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**Citation:** Kovras, I. (2012). De-linkage processes and grassroots movements in transitional justice. *Cooperation and Conflict*, 47(1), pp. 88-105. doi: 10.1177/0010836711434477

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## **Delinkage processes and grassroots movements in transitional justice**

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**Cooperation and Conflict, 47(1), 88-105**

### **Abstract**

Transitional justice literature has highlighted a negative relationship between enforced disappearances and reconciliation in post-conflict settings. Little attention has been paid to how human rights issues can become stepping stones to reconciliation. The article explains the transformation of the Cypriot Committee on Missing Persons (CMP) from an inoperative body into a successful humanitarian forum, paving the way for the pro-rapprochement bi-communal grassroots mobilization of the relatives of the missing. By juxtaposing the experience of Cyprus with other societies confronting similar problems, the article shows how the issue of the missing can become a driving force for reconciliation. The findings indicate that a policy that delinks humanitarian exhumations from the prospect of a wider political settlement facilitates positive transformation in protracted human rights problems and opens up a window of opportunity to grassroots actors.

**Keywords:** enforced disappearances; Cyprus; transitional justice, missing persons, reconciliation; truth recovery; political exhumations

### **Introduction**

Since the 1970s, the phenomenon of enforced disappearances<sup>1</sup> and the ensuing demand for truth by relatives has become a central feature of societies emerging from conflict or authoritarianism. Although in the 1970s, the practice was primarily confined to Latin American countries, in recent decades it has become an endemic feature of contemporary conflicts (Anderson 2006). By 2011, more than 50,000 cases in 83 countries had been processed by the UN Working Group on Enforced or Involuntary Disappearances (UN 2011:6). Despite this global spread and the focus of transitional justice on the necessity of restoring broken relationships in the aftermath of political violence, the literature has paid insufficient attention to the complex relationship between enforced disappearances and reconciliation (Clark 2010). It is important to focus on the puzzling, yet vital, relationship between enforced disappearances, transitional justice and reconciliation. The more intensified the

practice of disappearances, the more urgent the call for restoration and reconciliation in the aftermath of conflict. At the same time, the very nature of the crime inhibits the prospect of reconciliation initiatives.

But exactly how does the problem of the disappeared/missing affect the prospect of reconciliation in post-conflict settings? Can the demands of the relatives of missing in Lebanon, Georgia (Abkhazia), Kashmir, Sri Lanka and more recently Syria and Lybia, to name only a few, be accommodated without endangering the overarching objectives of a viable political settlement, stability, and democratic consolidation? In a bid to answer these questions, the present analysis examines the transformation of the issue of the missing persons in Cyprus and juxtaposes the Cypriot experience to other similar cases. Briefly stated, the case of Cyprus shows how the management of human rights issues in societies where the conflict remains ‘frozen’ can become the building block of reconciliation.

Despite the absence of a political settlement and the prevalence of nationalist discourses in both communities in Cyprus (Greek-Cypriot and Turkish-Cypriot), a remarkable breakthrough has been achieved in one of the most sensitive issues of the Cyprus problem, namely, the missing persons. Specifically, the Committee on Missing Persons (CMP henceforth), established in 1981 with the primary objective of clarifying the fate of the Greek-Cypriot and Turkish-Cypriot missing, remained inoperative for almost 25 years, but a major breakthrough in 2004 enabled its re-activation. It has since become one of the most successful bi-communal projects on the island. Even more significantly, a bi-communal grassroots association of relatives of the missing, from both sides of the divide, has mobilized to raise consciousness, and its activities are embedded in a broader pro-rapprochement/reconciliation agenda.

In explaining this remarkable transformation in the face of ongoing tensions, the analysis focuses on a pair of delinkages. The decision to delink the issue of missing persons from the prospect of a political settlement was accompanied by a decoupling of humanitarian exhumations from truth recovery, whereby it became possible to exhume the remains of the missing without raising the issue of legal, moral, and political accountability. Furthermore, delinkage allowed civil society to play an important role in reconciliation.

The article begins by reviewing basic argumentation on the relationship between the problem of enforced disappearances and the prospect of reconciliation as found in the literature of transitional justice. It then turns to the Cypriot ‘success story’, focusing on the reactivation of the CMP and the establishment of a bi-communal association of relatives. Finally, it suggests how the effective management of human rights issues, in this case, the missing, can mitigate the levels of suffering and bolster reconciliation in other parts of the world.

### **The Missing Link in Transition Justice**

The *raison d’être* of transitional justice is the restoration of broken social relationships (i.e. reconciliation); in this approach, the demands of victims appear at the top of the academic and policy-making agenda. Even so, the literature has been dominated by a narrow ‘peace v. justice’ debate which has left little space for thinking outside this analytical framework (Rotberg and Thompson 2000; Snyder and Vinjamuri 2004). Little attention has been paid to the complex relationship between the management of specific human rights problems, most notably the missing, and the prospect of reconciliation.

Even those scholars who have tackled the issue see a negative relationship between enforced disappearances and the prospect of reconciliation in post-conflict settings, at both individual and political levels (Clark 2010). It has been argued that at the individual level, unresolved trauma prevents closure (Cretoll and La Rosa 2006:355-362). As long as relatives are distressed by the unknown fate of their loved ones, any reconciliation initiative is doomed to fail because open wounds tend to 'fester' (Kiss 2001:71). Nor can families bury their relatives according to culturally embedded rituals that facilitate the mourning process. In essence, the relatives of missing persons live in a parallel 'trauma time' that inhibits any effort to restore broken relations (Edkins 2002:xiv). It has also been argued that the perpetuation of this situation prevents victims from being able to 'accept and acknowledge the suffering of others' (Clark 2010:432). As long as empathy constitutes a precondition of reconciliation, pending human rights issues – especially the missing – prevent reconciliation (Blaaw and Lahteemaki 2002).

The literature has also argued that the issue of the missing impedes reconciliation at the political level. Following the predominant view in transitional justice literature that 'revealing is healing' (IDEA 2003), in the absence of truth recovery as to the fate of the missing, it is impossible to convince members of society that there has been a clean break with the past, a prerequisite of national reconciliation. The approach of social psychology to conflict resolution constructs an image of victims' groups as 'moral beacons' who justify inflicting harm on opponents seen as responsible for the crimes (Bar-Tal 2003; Smyth 2007:76). Alternatively put, because missing persons and dead bodies have significant symbolic capital, the problem is frequently hijacked for nationalistic purposes. The institutionalization of

this culture of victimhood, which turns missing persons into symbols of the ongoing suffering of society, prevents reconciliation (Kovras and Loizides 2011).

Even so, in certain cases and against all odds, positive transformation is achieved. Consider, for example, the instructive story of the Cypriot CMP mentioned above and the ensuing grassroots mobilization. A main weakness of the literature is its temporal and analytical focus reserved exclusively for policies implemented during or immediately after the transition. The majority of the analyses merely describe the strengths and limitations of specific transitional justice tools or explain why certain societies adopt specific tools (i.e. truth commissions vs. trials) (Backer 2009:50). It is not coincidence that the lion's share of critical attention has been reserved for a small number of cases where transitional justice is implemented with a relative degree of success (i.e. South Africa, Yugoslavia, etc) (Kovras 2013). Little notice has been taken of cases where transitional justice is absent such as in Cyprus. The descriptive nature of the literature is reflected in its *static picture* of missing persons and its failure to account for positive transformations. This leaves out how positive transformation frequently occurs even in the absence of an official transitional justice policy. Nor can this picture explain the clash between the humanitarian demands of relatives and the 'evidentiary' needs of official transitional justice mechanisms, such as international tribunals (Stover and Shigekane 2002:846).

By studying the occasional, yet puzzling, transformation of sensitive and intractable human rights problems into building blocks of reconciliation, as in Cyprus, academic and policymakers may discover innovative ways to reconcile tensions. Resolving sensitive human rights issues that carry enormous symbolic capital can pave the way for meaningful reconciliation in frozen conflicts, as in Abkhazia, Nagorno-Karabakh, Kashmir, and Lebanon.

## **Research Design**

To investigate the effective transformation of the problem of missing persons in Cyprus, the article uses the ‘least likely’ case study research design (Gerring 2007; Loizides 2011). In Eckstein’s model (1975), a critical case is ‘least’ or ‘most’ likely to fulfil theoretical predictions. Cyprus constitutes a critical case study in that it demonstrates the effective resolution of an intractable human rights problem amidst the ‘least likely’ conditions of protracted conflict and in the absence of an official transitional justice policy. Although an EU member, Cyprus is divided internally in a frozen conflict. To explain the successful transformation, the article has designed a process tracing approach (King et al 1994; Van Evera 1997:65). An advantage of process tracing is that it does not require the whole history of the Cyprus problem; rather, it looks to critical historical junctures where explanations challenge conventional wisdom and hypotheses of the literature, in this case, the transformation of the case of the missing.

To follow the process of this remarkable transformation, the article draws on primary and secondary resources. It looks to parliamentary debates from the Cyprus House of Representatives, including classified material from the designated committee on missing persons, memos prepared for the Ministry of Foreign Affairs, and documents published by grassroots organizations. It makes use of more than 40 interviews with political elites, members of the parliamentary committee on the missing, senior policymakers at the Ministry of Foreign Affairs, members of the CMP, and leading members of associations of relatives from both sides of the divide. Interviews with individuals with privileged information can greatly benefit the



process tracing by shedding light on the decisions of key actors at critical historical junctures.

### **Linking strategy**

To this point, transitional justice literature has not substantially considered how to incorporate sensitive human rights issues into complex political negotiations. Negotiation theory posits two alternative approaches to reaching agreement on complex political issues. On the one hand, under certain circumstances it is better to link all issues being negotiated to a wider settlement that will comprehensively address all problems (Bazerman and Neale 1993:16). According to this integrative view, different issues can be linked in innovative ways to create room for participants to maneuver (Loizides 2012). In essence, participants can make concessions on issues of secondary importance in exchange for return concessions on what are to them more vital issues (Lohman 1997:41). Loizides and Antoniadis (2009) have proposed a novel linkage strategy for the Cyprus problem, providing incentives for Greek-Cypriot refugees to return in exchange for territorial readjustments, naturalization of Turkish settlers, and Turkey's EU accession.

However, 'cross-issue' linkage can often lead to a deadlock in negotiations. Frequently, in adversarial relationships, 'negotiation over a specific issue tends to be enmeshed in the wider web of the bilateral relationship' and the 'solution of one problem comes to depend on the solution of one or more other problems' (Martin 2002:57). An illustrative example is the debacle over the status of Jerusalem in the Middle East. More generally, issues of high symbolic and emotional value, such as territorial or identity issues, become entangled in broader political considerations and obstruct comprehensive agreement.

Under these circumstances, mediators *de-link* issues assumed to be interlocked in an effort to break a multifaceted problem into smaller components and avoid sticking points (Lohman 1997:48; Loizides 2012; Martin 2002:57). De-linkage strategies have proved successful in bilateral cooperation on environmental issues, territorial disputes, and international treaties. A good example of delinkage of environmental issues from peace negotiations is the ‘Indus Waters Treaty’ signed in 1960 between India and Pakistan, under the auspices of the World Bank. The Treaty secures a form of distribution of water between the two countries (Ali 2008). This riparian cooperation untied the Kashmir dispute from the problem of water allocation and has worked quite efficiently. The Treaty has become the strongest link of bilateral cooperation, and water distribution continued even during the three waves of conflict over Kashmir (ibid:171). Another interesting example of decoupling is the return of Sinai to Egypt during the Camp David negotiations. The Sinai question was delinked from the Golan Heights, the West Bank, and the wider Palestinian question (Vazquez and Valeriano 2008); at the same time, the return of Sinai to Egypt was delinked from its future remilitarization (Loizides 2012). Such an approach has the advantage of ‘reducing the number of actors needed to reach an agreement’ while simultaneously ‘not holding the solution hostage to the most hardline group’ (ibid:205). The case of the missing persons constitutes another interesting and successful example of delinkage strategy to resolve human rights issues during transitions.

### **Cyprus: The limitations of a linkage strategy**

During the two waves of violence in Cyprus, the inter-communal violence (1963-1974) and the subsequent Turkish invasion (1974), almost 2,000 Greek-Cypriots and Turkish-Cypriots went missing. The practice of disappearances was deployed by both

communities to ‘purify’ the island of the presence of the Other and fulfil official political objectives. In the 1960s, hundreds of Turkish-Cypriots were abducted, executed, and buried in remote areas by Greek-Cypriot extremists in an effort to intimidate the Turkish-Cypriot community and promote the much-desired *Enosis* (unification) with Greece (Patrick 1976). Then in the summer of 1974, the invading Turkish army with the collaboration of Turkish-Cypriot paramilitaries used this instrument to promote their political objective of *Taksim* (partition).

Over the decades, for both societies, the problem of the missing has become a ‘chosen wound’ (Volkan 1997:49). Paul Sant Cassia notes:

The case of the missing has been used as a mirror of the barbarism of the Other, as a means whereby each side has constructed an image of victimhood for dubious propaganda purposes and a justification of the maintenance of an unyielding stance in negotiations. (2006:116)

The symbolic and emotional salience of the problem makes it a particularly attractive issue to be linked to the wider Cyprus problem (Kovras and Loizides 2011).

Accordingly, in the immediate aftermath of the 1974 invasion, a long-term political and legal strategy was drawn up by the Greek-Cypriot leadership. The strategy had two overlapping objectives: the protection of the sovereignty of the RoC as the only legitimate actor on the island, and the politicization of legal decisions in international forums to put pressure on Turkey to withdraw its troops. It assumed that legal instruments on human rights abuses, *primus inter pares* the case of missing persons, would be the most efficient weapon to battle a politically and militarily more powerful foe (Interview #1). This linkage strategy guided the policy of the RoC in every aspect of human rights violations, including the missing. A good example is a 2003 judgment which rules that the issue of the missing constitutes an ‘act of the

government’, making it a ‘political act’ not subject to any review by the judiciary (Kyriakou 2008). In this fashion, the RoC ‘linked’ the problem of the missing to the larger political problem.

Although it could be argued that in political and diplomatic terms, the RoC benefitted from this strategy, by the early 1990s, certain politicians and well-informed observers were challenging its ability to resolve the human rights problems. On the one hand, the repeated resolutions of the UN Security Council and the European Commission of Human Rights, failed to trigger any radical measures to marginalize Turkey in the international forum to such an extent that the cost of occupation would force Ankara to withdraw its troops from Cyprus. More significantly, the policy only minimally improved the human rights of refugees, the enclaved, and the relatives of the missing. The CMP, for example, was formally established in a bi-communal agreement in 1981 under the auspices of the United Nations General Assembly (UN 1981). But despite the rigorous involvement of international institutions and massive public support for the recovery of the missing, the problem and the CMP were fettered by political considerations (Kovras and Loizides 2011; Yakinthou 2008). By the mid-1990s, it was generally understood that the linkage strategy needed a major overhaul.

### **Delinkage: Success story amidst political failure**

In late 1990s, a proactive group of officials at the RoC Ministry of Foreign Affairs made a unilateral decision to *delink* this humanitarian issue from the prospect of political settlement – departing from a policy pursued for more than 25 years. Minister of Foreign Affairs Ioannis Kasoulides stressed: ‘The missing persons problem should be resolved before the solution of the Cyprus problem, and if possible

independently of it, in order to avoid being held hostage by this issue' (Pan-Cyprian Organization of Relatives of Missing Persons 2006:15). Interviews with the Minister, policy-makers at the Ministry of Foreign Affairs, Greek-Cypriot and Turkish-Cypriot political elites, journalists, and members of grassroots groups, backed up by parliamentary debates and policy memos, reveal that by the mid-1990s a major revision was underway (Interviews #2, #3, #4). The resulting policy combined de-linkage with 'truth and transparency' and sought to solve cases under the jurisdiction of the RoC (Interview #5).

A direct result of this revised policy was the landmark decision to proceed to exhumations in two cemeteries<sup>2</sup> in the part of Nicosia under RoC jurisdiction where it was believed that a number of Greek-Cypriot missing persons were hurriedly buried in the aftermath of the Turkish invasion. Of the 55 persons exhumed, 24 were considered missing. These revelations led to the first official apology by the state to its Greek-Cypriot citizens for negligence (Anastasiou 2008:149).

The 1999 exhumations marked a starting point, according to an official (Interview #6). Lists with the names and details of both Greek-Cypriot and Turkish-Cypriot missing persons were published in the *Gazette*. For the first time, the same provisions applied for Turkish-Cypriot and Greek-Cypriot citizens.<sup>3</sup> Then, starting in 2000, an intense effort to collect blood and genetic samples from the relatives of Turkish-Cypriot missing – in Cyprus and abroad – set out to establish a genetic bank to facilitate DNA identification (Interview#6). The policy was so well-designed and carefully enacted that even after the change in government in 2003, it continued to be implemented.

Following these unprecedented initiatives, the CMP was reactivated in 2004. Surprisingly, given its extremely slow start, it has become one of the most successful

bicommunal projects on the island. By 2011, 798 bodies had been exhumed and 300 identified by the CMP (CMP 2011).<sup>4</sup> In a 2007 poll, 92% of Greek-Cypriots and 74% of Turkish-Cypriots evaluated as positive the presence of the CMP in the island (UNFICYP 2007). The fruitful cooperation between Greek and Turkish-Cypriot scientists in the CMP,<sup>5</sup> along with the resolution of one of the most intractable issues of the Cyprus conflict – the missing – lends credence to the argument that these processes have the potential to become building blocks in the construction of rapprochement and reconciliation (Yakinthou 2008).

A number of things made this remarkable *volte face* possible. First, the passage of time, while not causally determinant, changed the normative context of decision-making at the executive level of all major actors involved. The broadening of the international normative/legal framework on enforced disappearances led to ground-breaking legal decisions on the missing. The agenda of international politics turned to more normative considerations (global justice, humanitarian intervention, and retributive justice), highlighting the need for positive actions to bring about justice (Lutz and Sikkink 2001). A significant breakthrough was the domestication of international human rights norms through binding decisions by international (judicial and political) bodies and the socialization of domestic actors into these norms (Finnemore and Sikkink 1998). In this significantly revised normative context, along with altered priorities in Turkish foreign policy (Grigoriadis 2009), the European Court of Human Rights (ECtHR) made a landmark decision on 10 May 2001 directly related to the missing persons in Cyprus.<sup>6</sup> The Court found Turkey responsible for the violation of Article 2 (right to life) of the European Convention, judging that Turkish authorities failed to conduct ‘effective investigation into the whereabouts and the fate of Greek-Cypriot missing persons who disappeared in life-threatening circumstances’

(par 136) (Hoffmeister 2002). Equally significant was the decision on the Varnava v. Turkey case, where Turkey was held responsible for the creation and perpetuation of the problem.<sup>7</sup>

These legally binding decisions should also be seen as part of a wider change in the normative context of enforced disappearances. First, the 2006 ‘International Convention for the Protection of All Persons from Enforced Disappearance’ constitutes a major breakthrough because it recognizes the inalienable ‘right to truth’ (Scovazzi and Citroni 2007). This clearly facilitated delinking the humanitarian issue from a wider political settlement. Interestingly, all parties involved, including Turkey, were convinced of the need to participate in the CMP (Loizides and Kovras 2012).<sup>8</sup>

Second, there had been path-breaking developments in forensic sciences. For example, the method of DNA identification of human remains enabled the delinkage of exhumations from truth recovery. Before this time, any exhumation was inextricably linked to the testimony (truth recovery) of a human witness; this entailed some sort of legal or moral responsibility which acted to prevent exhumations. However, advancements in DNA testing enabled ‘humanitarian exhumations’, that is, exhumations with the objective of identifying and returning remains to relatives without legal proceedings (Blau and Skinner 2005:9). In the case of the missing persons in Cyprus, some perpetrators were still alive and would be understandably reluctant to participate in a process leading to their prosecution. To overcome this problem, the CMP was established on the premise of ‘de facto immunity’ for those providing information. A decision by the RoC Attorney General guaranteed that any person providing any sort of information to the CMP would not be legally or politically liable (Solomonidou 2010). There would be no attribution of responsibility for the disappearance, and the cause of death would not be revealed.<sup>9</sup>

By the early 2000s, all actors involved, Greek-Cypriots, Turkish-Cypriots and Turkey had a vested interest in re-activating the CMP. Greek-Cypriots pioneered the policy that paved the way for its resumption, while the need for strategic adaptation guided Turkey to comply – at least partly – to ECtHR decisions ordering it to conduct investigations into the 1974 Greek-Cypriot missing (Hoffmeister 2002). However, Turkey remains reluctant to open its military archives of the turbulent summer of 1974 that would set the stage for a comprehensive truth recovery for (Greek-Cypriot) missing persons. For their part, Turkish-Cypriot families saw the revised policy as a unique opportunity to unearth, identify, and bury their relatives. Helped by the mobilization of civil society over the Annan plan, all groups put bottom-up political pressure on their leaders.

### **Relatives across the divide**

Perhaps the most unexpected outcome of the revised policy of delinkage was the emergence of a small but visible and vocal bi-communal movement with a pro-rapprochement profile that transcends the divide.<sup>10</sup> This movement is of crucial importance in the promotion of Cypriot truth recovery, since its primary objectives are to challenge the predominant hegemonic discourse seen as perpetuating the *de facto* partition of the island and to promote a more inclusive narrative of the past.

Deploying the tools of ‘contentious politics’ (Tarrow 1998) and taking advantage of a change in the ‘political opportunity structure’ a grassroots movement with a truth-seeking profile emerged in Cyprus. In the literature, the emergence of grassroots actors is explained by changes in the political opportunity structure (McAdam et al 2001). Political opportunities, in turn, refer to the features of regimes and institutions that facilitate or constrain political actors’ collective action (Tarrow



and Tilly 2007:44). Signals sent by state institutions to social or political actors may encourage or discourage them to mobilize (Tarrow 1998). Because grassroots actors generally lack the necessary resources to mobilize, the possibility of successful mobilization increases when political opportunities change. The literature isolates six such opportunities: a multiplicity of independent centres of power within the regime; relative closure or openness to new actors; the stability or instability of current political alignments; the availability of influential allies; the extent to which a regime represses or facilitates collective claim-making; and changes in these properties (Kriesi 2004; Tarrow 1998:76-80; Tarrow and Tilly 2007:440).

The first and most obvious change in Cyprus was the official adoption of the delinkage policy. By the late 1990s the issue of the missing was such a well-entrenched feature of the ‘Cyprus problem’ that only the authorities on both sides of the divide and Ankara had a say in the resolution of the problem. Any effort by civil society to demand the truth and cooperate with the relatives of the ‘Other’ would have been rejected as treacherous (Kovras and Loizides 2011). When the RoC delinked this policy in the late 1990s, the problem was gradually depoliticized and reframed in human rights terms. The official reframing of the problem legitimized – even encouraged – grassroots actors (who had remained silent for a remarkably long period) to mobilize and demand the truth. In contentious politics terms, the regime abandoned its long-term policy of ‘discouraging’ grassroots’ activities; by adopting this delinkage strategy, it ‘facilitated’ collective claim making (Tarrow 1996:53).

Broader political changes within both Cypriot communities since the early 2000s have been cataclysmic in facilitating change. For a significant portion of the population, the frustration at the failure of 2004 Annan (reunification) plan was turned into an opportunity to address past human rights abuses from a grassroots level

(Interview #7). A Turkish-Cypriot lawyer handling some of the most important cases of relatives of the missing and a member of ‘Turkish-Cypriot Human Rights’, a local NGO, identified the mobilization for the Annan plan as a stepping stone in the bid to put the issue of human rights centre stage: ‘We started after the referendum. Basically we were all pro-Annan and we were pro-Yes, and we were pro-changing leadership...and it doesn’t matter if there is no solution, we must implement human rights to the best of our ability within our area...it’s not an excuse the non-solution. So this was our mission as an NGO’ (Interview #8). Civil society learned tactical and policy lessons from the failure of the Annan plan, notably that the political discourse on both sides of the divide was so well entrenched that it had to be challenged from the grassroots.

Another overlapping change in the opportunity structure was the coming into power on both sides of the divide of moderate leftist leaders: Mehmet Ali Talat and Demetris Christofias. As the literature suggests, the availability of ‘influential political allies’ can lead to successful mobilization. Traditionally, the island’s left-wing parties were vocal advocates of bi-communal grassroots initiatives, especially when these were related to their persecution in the violent past (Ireton and Kovras 2012; Papadakis 1993). Leftist parties on both sides of the divide were sympathetic to addressing the past.

Another important change was the abrupt decision of Turkish-Cypriot leader Rauf Denktaş to open the checkpoints in 2003. These had divided the island for more than 30 years. The ‘open checkpoints’ policy created an unprecedented opportunity for relatives of missing persons to build an effective organization structure, meet and exchange ideas regularly, and organize collaborative events (Interview #9). Deprivation of access, restricted communication, and limited exchange of ideas with

the ‘essential’ ally on the other side of the divide had previously prohibited these activities.

At the same time several vocal bi-communal grassroots initiatives, most of which shared common orientation (pro-reconciliation and reunification) became active in overlapping areas, including the recovery of historical memory (Trimikliniotis 2007).<sup>11</sup>

Finally, Rauf Denktaş was ousted from the Turkish-Cypriot leadership. This greatly facilitated the emergence of bi-communal groups, because for years he had been dragging his feet in negotiations seeking to solve the problem.

Apart from ‘external’ changes in the political opportunity structure, the literature notes the ability of actors to *create opportunities for themselves* (Tarrow 1996:58). In Cyprus, the point of departure for the bi-communal platform was its reaction to the ethnic monopoly of suffering which had hitherto prevented victims’ groups from being independent agents able to manage their own suffering. More specifically, the members of the bi-communal initiative were disappointed with the official organizations of the relatives of the missing, as each ignored the needs of relatives in the other community (Kovras and Loizides 2011). Both communities showed a lack of self-reflection, refusing to take responsibility for past violence and failing to criticize or exclude extremists, thus undermining peaceful coexistence and reconciliation. In a bid to rectify the situation, the bi-communal initiative decided to open a forum of debate on the common painful past and its effect on future coexistence. In other words, it created its own opportunity structure.

In symbolic terms, the decision to mobilize on the issue of the missing as a means to deal with the past is critical. McEvoy and Conway say: ‘The question of who “owns” the dead is not simply a question of the exclusive exercise of authority

over the remains but is inextricably linked to the notion of “who” owns the past’ (McEvoy and Conway 2004:545). The ‘coordinator’ of the bi-communal platform clearly agrees:

A growing number of people has started to realize that all these years the relatives have been exploited for political reasons [...] These persons realize that they have the same problem and that all these years everyone tried to resolve it separately and suddenly we come to the conclusion that ‘we have the same problem!’ (Interview #7)

In tactical terms, the platform carefully avoids any provocation that could endanger the process of exhumations and the progress of the CMP. Sevgül Uludağ, a constitutive member of the initiative and a proactive investigative journalist stresses the importance of moderate objectives, such as abstaining from ascribing individual responsibility, to avoid frightening people from speaking out, as this could endanger the whole truth-recovery process.<sup>12</sup> The Turkish-Cypriot member of the CMP adds: ‘This project is working because grassroots people are giving us information and if we start dealing with punishment, these people are not going to give us any more information’ (Interview #10).

Paradoxically, victimhood became an instrument to contradict the two presumptions upon which the practice of enforced disappearances is based, namely the negation of the existence of the ‘Other’ and the impossibility of coexistence. Suffering became the common thread linking the two grassroots communities, thereby legitimizing the public expression of grief by the ‘Other’. The platform has become one of the most significant pro-reconciliation forces on the island, contradicting the literature and the past experience of the Cyprus conflict.

## **Delinkage Lessons**

What lessons can be drawn from the instructive story of the CMP and the transformation of the relatives of the missing into a proactive bi-communal group promoting reconciliation? Can enforced disappearances be effectively managed elsewhere, becoming a building block of reconciliation in Azerbaijan (Nagorno-Karabakh), Georgia (Abkhazia), Kashmir, or Lebanon? It is argued that in the case of sensitive human rights issues, especially when open wounds preoccupy a sizeable segment of society, such as the problem of the disappeared and missing, delinkage from political settlement constitutes an efficient policy alternative.

The Cypriot experience can shed light on transitional justice and assist policymakers in dealing with similar problems in other parts of the world. The literature does not consider the conditions under which it is better to tie victims' rights to an overall settlement or to treat human rights issues separately. As mentioned above, transitional justice literature focuses almost exclusively on the period following transition and subtly links any potential solution to the wider political settlement. In reality, however, emotional, symbolic, and identity issues, such as the problem of missing persons, are often hijacked by hardliners who drag their feet and prevent solutions. Untying human rights issues from political negotiations – or even transitional justice policies -- can depoliticize debates and pave the way for the mobilization of vocal domestic pro-truth seeking actors.

In cases of disappeared/missing persons, official delinkage could benefit from a concomitant decoupling of humanitarian exhumations from the quest for truth recovery. With DNA, science now offers a credible way of separating the process of identification of human remains from human testimony. Previously, human testimony was the only means to locate and identify victims buried in common graves. This

deterred witnesses from collaborating, since their participation would have initiated legal proceedings and made them targets for reprisal. For example, in Northern Ireland, the identification of the location of the graves of 13 persons who went missing during the ‘Troubles’ (mainly the 1970s) was handicapped by the unwillingness of the IRA to provide information (McDonald 2007). But new forensic techniques allow delinkage of truth recovery from exhumations; they can be conducted independently of the perpetrators, and no one with inside information needs to testify – or to fear reprisal. In ‘humanitarian exhumations’ the objective is merely to unearth and return the remains to relatives. There is no attribution of blame: cause of death is not mentioned, and there are no criminal proceedings. In Bosnia, the ICMP has exhumed almost two thirds of the approximately 30,000 missing in the 1990 Balkan wars (ICMP 2011), precisely because exhumations are carried out *primarily* for humanitarian purposes. Humanitarian exhumations can also break prolonged silences and enable ‘post-transitional justice’ (Kovras 2013). For example, in Spain, the generation of the grandchildren of the *desaparecidos* of the civil war successfully mobilized around the demand to exhume and identify the victims who had been lying in mass graves for almost 70 years (ibid).

In Cyprus, a decision by the Attorney General states that all persons providing information to the CMP will be immune from prosecution; the same provision is found in the terms of engagement of the CMP. Perpetrators are appeased, and witnesses have incentive to provide information, thereby easing the tension between the relatives’ demands for a decent burial and the perpetrators’ fear of legal repercussions. This solution has the potential to assist in other frozen conflicts facing the problem of missing persons, such as Kashmir and Lebanon (Jaquemmet 2009).

The delinkage strategy has the potential to provide an early solution to humanitarian problems and to legitimize the democratization of memory, both of which constitute essential elements to reconciliation. The experiences of societies with prolonged legacies of disappeared/missing persons (Cyprus, Georgia, Abkhazia, Lebanon) reveal that an early solution might promote trust for the ‘Other’, avoid unnecessary poisoning of (inter)communal relations and under certain circumstances, become a confidence-building measure to facilitate an overall political solution (Cretoll and La Rosa 2006). In post-conflict settings, early accommodation of the most significant human rights problems -- even if this means amnesty or impunity for the perpetrators -- diminishes the possibility of societal mobilization that might inhibit the achievement of other pressing objectives (economic development, reconstruction, democratic consolidation) and promotes trust in the nascent regime.<sup>13</sup> Similarly, an early solution pulls the rug out from under nationalist politicians who usurp sensitive humanitarian issues to bolster nationalism and promote a culture of victimhood.

Last but definitely not least, a delinkage policy implemented by the political elites creates a unique opportunity for civil society actors to play a vital role in overcoming a central human rights problem in post-conflict societies, namely, a lack of communication when the ‘Other’ is not officially recognized and/or the in-group claims to have a monopoly on suffering. In Georgia (Abkhazia), for example, ‘each side has a missing persons commission, but [they are] beholden to their governments’, and they never communicate (International Committee of the Red Cross 2007:13). A prolonged lack of contact exacerbates negative stereotypes that prevent genuine dialogue. Therefore, establishing and maintaining venues of communication is critical to success even in the absence of a political settlement; hardliners cannot control information or frame the problem according to their own interests. For example, for

several decades, the official organizations of the relatives of missing in RoC dominated public discourse on the issue of the missing persons, pursuing an agenda that silenced the relatives of missing in the other community.

## **Conclusion**

The article considers the transformation of the Cypriot CMP and the establishment of a vocal pro-rapprochement bi-communal initiative of relatives despite the lack of a political settlement. It points to the delinkage of the human rights problem of the missing from the larger political negotiations, something enabled by new scientific discoveries whereby victims can be exhumed and identified without raising issues of legal, moral, or political accountability. The delinkage also creates opportunities for grassroots actors to participate in public debates of humanitarian issues. In essence, it depoliticizes humanitarian issues, facilitating the establishment of venues for communication. Frequent contact with victims on the other side allows grassroots groups to frame their problems in the public discourse, contribute to the democratization of memory, and increase the prospects of reconciliation. The delayed success story of Cyprus shows how symbolic issues of the missing can promote post-conflict reconciliation.

Even when a policy of delinkage is implemented, the process of truth recovery and reconciliation is not linear. Acknowledgment of the past in the form of exhumations and identification of the disappeared does not necessarily indicate the end of the process. In certain cases, those responsible for the crimes remain powerful; in this event, demands should be formulated in such a way as to avoid threatening these people while creating societal alliances which support the truth-seeking agenda. Following this logic, objectives should be moderate – such as abstaining from



ascribing individual responsibility – to avoid frightening people from speaking out, as this could endanger the truth-recovery process. However, in a later stage, once democratic institutions are well established, punitive measures and more formal policies of truth seeking may be implemented.

The quest for truth recovery is gradual and fragile. As Gunter Grass indicates in his recent controversial memoir about his involvement in the Waffen SS, ‘memory is like an onion that wishes to be peeled so we can read what is laid bare letter by letter’ (Grass 2008:3). Grass says: ‘The onion has many skins...peeled it renews itself; chopped, it brings tears; only during peeling does it speak the truth’ (ibid:4).

### **Acknowledgments**

I am grateful to Neophytos Loizides, Adrian Guelke, Alexis Heraclides, Katia Andronikidou, Christalla Yakinthou, Nikolas Kyriakou, Elizabeth Thompson, and the three reviewers for their insightful comments on previous drafts of this article.

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9

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#2: Greek-Cypriot diplomat, phone interview, 20 July 2010.

#3: Greek-Cypriot journalist, Nicosia, 17 July 2008.

#4: Greek-Cypriot journalist, Nicosia, 10 February 2009.

#5: Former minister of foreign affairs, 20 July 2011.

#6: Assistant to the Greek-Cypriot member of the CMP, phone interview, 21 June 2010.

#7: Coordinator of the 'Bi-Communal Initiative of Relatives of Missing Persons, Victims of Massacres and other Victims of War', Nicosia, 11 February 2009.

#8: Turkish-Cypriot Lawyer, Nicosia, 3 July 2008

#9: Member of the Bi-communal Initiative, Nicosia, 7 February 2009.

#10: Turkish-Cypriot member to the CMP, Nicosia, 16 July 2008.

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<sup>1</sup> Disappearances, according to the International Committee of the Red Cross, are 'those who are unaccounted for as a result of armed conflict, whether international or internal. They might be military or civilian, anyone whose family has no information on their fate or whereabouts'.

<sup>2</sup> These include the military cemetery of Lakatamia and the cemeteries of Konstantinou and Elenis.



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<sup>3</sup> Despite the *de facto* partition of the island, the RoC considers the Turkish-Cypriots residing in the North as citizens of the Republic. This derives from the official RoC argument that the Northern part of the island is under occupation, and even Turkish-Cypriots suffer Turkish occupation. Still, in the revision of the RoC official policy, the problem of the missing was framed as exclusively Greek-Cypriot, excluding Turkish-Cypriot relatives. See Kovras and Loizides (2011).

<sup>4</sup> Of the 300 identified persons, 239 are Greek-Cypriots and 61 are Turkish-Cypriots.

<sup>5</sup> The project is carried out by bicomunal teams of Greek-Cypriot and Turkish-Cypriot scientists (geneticists, forensic anthropologists, archaeologists).

<sup>6</sup> Fourth Intern-State Application of the Republic of Cyprus vs. Turkey, 10 May 2001. Application no. 25781/94. This was preceded by inter-state applications in 1976, 1983, and 1999 (Nos. 6780/ 74, 6950/ 75, 8007/ 77, 25781/ 94).

<sup>7</sup> Case of Varnava v. Turkey (application nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90). The judgment was published on 10 January 2008.

<sup>8</sup> In its official line of defence in the Varnava case, Ankara abandoned its intransigence, arguing that by cooperating in CMP activities, Turkey had met her human rights obligations. This argument was thrown out by the ECtHR as the CMP 'does not provide procedures sufficient to meet the standard of an effective investigation required by Article 2' (par.131).

<sup>9</sup> The provision of immunity has not yet been legislated. As these terms appear only in a directive from the Attorney General, some relatives may lodge lawsuits in the future, based on this gap in legality.

<sup>10</sup> The 'Bi-Communal Initiative of Relatives of Missing Persons, Victims of Massacres and other Victims of War'.

<sup>11</sup> An example is the 'Association for the Historical Dialogue and Research'.

<sup>12</sup> She describes this process as 'peeling an onion'.

<sup>13</sup> This is valid elsewhere; the bilateral relations of Japan and North Korea have been poisoned because of the intransigence of North Korea in returning 17 Japanese citizens abducted/'disappeared' during the 1970s and 1980s.