DECONSTRUCTION OF ‘SCIENTIFICALLY BASED INJUSTICES’: ABOUT POST-WAR TRAUMATIZED POPULATIONS OF ‘SPOILERS’ IN CROATIA

Dekonstrukcija ‘znanstveno utemeljenih nepravdi’: o poslijeratnim traumatiziranim populacijama ‘kvaritelja’ u Hrvatskoj

ABSTRACT: Contemporary Croatian social reality is determined by the epistemological and policy frameworks developed to understand and care for the post-war Yugoslav ‘traumatized citizens.’ Knowledge produced in that respect exerts powerful influence on citizen’s lives thus subjecting them to detrimental effects of scientifically designed conceptual frameworks and discursive practices of conducted research (Hass, 2001). So far, researched ‘transitional life’ in post-communist/post-war Croatia is rooted in ‘knowledge power structures’ meticulously developed inside transitional justice academic and policy works on former Yugoslav societies enabling continuous production of ‘scientifically based injustices’ (De Genova et al, 2016). Therefore, the main objective in this paper is to examine knowledge production about Croatian ‘transitional society’ and ‘traumatized populations’ and how its discursive construction of the new ‘Other’ – ‘spoilers’ (Fisher, 2011) is scientifically rooted in ‘transitional justice’ policy application (Leebaw, 2005). Thereby, a selection of transitional justice scholarly works on Croatia and the Western Balkans along with documents produced by the international organizations/institutions in the period 1997–2017 are studied. Foucauldian discourse analysis (Klos-Czerowinska, 2015) coupled with his (2003, 2007) and Agamben’s (1998, 2005) understanding of the post-modern European society are used to ‘deconstruct’ (Janks, 2005) ‘scientifically based injustices’ produced about post-war traumatized populations of ‘spoilers’ in Croatia.

KEY WORDS: scientifically based injustices, traumatized populations, Croatia, ‘spoilers’

SAŽETAK: Društvenu stvarnost suvremene Hrvatske određuju epistemološki okvir i okvirne politike koje su razvijene kako bi se razumjelo i brinulo o poslijeratnim jugoslovenskim traumatiziranim građanima. Znanje koje je proizvedeno u tu svrhu
snažno utječe na život građana podređujući ih odlučujućem utjecaju znanstveno kreiranih konceptualnih okvira i praksi provedenih istraživanja (Hass, 2001). Sve do danas proučavani je ‘tranzicijski život’ post-komunističke/poslijeratne Hrvatske ukorijenjen u ‘moćne strukture znanja’ precizno razvijenih kroz akademske i ‘policy’ radove tranzicijske pravde o društvima bivše Jugoslavije, omogućujući na taj način kontinuiranu prizvodnju ‘znanstveno utemeljenih nepravdi’ (De Genova et al, 2016). Stoga je, primarni cilj ovoga rada istražiti proizvodnju znanja o hrvatskom ‘tranzicijskom društvu’ i ‘traumatiziranim populacijama’, te utvrditi kako su putem diskursa konstruirani ‘kvaritelji’ – ti ‘novi Drugi’ (Fisher, 2011) znanstveno ukorijenjeni u primijenjene politike ‘tranzicijske pravde’ (Leebaw, 2005). Prema tome, proučeni su odabrani znanstveni radovi o tranzicijskoj pravdi u Hrvatskoj i Zapadnom Balkanu zajedno s dokumentima koje su proizvele međunarodne organizacije/institucije u razdoblju 1997.-2017. godine. Foucaultovska analiza diskursa (Klos-Czerowinska, 2015.) koristi se uz njegovo (2003., 2007.) i Agambenovo (1998., 2005.) razumijevanje post-modernoga europskoga društva kako bi se omogućila ‘dekonstrukcija’ (Janks, 2005) ‘znanstveno utemeljenih nepravdi’ proizvedenih o poslijeratnim traumatiziranim populacijama ‘kvaritelja’ u Hrvatskoj.

KLJUČNE RIJEČI: znanstveno utemeljene nepravde, traumatizirane populacije, Hrvatska, ‘kvaritelji’.

Introduction

Since the 1991 wars of Yugoslav disintegration, Croatian people and the new nation-state have been extensively researched, analyzed, debated and questioned inside various public discourses developed to enhance the understanding of numerous issues contemporary Europe was unprepared to confront when faced with complexity of violence, history, emotions and memory (Cvikić, 2012). According to the new modernization theory, democratization process is manageable through social engineering of political change (Gilman, 2003; Latham, 2000; Rostow, 1990). In Croatian case the post-conflict/post-communist democratization process therefore is managed through specific strategies and choices made by respective socio-political elites. Namely, all Croatian governments so far have had on their disposal means to skip the painstaking stages of socio-economic transformation that could last decades, thereby safely steering traumatized society into the EU project-oriented development – time-framed in sequences and prone to constant re-adjustment and ad hoc solutions (Arthur, 2009: 338). Trapped in the perpetual motion of never-ending transition to yet unknown destination Croatian nation is thereby reduced and fragmented to populations with individualized interests and rights, guided and instructed inside normative efforts to ‘civilize’ their new mode of being according to the internationally sponsored ‘self-managed life-politics’ (Bauman, 2006) of transitional justice.2 So

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2 According to the UN’s definition, ‘transitional justice’, as an approach entails a full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation, while at the same time it represents the UN’s framework for strengthening
far, the ‘socially dead’ (Card, 2003) Croatian populations same as those in the Western Balkans\(^3\) are forced to develop a ‘healthy addiction’ to individualized human rights and freedoms that promise independent trouble-free life, pending their unconditional surrender to the ‘intellectual gymnastics and legislated reason’ ( Cvikić and Živić, 2016) of the self-professed TJ ‘academic entrepreneurs’ and policy makers (Franzoni and Lissoni, 2009). This paper therefore argues, that deeply impregnated by the condescending attitudes of the international plethora of ‘know it all’ politicians, technocrats, activists, NGOs, scholars, experts, policy and opinion makers, TJ discourse perpetrates sophisticated violence potentially more destructive than the one experienced in the war (Cvikić and Živić, 2016; Sharp, 2013). Comfortably situated in the position to ‘judge,’ ‘study,’ ‘evaluate,’ ‘analyze,’ ‘advice,’ ‘support,’ ‘educate,’ ‘instruct,’ ‘manage,’ ‘discipline,’ ‘reward or punish,’ the entrepreneurial ‘know it all’ policy makers, scholars, humanitarians, peacekeepers, philanthropists and ‘the good will’ activists are unaware of the bias they instigate through TJ discourse they actively help to produce. It has become evident so far that Croatia’s traumatized communities belong to a new category of ‘the Other,’ of those maladjusted and dysfunctional traumatized post-war populations in need of support and assistance, rendered impotent and unable to help themselves.\(^4\) Thereby, they are researched and analyzed in order to become ‘civilized’ (Cvikić and Živić, 2016) and ‘fixed’ (Nagy, 2008) in the framework of acceptability prescribed by the numerous scientific/expert/policy papers, reports, articles, books, briefs, manuals, tool-kits and tool-boxes of ready-made solutions.\(^5\) Furthermore, they are socially reconstructed (Berger and Luckmann, 1966) to neatly fit a ‘ready-made’ universally acceptable normative solutions\(^6\) prescribed by those who know what is best for them and how and what they should choose as their new ‘peaceful mode of being.’ Perceived danger that Croatia’s traumatized communities represent for the increasingly interconnected global community is however, based on the assumption that what they are and what they have become could easily relapse into madness of violence and uncontrollable emotions (Kofi Annan, 2005; Stedman, 1997).\(^7\)

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\(^3\) In this paper the Western Balkans is considered to include following countries: Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina and Kosovo, as defined by the EU.

\(^4\) Based on the research findings presented at the “Trauma and Nightmare” International Interdisciplinary Conference, University of Gdańsk, Gdańsk, Poland 1–2 March 2018, by Sandra Cvikić – Suspended Ability and Unsustainable Life of Meaning in Traumatized Society in Vukovar.

\(^5\) Based on the research findings presented at the VII. National Congress: “Social Cohesion in the Society of Polarization, Conflict and Inequality” organized by the Croatian Sociological Association in Zagreb (April 11–12, 2019) by Sandra Cvikić in her paper titled: Transitional Justice and Social Cohesion – City of Vukovar Case Study.

\(^6\) Such as, for instance the EU Commission’s Staff Working Document “Tool-Box A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation” (Brussels, 30.4.2014. SWD (2014) 152 final).

\(^7\) Document: In Larger Freedom: Decision Time at the UN by Kofi Annan, From Foreign Affairs, 2005.
Contemporary TJ scholarly discourse has already developed what Michael Dillon calls “complex power/knowledge discourse of microphysically organized regimes of truth” (2007, pg. 42). Croatia’s traumatized communities are therefore, treated inside ‘TJ organized regimes of truth’ as populations with too much memory (Clark, 2013). They are inherently problematic – “spoilers” (Stedman, 2000) who resist those TJ notions of justice, peace, truth and reconciliation. According to Stephen J. Stedman, concept he coined – ‘spoilers’ – refers to “leaders and parties who believe that peace emerging from negotiations threatens their power, worldview and interests, [therefore they] use violence to undermine attempts to achieve it” (1997: 5). Even though his key work *Spoiler Problems in Peace Processes* (1997) since it was published has undergone critical scholarly examination, most prominently by Marie-Joëlle Zahar (2008) and Feargal Cochrane (2008); the concept itself, nonetheless, has found its practical use in TJ scholarly works (Fisher, 2011; Subotić, 2014) thus extending the scope of initial definition to cover whole populations, such as those in Croatia. Human rights incorporated into the foundations of the TJ politics and policies are therefore, selectively applicable pending how those ‘problematic’ populations are depicted in related scholarly/ expert discourse, since what TJ knowledge discourse propagates is detrimental in establishing ‘factual truth’ for ‘spoilers’ who are themselves (presumably) unable or unwilling to do so (Nagy, 2008; Subotić, 2014).

Therefore, utilizing a Foucauldian lens (methodological and theoretical) to analyze new power relations and/or the reinforcement of existing power relations inside TJ scholarly discourse that developed over the last twenty years, this paper introduces a ‘radical shift’ into the study of its knowledge production and impact it has on post-communist / post-war traumatized populations in Croatia and the Western Balkans. In this paper the main objective is to examine knowledge production about post-communist/post-war Yugoslav ‘transitional societies’ and ‘traumatized populations’ and how its discursive construction of the new ‘Other’ – ‘spoilers’ is scientifically rooted in ‘transitional justice’ policy application (Leebaw, 2005). With this in mind, a selection of scholarly production on TJ policy application in Croatia and the Western Balkans coupled with documents (policy briefs/reports/analysis/papers/manuals and expert papers) produced by

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8 Even though the entire nation has been greatly affected by the violent war, it nonetheless, has had an extreme impact on the post-war communities expelled from the Serb held/occupied Croatian territories, such as Vukovar’s and Knin’s, since those communities were re-traumatized not only by the war events they survived, but what is more important, they were internally displaced or internationally refuged for more then five years; thus upon their return to destroyed homes and cities they were required to reconcile, rebuild trust and peace with their Serb neighbors, who were equally traumatized by the war on their own right.

9 As he mentioned in his article from the year 2000, it refers to those actors who actively seek to either undermine or hinder and delay conflict settlement; namely, leaders and parties who use violence to undermine attempts to achieve a lasting peace (2000).

10 For more information on human rights incorporation into transitional justice politics and policies see: *The Chicago Principles on Post-Conflict Justice* by Mahmoud Bassiouni and Daniel Rothenberg (2007).

11 For more information on how one is to approach in their TJ research post-conflict communities and/or societies see: Transitional Justice Building Justice – Transitional Justice Grassroots Toolkit – User’s Guide by Eilish Rooney (2016).
the international organizations/institutions in the period 1997 – 2017 are used. Namely, as a methodological framework, both the detection of statements that function with constitutive effects on post-war traumatized local communities and criticism of ‘Foucauldian’ discourse analysis are used to investigate on one hand, the role of power in TJ knowledge production by scholars/experts; on the other hand, the power relations they develop as researchers sponsored by various stakeholders (universities, international organizations/institutions, governments). Therefore, power is nested in TJ scholarly discourse knowledge production, as well as influence this knowledge exerts on post-war traumatized communities through creation of new power relations. Thereby, this paper begins with the review of the 4th generation of TJ scholars, along with the survey of TJ scholarly/expert discourse produced about Croatia and the Western Balkans, for the period 1997 – 2017 as a data resource. Next, a critical sociological frame of reference is developed – Foucauldian discourse analysis (Klos-Czerowinska, 2015) coupled with his (2003, 2007) and Agamben’s (1998, 2005) understanding of the post-modern European society to deconstruct (Janks, 2005) ‘scientifically based injustices’ produced about post-war traumatized populations of ‘spoilers’ in Croatia. Further on, research findings are debated providing insight into how power relations are developed between ‘TJ policies’ implemented on the societal level in Croatia and how sophisticated ‘TJ knowledge’ produced and reproduced by the scholarly/expert discourse. The paper in its conclusion indicates that contemporary TJ scholarly/expert’s powerful ‘rhetorical practice’ is free of any responsibility for the impact their produced knowledge has on Croatian traumatized communities labelled now as the ‘new Other’ – ‘spoilers’.

**Probing the criticism of the 4th generation of TJ scholars**

To engage with the TJ theory through critical lens of the 4th generation of scholars requires a rigorous attempt to uncover the underline reasons behind their efforts to understand field’s power-relations inside Western’s globalized neoliberal demands for security and peace (Bowsher, 2018; Sharp, 2013). From Neil J. Kritz’s edited volumes on aspects of TJ in 1995 and Ruti G. Teitel’s article...

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12 Since most of the available works to the author were published in that period.
13 Namely, his notions of ‘knowledge power’, ‘bio-power’ and ‘biopolitics’, ‘securitization’ and ‘governmentalism’.
14 Since most of the contemporary scholars are nowadays familiar with the works of Foucault and Agamben (and those of Berger and Luckmann), this paper will not provide an overview of their developed theoretical and methodological frameworks. Instead those will be employed in more detail in the overall discussion and analysis of collected data on TJ knowledge discourse and scholarly production.
15 For more information on how Western power-politics on global security and peace are developed and implemented see: The International Commission on Intervention and State Sovereignty, The Responsibility to Protect (2001); The U.N. Secretary-General, Report of the High-level Panel on Threats, Challenges and Change (2004).
16 Transitional Justice. How Emerging Democracies Reckon with Former Regimes. Volume I: General Considerations; Transitional Justice.; Volume II: Country Studies; and Transitional Justice; and Volume III: Laws, Rulings, and Reports – all published in 1995.
on TJ genealogy published in 2003, TJ theory has developed its unique mode of scholarly field producing new ‘epistemic community’ (van Dijk, 2003) of TJ experts/scholars, thus propagating powerful knowledge discourse. From the onset of the established novel hybrid socio-political, legal and moral TJ ‘epistemic criteria’ (van Dijk, 2003) respective scholarlyexpert field has managed to develop a ‘master narrative’ that instigates conceptual ambiguity of the grounding TJ definitions (De Fina and Georgakopoulou, 2012, pg. 142). Nonetheless, this has not prevented its global legal and normative application, since the basic TJ’s theoretical premises are incorporated into state policies to legitimize not only political, but more importantly, legal and moral roots of individualized human rights laws and norms perceived to be universal solutions to the ills of contemporary radical political change (historic human rights violations and political state violence). The surge in TJ project and research activities since the early 1980s and 1990s has generated predominantly theoretical deliberations on judicial and legal mechanisms of justice and human rights laws and norms related to newly democratized or democratizing states. Since then those scholarly/ expert efforts have transformed TJ initiatives into ‘pragmatic compromises’ used and misused in the times of political flux and/or violent armed conflict (Teitel, 2003). Incorporation of TJ knowledge discourse through practical application in globally developed TJ policies and politics however has helped on one hand, to standardize and normalize the response (international/national/local) to post-conflict atrocities through TJ means. On the other hand, it has mainstreamed every socio-political and legal efforts to manage the violent conflict and post-conflict societies firmly fixing the existence of entire populations inside paradoxical ‘transitional mode of being’ As indicated by Nagy (2008) and Sharp (2013) “the question is not whether to conduct some form of transitional justice, but what the scope, modalities, and sequencing might be” (Sharp, 2013, pg. 155–156), because TJ knowledge discourse is now detrimental for policy making on all governing authority/institutional levels (global, national, regional, local) since it aims to secure global peace. The scope of TJ activities has extended beyond its scholarly/expert and policy/politics field of work into graciously financed NGO sector becoming industry in its own right (Sharp, 2013, pg. 156). As it increasingly mainstreams and affects the international policymaking and agency, it also brings to the foreground a critical move from essentially legal and political context of TJ policy development and implementation towards core issues and dilemmas related to the already established field challenging its own ‘blind sports’ and ‘biases’ (McEvoy, 2007; McEvoy and McConnachie, 2013; Sharp, 2013).

The 4th generation of TJ scholars and experts although still in the outer rims of the contemporary TJ deliberations however challenge alongside concerns of their previous respective counterparts the supremacy of TJ privileged issues focused on civil and political rights, the state and the individual, the legal and

17 As it is evident from the UN document UN Secretary Council S/2004/616. The rule of law and transitional justice in conflict and post-conflict societies. Report of the Secretary-General (2004).

18 For detailed information on four generations of TJ scholars see Dustin Sharp’s article Interrogating the Peripheries: The Preoccupations of Fourth Generation Transitional Justice.
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... technocratic, and international rules and standards (Sharp, 2013). Even though they now question and emphasize new issues inside TJ knowledge discourse\(^{19}\), the 4\(^{th}\) generation of TJ scholars and experts does not concern itself however with the core ethical issues pertaining to the role they play in the social construction of TJ knowledge discourse used and misused to legitimize TJ politics and policies as political projects. Namely, one can argue, that even though they critically assess and question the ‘blind spots’ of the mainstream TJ knowledge discourse, they do not challenge and question the fundamental values and morals implicated by the production of new ‘factual truths’– on the level of theory and policy and practical implementation. Especially when this newly produced knowledge has detrimental impact on post-conflict lives of traumatized societies, communities, groups and individuals. After close reading of Dustin Sharp’s (2013) analysis of TJ 4\(^{th}\) generation’s knowledge production related to the preoccupations of their scholarly interrogations\(^{20}\), one could argue that there are still areas demanding new research and scholarly preoccupation investigating following:

- power relations inside TJ knowledge production and its policy implementation, as well as it ambiguous theoretical and methodological framework;
- creation and maintenance of such power inherent in the knowledge production, distribution and implementation with respect to the ‘sophisticated violence’ it exerts on local post-war traumatized populations;
- supremacy, superiority and infallibility of such knowledge when faced with ‘local resistance’ and its practical application on traumatized post-war populations;
- how can one develop innovative theoretical and methodological scientific frameworks empowering and entrusting the lead role to the local/national researchers and experts that can invert the power relations inside TJ knowledge production and balance the power of scientific input of indigenous scientific communities closely related to their traumatized post-war local communities.

Therefore, new approach this paper introduces through critical use of ‘Foucauldian’ discourse analysis is a form of ‘scholarly rebellion’ against established post-modern power/knowledge relationship developed over the last twenty years inside TJ policy, research practice and knowledge discourse; because what TJ knowledge discourse produces is a new ‘Other’ or what Tim Cresswell calls “the post-modern primitive” (Bauman, 2006, pg. 362) – the ‘spoilers’.

\(^{19}\) Namely the economic and social rights, the community and the group rights, the political and contextual issues, and the issue of cultural norms and local practices.

\(^{20}\) Sharp has categorized TJ scholarly interrogations into three areas of preoccupation: 1) scholars who question the notion of TJ as neutral technology; 2) scholars who question the balance between the ‘local’ and the ‘international’; and 3) scholars who question the place of economic violence and economic justice.
TJ knowledge production as a data resource

An initial attempt at studying those ‘post-modern primitives’ – the ‘spoilers’ of Croatia as ‘traumatized populations’ inside TJ and human rights policies/politics implementation in the period 1997 – 2012 was made by the author of this paper in 2015 (Cvikić and Živić, 2016). Namely, to engage into scholarly investigation from a different standpoint – a post-modernist point of view – she contends that one is to accept from the onset of one’s research that there is no ‘objective’ social sciences that is ‘value’ (Denzin and Lincoln, 1998) and ‘interest’ (Charmaz, 2008) free. Therefore, she embraces her ‘subjectivity’ as an integral part of her qualitative sociological research of post-communist/post-war ‘traumatized populations’ she belongs to and lives with since 2001. However, she perceives ‘traumatized populations’ in line with what Foucault (2003, 2007) himself suggested – as research subjects that need no scholarly representative to give them voice in social systems that render their existence and issues marginal; but what is more important, to empower them with knowledge that can bring about change if and when they decide to mobilize their efforts to overcome scientifically induced subjugation, control and management of their lives. Thereby, focusing on micro-societal level of influence, Cvikić extensively researched how developed TJ policy framework in Croatia has impacted Vukovar’s post-war traumatized communities and society in general (Cvikić, Živić and Žanić, 2014; Cvikić and Živić, 2016). As mentioned beforehand, a survey of produced TJ knowledge about local communities in Vukovar, by domestic and international scholars, next to the institutionalized knowledge by various experts and policy analysts/makers on Croatia and the Western Balkans has indicated so far, to what extent developed discourse is in need of a new and invigorating methodological and theoretical framework that would best suit critical investigation of the new ‘Other’ – the ‘spoilers’– TJ scholars, surprisingly, helped to create (Cvikić and Živić, 2016). Therefore, as a data resource TJ knowledge discourse produced by domestic and/or international scholars (articles, books) and expert and policy

21 In order to overcome limitations of this paper and provide a workable framework to critically analyze surveyed TJ scholarly discourse – its production and impact on traumatized Croatian post-war communities – a selection is made (out of more than 30 publications – articles and/or books) and those most representative of the issues under the study were used (published in period 1997 – 2017). The list includes: Jelena Subotić (2014) Chapter 6 Bargaining Justice A theory of transitional justice compliance; Jelena Subotic (2011) Europe is a State of Mind: Identity and Europeanization in the Balkans, Jelena Subotic (2011) Expending the scope of post-conflict justice: Individual, state and societal responsibility for mass atrocity, Jelena Subotic (2013) Remembrance, Public Narratives, and Obstacles to Justice in the Western Balkans, Jelena Subotic (2005) Hijacked Justice: Domestic Appropriation of International Norms, Jelena Subotic (2013) Stories States Tell: Identity, Narrative, and Human Rights in the Balkans, Arnaud Kurze (2012) Democratizing Justice in the Post-Conflict Balkans: the Dilemma of Domestic Human Rights Activists, Denisa Kostovicova (2016) Regional Approach to Transitional Justice: Testing the RECOM initiative in the Balkans, Ivor Sokolić (2016) Sources of information on transitional justice in Croatia, Tamara Banjeglav (2012) Conflicting Memories, Competing Narratives and Contested Histories in Croatia’s Post-war Commemorative Practices, Janine Natalya Clark (2013) Reconciliation through Remembrance? War Memorials and the Victims of Vukovar, Janine Natalya Clark (2011) Peace, Justice and the International Criminal Court. Limitations and Possibilities, Renata Schellenberg (2015) Politics and Remembrance in Post-War Vukovar, Martina Fischer
and Olivera Simić ed. (2016) Transitional Justice and Reconciliation: Lessons from the Balkans, Heleen Touquet and Peter Vermeersch (2016) Changing Frames of Reconciliation: The Politics of Peace-Building in the Former Yugoslavia, Gabrielle McIntyre (2011) The International Residual Mechanism and the Legacy of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, Paige Arthur (2016) Notes from the Field: Global Indicators for Transitional Justice and Challenges in Measurement for Policy Actors, Oscar N. T. Thomas, James Ron, and Ronald Paris (2010) State-Level Effects of Transitional Justice: What do We Know?, Gunnar Theissen (2004) Supporting Justice, Co-existence and Reconciliation after Armed Conflict: Strategies for Dealing with the Past, Natascha Zupan (2006) Facing the Past and Transitional Justice in Countries of Former Yugoslavia, Iavor Rangelov (2006) EU conditionality and transitional justice in the former Yugoslavia, Ivor Rangelov (2015) Working Paper: Civil Society and Transitional Justice in the Balkans: Three Models of Interaction (Security in Transition: an interdisciplinary investigation into the security gap, LSE International Development), Iavor Rangelov, Marika Theros and Nataša Kandić (2016) EU Approaches to Justice in Conflict and Transition. Paper commissioned by the Human Security Study Group (Security in transition: an interdisciplinary investigation into the security gap, LSE International Development), Ivor Sokolić (2017) Heroes, Courts and Normative Clashes: the effects of transitional justice on norms and narratives in Croatia (University College London, Thesis submitted for the degree of Doctor of Philosophy in Political Science), Mateja Carević (2017) Deconstructing Transitional Justice in Croatia: Understanding Peacebuilding Developments in the Context of Conflicting Discourses and Competing Truths (A Thesis submitted to the Faculty of Graduate Studies of The University of Manitoba, Masters of Arts, Department of Sociology, University of Manitoba), Ivana Franović (2008) Deconstructing Transitional Justice in Croatia: Understanding Peacebuilding Developments in the Context of Conflicting Discourses and Competing Truths (A Thesis submitted to the Faculty of Graduate Studies of The University of Manitoba, Masters of Arts, Department of Sociology, University of Manitoba), Ivana Franović (2008) Dealing with the Past in the Context of Ethnonationalism The Case of Bosnia-Herzegovina, Croatia and Serbia, Ioannis Armakolas and Eleni Vossou (2008) UNISCI Discussion Papers, No 18 – Transitional Justice in Practice: the international criminal tribunal for the former Yugoslavia and Beyond, Judy Batt, Vojin Dimitrijević, Florence Hartmann, Dejan Jović, Tija Memisević and Jelena Obradović-Wochnik (2009) War crimes, conditionality and EU integration in the Western Balkans (Challott Paper no 116), Christopher K. Lamont (2010): Scholar Research Brief: International Criminal Justice and the Politics of Transition in Croatia (IREX), Helena Rill, Tamara Šmidling, Ana Bitoljanu ed. (2007) 20 Pieces of encouragement for awakening and change. Peacebuilding in the Region of the Former Yugoslavia (Centre for Nonviolent Action Belgrade-Sarajevo), Sabrina P. Ramet and Davorka Matić ed. (2007) Democratic Transition in Croatia. Value Transformation, Education and Media, Olivera Simić and Zala Volčić (2013) Transitional Justice and Civil Society in Balkans.

More than 20 documents were available to the author and the list includes: 1) Global Development Studies. Expert Group on Development Issues (EGDI) Secretariat. Ministry of Foreign Affairs. Government of Sweden. Development Financing 2000, 2) Francisco Sagasti et.al. (2004) The Future of Development Financing: Challenges, Scenarios and Strategic Choices. Institute of Development Studies Sussex, 3) Thomas Fues, Li Dongyan and Martina Vatterdot (German Development Institute, Bonn; Chinese Academy of Social Sciences, Beijing): The role of the UN in the global development architecture: Steps towards greater coherence. Paper presented to the Annual Meeting 2007 of the Academic Council of the UN System (ACUNS), June 6–8, 2007, New York City, 4) Laura Davis (2014) The European Union and Transitional Justice, 5) The EU’s Policy Framework on support to transitional justice (2015), 6) Council of the EU. Outcome of Proceedings. Council Conclusions on the Action Plan on Human Rights and Democracy 2015 – 2019 (2015), 7) International centre for Transitional Justice. Centre for Humanitarian Dialogue. February 2009 Report. Priscilla Hayner: Negotiating justice: Guidance for mediators (2009), 8) UN Rule of Law Indicators. Implementation Guide and Project Tools. 1st Edition (2011), 9) EU Externa Action. European Commission. Guidance note on the use of Conflict Analysis in support of EU external action (2013), 10) UNDP Empowered lives. Resilient nations. Why, What and How to Measure? A User’s Guide to Measuring Rule of Law, Justice and Security Programmes (2014), 11) David Bloomfield (2006) On Good Terms: Clarifying Reconciliation (Handbook), 12) Open Society Justice Initiative. Open Society Foundations. International Crimes, Local Justice. A Handbook for Rule-of-Law Policymakers, Donors, and
papers) related to Croatia and the Western Balkans in the period 1997 – 2017 were used to enable Foucauldian discourse analysis as “a fallibilistic analytic strategy” (Seale, 1999, pg. 73).

‘Foucauldian’ frame of reference

Even though there is a very real danger of one’s work being credited as a futile attempt to conduct credible academic research; the utility of a postmodernist Foucauldian type of scholarly investigation nonetheless offers alternative venue to develop new methodological and theoretical frameworks that can challenge contemporary mainstream neoliberal ‘evidence-based’ scholarly knowledge production (Ollsen and Peters, 2005; Davis, 2005; Moore et. al, 2011); and/or empower traumatized communities in desperate need of self-representation. Radical ‘left’ or ‘right’ political appropriations of the poststructuralist/post-
modernist TJ scholarly attempts to interpret ‘spoilers’ social realities of the last twenty years have developed sensibility towards theoretical and methodological ‘pragmatic compromises’ introduced through ‘purpose built vocabulary’ produced and reproduced for the sake of ‘objective’ and ‘factual’ scientific truth. Such TJ ‘truths’ have therefore properties that can accommodate the complexity, uncertainty and doubt posed by the post-modern society where reflexivity about scholarly/expert production and its claims to knowledge/power are rarely questioned (Bell, 2009). TJ knowledge discourse’s claims to ‘factual truth’ therefore ‘can itself be seen as a powerful rhetorical practice’ (Edwards and Nicoll, 2001, pg.105) in line with what poststructuralists argue. According to Humes and Bryce, the poststructuralists have developed sensibility to objectivity and truth questioning its conceptual clarity and meaning beyond interpretation arguing that scientific claims to ‘truth’ and ‘objectivity’ are illusory and “a misguided undertaking” (2003, pg.180). Namely, ‘Foucauldian’ frame of reference in this paper endeavors to avoid the substitution of established TJ ‘truths’ with another. It recognizes that contrary to poststructuralist standing, those TJ ‘factual truths’ about Croatian post-conflict traumatized society and communities developed inside TJ knowledge discourse have indeed established itself as ‘universal truths’ with ‘absolute ethical positions’ and ‘belief in social engineering of change deemed detached, objective and a-historical. Therefore, Foucauldian criticism is applied to problematize those already established TJ ‘factual truths’ to avoid on one hand, the temptations of relativism introduced by multiplicity of perspectives; and on the other hand, to question ‘truth’ as a contingent subject under constant scrutiny of social sciences. With the application of a Foucauldian lens to analyze new power/knowledge relations and/or the reinforcement of the existing inside TJ scholarly discourse, the ‘truth’ is treated as a ‘construction’ that is in constant change, while its contingency appropriations and misappropriationsthereby are established by the TJ ‘purpose built vocabulary’. What it means is that in this paper ‘contingency’ is a “profoundly ethical standpoint and reluctance to prescribe method reflects, not that ‘anything goes,’ but” what it indicates isauthors’ “characteristic reticence” towards claims made by TJ scholars/ experts of having an upper hand on ‘factual truth’ and ‘scientific’, ‘objective’ and ‘precise’ methodology in the study of post-communist/post-conflict society in Croatia (Graham, 2011, pg. 667). Therefore, ‘Foucauldian’ frame of reference used in this paper is not a prescribed scientific method thus lenient more towards a developed methodological guideline23 that is clear about its objectives, its limits and above all what is being done inside critical TJ knowledge discourse analysis. In line with Foucauldian notion of discourse (1981), the developed frameworkis thereby, based on the critical analysis of TJ ‘statements’ inside TJ knowledge discourse and its impact on the CroatianTJ policy development and implementation on the societal level. The focus is on what this type of knowledge does, rather than what constitutes the underlining ‘subtext’ inside TJ knowledge discourse production; and “why is it that certain statements emerged to the exclusion of all others and what function they serve” (Graham, 2011, pg.667). Thereby, the objective is to “explicate statements that function to place a discursive frame around a particular” TJ positions; namely, statements that are

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23 Readers are advised to consult developed analytical framework in Cvikić et al. (2018).
socially constructed through TJ ‘purpose built vocabulary’ and further on “form rhetorical constructions that present a particular reading of social texts” in this case scholarly/expert text on TJ post-communist/post-conflict Croatian and the Western Balkans societies (Graham, 2011, pg.667). More importantly, statement analysis indicate how newly established power/knowledge relations inside TJ scholarly/expert knowledge discourse production on post-communist/post-conflict societies has prepared the ground for the practice that derive from them (Foucault, 1981). Since both, discourse and knowledge are very complex phenomena researched extensively by various disciplines of the humanities and social sciences, in this paper ‘knowledge’ as a concept is used based on how van Dijk defines it. According to him, ‘knowledge’ are “the consensual beliefs of an epistemic community” where the concept of ‘truth’ is “a property of assertion” (2003, pg. 85). In the context of TJ policy and politics developed and implemented in Croatia and the Western Balkans, the knowledge produced inside scholarly and expert discourses is therefore studied through ‘situated texts’ that may be ‘true or false’ pending how Western notions of liberal democracy and human rights as beliefs are expressed and asserted to correspond to the established facts about traumatized communities. According to van Dijk, “beliefs themselves may, or may not, correspond to ‘reality’, but have no truth values unless discursively asserted” (2003, pg. 85). Therefore, to assert itself discursively TJ policies and politics resort to knowledge produced to establish Western liberal democratic and universal human rights beliefs as ‘truth values’; thereby as such they are in this paper challenged since propagated TJ ‘truth values’ do not correspond to the ‘reality’ lived, experienced and remembered by traumatized communities. Thus, leaving out of scope the extensive debate on the relationship between what van Dijk calls ‘epistemic analysis’ and critical discourse analysis, this paper is concerned with “an applied ethics” which “regulates the acquisition, uses and application of knowledge in various forms” of scholarly and expert discourses related to the TJ policy and politics implemented in Croatia (2003, pg. 87). However, constrained by the limits of this paper, both the methodological and theoretical framework implicate a narrow work with the text and ‘purpose built-vocabulary’ (the language of TJ tool-kits/tool-box, handbooks, manuals and user’s guides) produced inside the TJ scholarly and expert discourse.

Description, recognition and classification of the new ‘Other’ – ‘spoilers’

Inside TJ knowledge discourse, Croatian highly traumatized communities, such as Vukovar’s and Knin’s are tried and tested, poked and probed, observed

24 Namely, proposed Foucauldian frame of reference entails three constitutive elements: description, recognition and classification.

25 Analyzed traumatized communities in Croatia relate to those in former occupied – Serb held territories where all non-Serbian population was either expelled or killed during the 1991–1995 war (Nazor, 2016). Thereby, this does not mean that the Serbian national minority in Croatia was also not traumatized. However, the most vulnerable and highly traumatized populations today are war veterans and survivors as indicated by Croatian anthropologist Sanja Špoljar Vržina (Cvikić and Živić, 2016). However, due to extensive Serbian armed
and questioned by the “liberators of their consciousness’ (Clandinin and Connelly in Denzin and Lincoln, 1998).\textsuperscript{26} In their scholarly and expert efforts to examine people’s miseries, trials of memory and trauma, history and violent experiences they, however, produce knowledge without any concern as to how this newly acquired TJ understanding will affect communities in question. Even though TJ knowledge discourse has so far failed to explain and understand the reasons behind ‘spoilers’\textsuperscript{27} behavior and attitudes refusing to accept them the way they are perceived by their respective traumatized communities; assumptions are, however, made and ensured in the manner which superimposes knowledge not based on the analyzed or researched facts about the real impact implemented TJ policy initiatives have on traumatized populations (Macdonald, 2013), but on theoretically developed notions related to human rights, peace-building, conflict-resolution and reconciliation.\textsuperscript{28} Thereby, based on the analyzed TJ scholarly works,\textsuperscript{29} one could infer that TJ knowledge discourse develops trajectories mainstreaming policy solutions, directives, analysis and related papers, briefs, studies and expert opinions\textsuperscript{30} in line with following assumptions that have instigated neo-imperialistic knowledge (Humphrey, 2003; Mbembe, 2003; Moyn, 2014) about the new “Other” – ‘spoilers’:

- Assumption no. 1: the warring parties, both non-Serbian and Serbian in Croatia, are deemed incompetent to deal with the present economic, political and social crisis, thus in need of mandatory supervision and management by competent and knowledgeable international community;
- Assumption no. 2: it is deemed unimportant and irrelevant for the case in question to determine the initial causes of the crises and related war conflict, thus superimposing the financial viability of such efforts in line with the humanitarian rather than conflict prevention actionable strategy;
- Assumption no. 3: it is deemed irrelevant to assign principle responsibility for the armed conflict, thus equally distributing guilt – accountability

aggression, the five-year war has in one way or another affected every citizen living at that time in Croatia, so one could argue that the whole society was traumatized to a various degree – on the individual level and collectively (Cvikić, Živić and Žanić, 2014; Cvikić and Živić, 2016).

\textsuperscript{26} See the list in reference 21.
\textsuperscript{27} Such as, for example, Vukovar’s war survivors and veterans. Namely, during their anti-cyrillic protests in 2013/2014, this population was treated by the socio-political elite and number of scholars as irrational, nationalistic, violent, deeply disturbed and hatefull of Serbian national minority; refusing to comply to newly adapted European values of tolerance and human/ minority rights. Therefore, they neatly fit into Stedmann’s (1997) category of ‘spoilers’.
\textsuperscript{28} As evident from scholarly work on Vukovar’s traumatized population by Ljiljana Šarić and Tatjana Radanović Felberg (2017), Britt Baillie (2012), and Kruno Kardov (2007).
\textsuperscript{29} See the list in reference 21.
\textsuperscript{30} Such as for example Thierry Cruvellier’s and Marta Valina’s report from 2006 on TJ implementation in Croatia, and Martina Fischer’s and Ljubinka Petrović-Ziemer’s Berghof Report No. 18 from 2013 related to dealing with the past in the Western Balkans – initiatives for peacebuilding and TJ in Bosnia-Herzegovina, Serbia and Croatia.
for the eruption of violence instigated by military actions of the failed communist government regime;

– Assumption no. 4: it is imperative to ensure human rights protection for all notwithstanding the complex matrix of inter-ethnic relations burdened by the troubled communist legacy, unresolved national questions and histories of the constituting Yugoslav nations, thus judging the conflict as civil war;

– Assumption no. 5: internationally sponsored responsive package entails actions across domains of diplomacy and humanitarian/human rights assistance, thus favoring political economy of conflict resolution that will restore international security and stability, over the fast-changing dynamic protection needs of endangered populations seeking national sovereignty;

– Assumption no. 6: above all, it is expected that peoples’ emotions, behavior/reactions, thoughts, memories, experiences and identities can be managed, prevented from escalation, once they are contained and safely nested in socially engineered truths of infallible liberal democratic notions of human rights and global justice.31

In their efforts to use objective and professional scientific methodology and theory, as ‘knowledge entrepreneurs’/‘academic entrepreneurs’ (Franzoni and Lissoni, 2009; Madlingozi, 2010; Smirl, 2012) scholars and experts alike, produce TJ discourse about the new “Other” – ‘spoilers’ who are not physically extracted from the environment they belong to, but more disturbingly, they are marked by the symbolic representation by the West through TJ lenses – as someone who is threat to ‘global peace and security’ – a disruptive element (Jones, and Rubli, 2013) to the global neoliberal notions of liberal democracy, market economy and universal human rights (Stedman, 2000). However, what impact developed TJ knowledge has on traumatized post-war Croatian populations is evident from inflation of ‘conflicting rights’ on both sides of the ‘victim-perpetrator spectrum’ that instigates in practice internationally sponsored ‘TJ actionable principles’ and ‘institutionalized advocacy’ to ‘hijack justice’ (Subotić, 2009) and push for ‘social reconstruction’ by means of ‘equal distribution of guilt’ and ‘accountability’; thus obstructing innate ability of ‘spoilers’ to manage and devise their own unique way of recovery, reconciliation and trust building. Paradoxically, TJ knowledge discourse socially constructs this virtual world of universally held beliefs purposely establishing ‘dichotomy of choices’ fixing itself in the position to judge and bestow individual ‘human rights’ on those it perceives less deserving and ignorant pending on how successful they are in readjusting their new ‘mode of being’ in line with the ideals of Western justice, peace and morality. If rendered

31 Most prominent examples are related to Vukovar’s traumatized population in scholarly articles such as: Janine Natalya Clark’s (2013) Reconciliation through Remembrance? War Memorials and the Victims of Vukovar and Renata Schellenberg’s (2015) Politics and Remembrance in Post-War Vukovar (Journal of Balkan and Near Eastern Studies). Both authors suggest that too much memory is not good for the traumatized population in Vukovar rendering them ill-equipped and incompetent to judge what is best for them, how they should remember and how much time they should take to overcome their violent past.
as ‘moral agents’ TJ scholars not only help to socially construct victim’s new mode of being in the category of the new “Other” – ‘spoilers’, but their produced knowledge converges in its conclusion that ‘spoilers’ do not respond well to TJ social learning and normative diffusion process. Labeled as people “without trust, with intergenerational transmission of trauma and grievances, and negative interdependence and polarization” (Cvikić and Živić, 2016: 332) post-war Croatian victims are convincingly categorized and fixed on the negative scale of the TJ framework taxonomy inside ready-made TJ policy packages.\(^3\)\(^2\) However, as it is evident from analyzed policy papers, briefs, and manuals, TJ policy packages did not only enshrine ‘human rights’ into taxonomy of post-conflict recovery and reconciliation framework, but they sharply demarcated space in which victims are paralyzed in ‘existential temporality’ of their new mode of being; thus, rendered impotent to independently respond to positive TJ policy incentives.\(^3\)\(^3\) Croatian ‘spoilers’ are therefore deemed irrational, unmanageable, conservative and primitive, thus danger to the imperative of control that neoliberal notions of political-economy and democracy exert on global security (Tziarras, 2012). Utilized TJ knowledge as ‘developmental tool’in TJ policies and politics therefore inserts a ‘self-discipline mechanism’ that is to provide lasting guarantees to the peace and security in the troubled Western Balkans region. However, in the way ICTY’s rulings and verdicts influence and create post-war social and political realities in respective societies, they also promulgate transitional character of justice and dislocate ‘factual truth’ into the arbitrary political space of a fragile peace in permanent ‘state of emergency’ (Agamben, 2005) that is constantly in need of monitoring and supervision through enhanced ‘securitization’ and ‘governmentalism’ (Foucault, 2003, 2007). In this way, post-Yugoslav Croatian nation is infantilized through liberal notions of international justice and rule of laws it is bluntly confirmed, almost with no exception by surveyed TJ knowledge discourse. Namely, international TJ can deliver protection only and if a person could be legally treated as ‘androgynous’ human being – as ‘bare/naked life’ (Agamben, 1998); while ‘human rights’ can be obtained only and if a person is detached from her/his history, tradition, faith, emotions, memories and nationality. This ‘factual truth’ is missing in all TJ scholarly works under the review in this paper.

**Conclusion – epistemological destabilizing and theoretical questioning**

Therefore, TJ scholarly discourse has enabled a ‘spill-over’ effect that international humanitarian law and TJ justification ‘modus operandi’ have on contemporary understanding of the Yugoslav war conflict and their respective societies on the epistemological level:

\(^3\)\(^2\) Such as one provided by the UNTAES project – Peaceful Reintegration Process of Eastern Slavonini implemented in Croatia– a success story judging from the standpoint of the international community. For additional information see http://www.un.org/Depts/DPKO/Missions/untaes_e.htm . Accessed on July 7, 2017.

\(^3\)\(^3\) See the list provided in reference 22.
- how the knowledge behind the scientific discourse is created based on the ‘factual truths’ established by the ICTY Court and its respective caseloads;
- how the knowledge about the post-conflict justice (transitional justice politics and policies) is incorporated both, into the international humanitarian law discourse and scientific discourse;
- how the expert opinion makers, international and domestic alike, socially reconstruct post-war societies in line with the pre-established notions of Western liberal democratic values of justice and human rights, and establish strong relationship with the political discourse they help to create; and finally
- how the war victims are treated and perceived inside the neo-liberal paradigm of global security and peace.

This ‘factual truth’ somehow is overlooked, without exception, by all surveyed TJ scholarly works, while at the same time, produced discourse is more inclined to impose rather than accept at ‘face value’ what is quite often most obvious in TJ scholarly research related to ‘spoilers’ in Croatia:

- that post-war traumatized populations have right to freely choose how to remember, and what to remember; how to feel and what to think; how to commemorate and morn; and
- above all, they have the right to take as much time as they need to overcome and deal with the traumatic past in the way they choose most suitable for them.

No matter how well intended, TJ efforts to instigate positive developments in social reconstruction of the post-conflict societies of former Yugoslavia fall primary into the category of ‘self-serving bias’ (Brown, 2005). Everyday methods of social repair through the means of TJ advocacy and policy intervention thus have indicated so far how the international power politics have developed a reliable ‘data-driven economy’ (Franzki and Olarte, 2014) of TJ discourse to capitalize on the knowledge gained from the experimental efforts financed through post-conflict reconciliation policies and related scholarly research (Madlingozi, 2010; Franzoni and Lissoni, 2009; Smirl, 2012; Lewis, 2009). Those experimental TJ efforts were expected to overcome diverse competing, subjective irrationalities (Jamar and Chappuis, 2016) of those whose experience is fragmented by explosion of rationalized meaning compartmentalized in taxonomies of TJ categories. In line how Lyotard conceptualizes a “postmodern as incredulity toward metanarratives” (1984, pg. xxiv) this paper has questioned the production of TJ metanarratives (De Fina and Georgakopoulou, 2012, pg. 142) that re-appropriate traumatized population’s lives for the growth of power and legitimation of the knowledge discourse which renders traumatized post-war populations as “temporal disjunctions” inside the language of information quantities (1984, pg.3–4). Thrown into absurdity of the ‘language games’ as a minimum relation required

34 As a general methodological approach proposed by Lyotard elaborating new social relations inside the post-modern world (1984, pg. 15–16).
for Croatian post-war traumatized populations to exist inside the TJ knowledge discourse, this paper has questioned TJ’s real potential to empower the new ‘Other’ – ‘spoilers’ and displace their ‘reactional countermoves’ outside the scope of “explosive communities” (Bauman, 2006, pg. 193).

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