i will now speak about my childhood and schooling that were not easy at all and i remember those brutal demonstrations. our schooling was interrupted, that is the **reason** why i want the year 1980 to be included because the ethnically-motivated conflict began then, when the demand for the **republic** of **kosovo** was made

Class 5 is a *reconciliatory* class and is unique to the contentious corpus. It is explicit about a need for post-conflict justice through a regional justice-seeking process. This class demonstrates that injustice is understood primarily as a lack of recognition of the victims both by their own communities and by the opposing side. In this class, therefore, the emphasis is on a need to confront the violent past in the name of the victims, regardless of their ethnicity, as well as on a need to achieve truth and understanding in order to overcome the legacy of the violent past, as in:

> Example 1: to narrow down the **space** for manipulation and create the foundation so that our **societies** in the **region** can achieve mutual understanding of what **took place** in the **past**. RECOM should offer an example and together with its relations with the public contribute to a new model for public debates on these topics.

> Example 2: as a **result** of that i must admit it is wonderful to **hear** that we have **support** even from religious **communities**, which is very **difficult** to get, **support** from **individuals**

and **associations**, and it seems to me that the **coalition** for RECOM is **really** enjoying ever **greater** trust despite all challenges along the way.

Example 3: many former inmates, **victims** of sexual violence, those suffering from the post-traumatic stress syndrome, civilian and military victims of war have been trying for fifteen years to have their status as **victims** resolved at an **official** level. what really hurts the **victims** is the fact that everyone has knowledge about what **happened**, but what the **victims** need is the acknowledgment of their **suffering** and pain, as well as **official** satisfaction.

Example 4: we have to collect this million signatures, and have to be unified, and put the full stop to all this, and **reach** the **truth**, **achieve justice** and reconciliation since we have to carry on living here **regardless** of how many of us are here.

Table 2. Contentious corpus: classes, key words and key variables

Classes and their distribution (%)	Class name and description	Key words and φ	Key variables and φ
Class 1 10%	*Explanatory* (justification of proposed articles of the regional commission's draft Statute)	human (0,65) rights (0,56) violations (0,45) war (0,43) crimes (0,42) grave (0,39) armed (0,37) losses (0,26) civilians (0,25)	moderator (0,10)
Class 2 32%	*Argumentative* (critical scrutiny of proposed articles of the regional commission's draft Statute)	court (0,20) proceedings (0,17) commission (0,16) witnesses (0,16) punishment (0,14) statements (0,14) criminal (0,14) person (0,13) act (0,13) doubt (0,13)	regional level (0,28)
Class 3 22%	*Procedural* (protocol and formalities of running a consultative session)	statute (0,20) draft (0,20) thank (0,20) working (0,17) group (0,16) consultations (0,12) suggestions (0,11) discussion (0,10) hear (0,10) comments (0,10)	moderator (0,14) national level (0,07)
Class 4 20%	*Interpretative* (ways of understanding conflict and obstacles to post-conflict justice)	years (0,24) croatia (0,18) war (0,18) bosnia (0,17) kosovo (0,17) croatia (0,15) herzegovina (0,15) slovenia (0,12) serb (0,12) people (0,12) republic (0,10)	national level (0,19) discussant (0,18)
Class 5 16%	*Reconciliatory* (emphasis on confronting the violent past for the sake of victims, peace and justice)	past (0,19) society (0,16) process (0,14) people (0,13) future (0,13) youth (0,12) responsibility (0,12) stories (0,12) journalists (0,12) initiative (0,12) victims (0,12)	national level (0,04)

In sum, at the thematic level, the two sets of consultations have three overlapping themes: *procedural*, *explanatory*, and *interpretative*. Minor differences concern the level of specificity in *procedural* and *explanatory* classes in line with the contentious consultations' focus on the specific provisions of the draft Statute. The *interpretative class* in both corpora brings out the importance of the ethnic dimension, as participants articulate their experience of violence and identify obstacles to justice. The distinguishing theme in the non-contentious corpus is the *reflective* theme, which is about consideration of the most appropriate ways to address the legacy of mass atrocity in keeping with the opinion-gathering nature of these consultations. Counterintuitively, we find that the contentious consultations have both an *argumentative* and a *reconciliatory* theme. The *argumentative* class demonstrates participants' focus on finding best possible solutions for the Statute, concentrating on weighing their strengths and weaknesses, despite ethnic divisions. The *reconciliatory* class is unexpected, in view of participants' different identities, values and perspectives, and, especially, in view of scholarly arguments that the contestation of the norm of transitional justice undermines reconciliation. In the next section, we examine the relevance of assigned variables to explain these themes.

Explaining the themes: the relevance of the level of consultations

In order to establish how norm contestation unfolds, we turn our attention to the comparative analysis of the *interpretative* class, which points to the prominence of ethnic identity as a filter for comprehending both the violent past and challenges of addressing it. This class exists both in the non-contentious and in the contentious corpus, and is

associated with discussants who come from different ethnic groups and hold diverse views.

We observe a change in the association of the level of consultations variable for this theme.

In the non-contentious corpus, the *interpretative* class is associated with the regional level,

where, as opposed to the national and local level, they resort to ethnically-centered

arguments. Although we might expect that this pattern of discourse will also remain at the

regional level in the contentious consultations because of the diversity of ethnic

perspectives, this is not the case: the *interpretative* class is associated with the national

level. At the same time, the *argumentative* class, which is unique to contentious

consultations, and which reflects participants' sustained focus on finding viable solutions for

addressing the legacy of mass atrocity acceptable to all, is associated with the regional level.

The size of the *argumentative* class (the biggest of all classes), and the comparative strength

of its association with the regional level, indicates the pattern of discourse conducive to

inter-ethnic accommodation at the regional level despite norm contestation. With its focus

on victims, the *reconciliatory* class in the contentious corpus is only weakly associated with

the national level. Nonetheless, its emergence in this corpus demonstrates how potentially

divisive dynamics of ethnic framing at this level can be countered. It provides additional

evidence that norm contestation, which is underpinned by ethnic divisions, is not

incompatible with reconciliation, understood as reconciliatory discourse.

Conclusion

By turning to the early stage in the life cycle of norms, this paper has found that

contestation over the norm of post-conflict justice within a transnational advocacy network

does not prevent reconciliatory communication that can mitigate a divisive impact of ethnically-centered perspectives. In line with sociological theorizing of norms, we focused on contestation of various aspects of a norm. Empirically, the contestation focused on specific provisions of the draft Statute of a regional fact-finding commission in the Balkans. Comparing contentious and non-contentious consultations, we found that reconciliatory discourse that acknowledges victims without reference to their ethnicity is possible despite norm contestation, and emerges in contentious consultations.

The notion of "shared intention" can help us understand this counterintuitive finding: it is "an attitude of mind directed at some particular goal or purpose" and is key to overcoming conflict in divided societies (O'Flynn's 2017, 191). "Shared intention" is conditional on the "commitment on the part of each of the individuals involved to 'mesh' their different sub-plans into a single coherent plan of action" (Bratman 1993, 105-107 in Ibid.). Our findings, based on the analysis of different themes in a transitional justice discourse, suggest that the commitment of participants in the debates to the operationalization of the norm of post-conflict justice plays a role in countering potentially negative dynamics of contestation.

Our research has sought to understand how inter-ethnic accommodation can be attained through debating how to address the violent past. Specifically, it has sought to reveal how a potentially divisive consequences of different ethnic identities, values and political constraints can be overcome inside a transnational advocacy network. This work did not address the issue of norm diffusion beyond the network. In the RECOM's case, much work remains to be done to understand why the targets of its advocacy -- the states of former Yugoslavia states -- have remained impervious to its aspirations.

Our findings provide pointers for future work in the field of transitional justice, which concerns the relevance of the spatial scale of justice-seeking and the evaluation of the impact of transitional justice. Firstly, we identify different patterns of transitional justice discourse at different spatial scales (regional, national, or local), which require further theoretical and empirical investigation (Kostovicova 2017). Secondly, our findings also call for rethinking of how we assess the impact of transitional justice. This is an important but little-studied area in the field (Bonacker and Buckley-Zistel 2013, 6). We demonstrate that it ought to capture process-related forms of impact, as well as 'sideways' effects of transitional justice-seeking (sentence segments provide evidence of interaction among participants on the side-lines of RECOM's formal consultations, with a likely impact on norm socialization). Such assessment would better align with a non-linear nature of transitional justice as a process. But above all, it would refine our understanding of its impact beyond what may turn out to be a reductionist focus on pre-defined goals and expectations of justice-seeking.

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Notes

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

[2] Transcripts in Albanian, Macedonian, and Slovenian are available in Bosnian-Croatian-Serbian.

[3] By Denisa Kostovicova with some research assistance.

[4] For descriptive statistics of the analyzed consultations, see Table 1 and Table 3, and of the RECOM corpus, see Table 4 in the Supplementary Material.

[5] See Table 2 in the Supplementary Material.

[6] See Table 3 in the Supplementary Material.

[7] Alceste stands for *Analyse des Lexèmes Co-occurents dans les Énnoncés Simples d'un texte* [Analysis of the co-occurring lexemes within the simple statements of a text].

[8] Schonhard-Bailey (2008, Appendix 1) provides a detailed account of the "Alceste methodology."

[9] The Phi coefficient allows the comparison of variables of interest in the two analyzed corpora as it factors out sample size, and hence sample specificity (Vallès 2014, 129-132).

[10] One ECU illustrates each class, but additional illustrations are included for key findings (the *interpretative*, *argumentative* and *reconciliatory* classes). See Table 5 and Table 6 in the Supplementary Material, for first ten ECUs for each class.

[11] The name is anonymized for ethical reasons.

Supplementary material is available on request from the authors.