Carolina Rehrmann / Rafael Biermann / Phillip Tolliday (eds.)

Societies in Transition

The Caucasus and the Balkans between Conflict and Reconciliation



V&R



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Carolina Rehrmann/Rafael Biermann/Phillip Tolliday

Introduction to the present volume

Since the end of the Cold War, the collapse of the Soviet Union and the dissolution of Yugoslavia the Mediterranean and Black Sea regions have been faced with multiple upheavals of interethnic violence, bloody secessions and ethnic cleansing. Up to the present, both regions are confronted with unresolved border, minority and security issues, matters of recognition, protracted traumata and claims for justice. After the fall of the iron curtain, simmering ethnic tensions turned into hot wars that created new states, new power-political hierarchies and a heritage of violence. Reaching back to the early 1990s, several international and national transitional justice measures have been applied to face these heritages and lay the foundations for a common future. For the former Yugoslavia they range from broad criminal trials to a series of restorative justice mechanisms, in the North and South Caucasus they encompass numerous mediation measures and primarily restorative justice efforts.

However, central disputes remain. The Russian-Georgian war of 2008, ongoing disputes over the status of Kosovo, the mediational deadlock of Nagorno-Karabakh and its renewed escalation in 2016, the Russian annexation of Crimea and the secessionist conflict in Donbass or the still simmering tensions between Russia and Chechnya on the latter′s status within the Russian Federation are the most visible indicators that there is much need for rapprochement between the conflicting parties.

In view of the above mentioned, the present volume is concerned with strategies of profound and sustainable conflict resolution and prevention subsumed under the concept of reconciliation. As a scientific concept reconciliation aims at understanding the socio-emotional root causes of political cleavages and daily realities of (post-) conflict societies, especially regarding the impact of competing narratives and unprocessed pasts on exclusive identities and strategic political choices. Applying reconciliation theory, insights from collective memory and transitional justice to a series of selected field studies, it sheds light on the origins of interethnic violence, aims at finding explanations for the fact that many of the above-mentioned conflicts have become intractable and discusses the chances and challenges for transforming interests, emotions, perspectives, roles and identities between and within the respective societies.

The current collection of essays is Volume Five of the larger series "Research in Peace and Reconciliation" (RIPAR). The idea of the series has been

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launched by Martin Leiner from the *Jena Center for Reconciliation Studies* (JCRS). RIPAR focusses on conflict transformation and reconciliation in different regions of the world. Up to now four volumes have been published within the series covering transitions in Latin America, Sub-Saharan Africa, Asia-Pacific, the former Soviet Union and East Central Europe, with further volumes on Europe, North America, the Middle East and the Indian Subcontinent projected to be published in the coming years. Thus, the series provides a unique overview of world-wide research on peace and reconciliation.[1]

With regard to reconciliation in the Caucasus and the Balkans, the authors of the present volume investigate internal (intra-state) as well as international (inter-state) reconciliation, different stages of reconciliation, including current conflict situations and role models for successful reconciliation. They also tried to find answers to some common guiding questions.

One of the central guiding questions is, why are so many post-conflict societies still not reconciled when it comes to victim-perpetrator relations, reparations for inflicted harm, acknowledgement of committed deeds and diverging conflict narratives? To shed light on this question reconciliation has to be interpreted both as a protracted process faced with obstacles and inherent contradictions, as well as an ideal outcome. Understood as an overarching concept that indicates complex, multi-layered and inherently ambivalent processes of conflict and post-conflict transformation it encompasses both socio-emotional (reconciliation for healing) and instrumental (reconciliation as means to an end) dimensions. It is further shaped by ethical maxims, constraints of *realpolitik*, hampering power political interests, emotional barriers, attempts of silencing or projection of guilt, colliding needs of various conflict parties, as well as by inherent contradictions between retribution and restauration, and the delicate difference between knowledge and acknowledgement, forgiveness and forgetting.

As the present volume's theoretical arguments and related case studies show, reconciliation endeavors within the sphere of transitional justice have to

1 Founded in 2013, the JCRS aims at developing guiding principles and practices for reconciliation and conflict transformation from within a global, inter-disciplinary and comparative perspective. Regarding conflict transformation the series draws on what Martin Leiner has denoted in his reconciliation theory the "Hölderlin Perspective". It assumes that reconciliation does not necessarily have to start after the end of conflict, but to the contrary at its height (Leiner & Flämig 2012, pp. 7–20). Against this backdrop, the wide range of concepts and mechanisms for the promotion of reconciliation spans approaches from political science, psychology, sociology, economics, law, history, media, cultural studies, theology, philosophy, religious studies and ethics. The different backgrounds and expertise of the present volume's authors reflects this interdisciplinary range. The authors have been drawn from among accomplished experts in the fields of reconciliation, the Balkans and the Caucasus, as well as from promising young scholars who presented their work on this topic at the eponymous 2015 JCRS Summer School. The volume is thematically connected to its preceding volume, titled "Societies in Transition. The Former Soviet Union and East Central Europe between Conflict and Reconciliation".

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strike a sensitive balance in reprocessing the past without endangering social cohesion and a common future. This balancing act is often placed in jeopardy whenever transitional justice measures and collective memories of troubled heritages are highjacked and threatened by present-day non-reconciliatory interests of groups who want to keep the proverbial "book of the past" closed or instrumentalize ethnic, religious or socio-economic cleavages for their own power-political purposes. As representatives of holistic approaches to reconciliation underline, a sustainable transformation cannot be achieved without, first, a calling to account of those responsible for human rights violations, with their consequent dismissal or conviction. Second, for a sustainable conflict transformation there is a need to foster empathy and promote dialogue and mutual understanding of the former conflict parties within a newly established democratic framework by providing (ideally an institutionalized) space for constructive encounters between perpetrators and victims. Eventually, one of the greatest tasks is to build up an inclusive collective memory that transgresses ethnic, political, social, racial or religious boundaries (Bar-Tal/Bennink 2004; Kelmann 2008; Nadler/Malloy/Fisher 2008). Consequently, related key questions are: What are the main challenges to reconciliation from both a domestic and an international perspective? Is the general climate (un)favorable to political transition and socio-emotional reconciliation? Has there been criminal prosecution for committed deeds and if so, has it served as a catalyst for reconciliation or has it impeded it? Have there been significant and foundational institutional reforms, including vetting and lustration or are the same people in key positions? Is there a political culture of cross-ethnic dialogue or have the (former) conflict parties established a mutually exclusive, self-whitewashing story of their conflicted heritages? What is the role of political elites, established institutions, public figures, the media, and civil society with regard to their potential and willingness to engage in reconciliatory practices?

To shed light on these challenges the present volume is sub-divided in three parts. It starts with a theory-based part on challenges and strategies for post-conflict reconciliation with a focus on transitional justice, and collective memory and proceeds with two introductory articles summing up the legacies and prospects for reconciliation in the Balkans and the Caucasus region that are followed by a series of in-depth case-studies dealing with competing memories and dominant discourses in the former Yugoslavia, Russia, and North Caucasus, and with internal and external transitional justice mechanisms in both regions. The latter comprises the work and reception of the International Criminal Tribunal for the former Yugoslavia (ICTY), challenges of dealing with enforced disappearances in Chechnya, and the evaluation of lustration measures in Macedonia. The volume concludes with two studies focusing on civic initiatives for conflict transformation comprising theatrical facilitation in Bosnia, and restorative approaches of societal reconciliation in Serbia.

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Introducing the theoretical part, Carolina Rehrmann in her chapter "Emotional Reconciliation: Challenges, Prospects and Inherent Contradictions" discusses the concept of reconciliation in a socio-psychological perspective in order to demonstrate the importance of a profound paradigm shift of identities, emotions and inter-group relations, as well as its inherent challenges. The latter comprises the tensions between retributive and restorative justice, as well as the perpetuating power of devious interests, the power political instrumentalization of trauma and competitive memories. The paper concludes with a short case study on intra-German reconciliation over its GDR heritage. It claims that a lack of constructive and eye-level dialogue both *between* the West and East German societies and *within* former East Germany has negatively affected social relations while keeping up stereotypes, alienation, frustration and a sense of injustice in dealing with the GDR heritage and the post-reunification period. As such, within Federal Germany collective memory is most indicative of the quality of both intra-East German and East-West German relations today.

In this light, Phillip Tolliday elaborates on the role of memory in post-conflict societies. His chapter "Reconciliation: A Negotiation between Anamnesis and Amnesia" underlines the complexity of reconciliation in its social and political dimension and in its pragmatic, ethical and emotional conceptions. Tolliday discusses the chances and challenges of varying approaches to the past ranging from silence and amnesia to omnipresence. Shall one do away with traumatic past in order not to endanger social cohesion and create a basis for a peaceful, democratic future or is a profound legal, ethical and emotional confrontation in fact the only way to reach that goal? As the author shows in his subtle reflections on the tensions between (political) apology and (personal) forgiveness, the danger of institutionalized routines, the delicate difference between amnesty and impunity, the difficulty of factual approaches to the past and of the limits of negotiating competing and subjective memories, there is no easy answer to this question. His arguments underpin the importance of acknowledgement and dialogue for the reintegration of victims, for the remembrance of past atrocities, and for the establishment of an integrative and sustainable culture of memory.

After these theory-guided arguments Rafael Biermann and Eva-Maria Auch provide a summary overview over the two regions' histories of conflict, reconciliation measures challenges and prospects. In "The Politics of Reconciliation in Former Yugoslavia – Assessing Progress Across the Region" Rafael Biermann takes stock of how Serbs, Bosnians, Croats, Albanians and Kosovars have come to terms with their troubled past. Defining reconciliation as a process of radical transformation of former identities and values that lay the foundation for mutual trust and for a common democratic future, he discusses the chances, but also the inherent tensions and pitfalls of transitional justice measures that complement Tolliday's distinction between maximalist and minimalist approaches. Applying his theoretical analysis to the region, he

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then shows the perpetuation of the competing, self-whitewashing and other-maligning conflict narratives, the preponderance of denial and silence and its various manifestations in political discourse, media, and commemoration. Having brought the reader to this melancholy point, Biermann then asks the reader to consider to what extent it may be ameliorated. He goes on to examine the measurable, though limited success of the ICTY's retributive justice implementation, the appearance of public apologies as a lip service with little political or material consequences, and eventually the difficulties of civil society activism to counter the dominant narratives and practices. His arguments are a thought-provoking impulse as to the general effectiveness of reconciliation measures when internal groups are hardly interested in reconciliation and measures are introduced mostly from outside.

The overall prospect for reconciliation seems even more bleak in the South Caucasus. As Eva-Maria Auch shows in her article "Conflict, Identity and Reconciliation in the South Caucasus" with regard to Georgia, Armenia and Azerbaijan and the conflicted territories of Abkhazia, South Ossetia and Nagorno-Karabakh long-term initiatives of rapprochement, justice and reconciliation have been practically absent from the post-Soviet region. In historical perspective Auch traces the evolution of exclusive national narratives and their interplay with the respective territorial conflicts and rival prerogatives of interpretation within an arena of competing political and economic interest groups.

The above mentioned underpins that there is a complex interaction between national identities, memory, media and politics that may heavily impede conflict resolution and protract conflicted heritages. Here, a series of regional case studies illuminates mostly the challenges, but also the chances of political and social engagement for reconciliation, and the potential of transforming imagined national communities.

In her article "Commodification of Collective Memory: Socialist Heritage between Disneyfication and Reconciliation?" Jovana Janinovic demonstrates how the past may change over time, assuming commercialized traits, while undergoing a process of aestheticization and de-politicization. On that note, she critically reflects on the romanicization and growing touristic exploitation of former socialist *lieux de mémoir.* Drawing on prominent memorials (eg. Tito's birthplace, his grave and the "Blue Train"), holidays and related practices, Janinovic shows how some contested, sensitive and uncomfortable memorials of socialist heritage have been transformed into a highly selective, nostalgic, de-politicized public space that simultaneously serves as new, common, and pleasant points of reference that blank out inconvenient realities. Her reflections provide an important contribution to the question of how the past might change in the light of present-day reconciliatory shortcomings, economic interests, needs for a positive self-image and romantization; tendencies that also connect to Rehrmann's case study on the dynamic of East German heritage discourses.

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How is the past reflected in present day conflict? With regard to Russian-Chechen relations two articles discuss the inherent alienation of both sides as demonstrated by their dominant crisis discourses. Ekaterina V. Klimenko in her article "Russia in the Aftermath of the Chechen Conflict: Fostering Tolerance as Reconciliation Strategy" analyses the focus, effect and reception of Russian government-led reconciliation programs aimed at countering what is perceived as a growing Caucasus-phobia in the aftermath of the Chechen-Russian conflict. Postulating a series of discursive tendencies in the government's official announcements referring to these programs, such as the trivialization of xenophobia with regard to Chechenia, the idealization of the past, the prioritization of security issues over rapprochement and reconciliation, the implicit reification of cultural differences and eventually the blanking out of specific social, economic, political and legal aspects of the conflict, she shows the shortcomings of these programs in living up to their own ambition of fostering tolerance between the two communities. As basic reason for this phenomenon the author identifies the preponderance of an ethnically exclusive and primordial understanding of the (Russian) nation. As such, Klimenko touches on the broader question of when and why reconciliation measures remain broadly ineffective as a consequence of a broad failure of transforming identities and related interests.

This is precisely where Fernando Avakian's subtle analysis titled "Discursive Construction of the Islamic Threat in the Russian Federation in the Early 2000s: A Political Tool Hampering Reconciliation?" supervenes. Drawing upon the Kremlin's and pro-Putin Chechen governments' declared "war on terror" and related policies, media discourses and military action, the author shows both the discursive construction and reproduction of deep-rooted *clichés* vis-à-vis the Chechen society and their cultural *othering*. Within that frame Chechens who deviate from a clearly defined sphere of accepted Islam are depicted as dangerous Muslim fundamentalists. As the author shows in illuminating the case study of Zara Mourtalalieva's sentence in 2004, this ideological bias serves powerful political purposes, stimulates extremist oppositional voices, and impedes the amelioration, let alone reconciliation, between Russians and Chechens. Consequently, both between Russia and Chechnya and *within* Chechnya it hampers a thoroughgoing rapprochement of political parties and religious groups and thus a differentiated and integrative reprocessing of the two wars' legacies.

Within scientific and political discourses, the designation and conviction of war criminals has been presented as the key measure of retributive justice and the individualization of guilt. In this context the Nuremberg Trials against high-level Nazi officials are an often-cited successful case in point, while by way of contrast broad amnesties granted in post-dictatorship Argentina and Spain have been criticized as instruments of impunity and denial. However, retributive measures aimed at legal accountability and moral acknowledgement of human rights violations and victims suffering may have a limited or

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downright deleterious effect, if the legitimacy of the respective mechanisms is judged to be low. In this respect, Michael Humphrey and Michelle Veljanovska in their contribution titled "Between the ICTY and Dayton: Obstacles to Justice, Reconciliation and Peace in Post-Milosevic Serbia" discuss Serbia's critical reception of the International Criminal Tribunal for the former Yugoslavia's work by juxtaposing the ICTY's official aims and positions with internal Serbian discourses. In line with Biermann's afore-mentioned arguments, the authors illuminate the continuity of exclusive nationalist narratives, show post-war Serbia's understanding of the peace negotiations as a painful defeat, and thus also explain why the international community and the ICTY have been accused of ethnic bias against one's own community (*victor's justice*). As they underline, within such an unfavorable climate the ICTY's trials triggered broad resentments, which eventually promoted the aggravation of ethnic cleavages instead of laying a foundation for interethnic rapprochement. This raises a central issue: In how far need comprehensive approaches to conflict transformation to go hand in hand with other measures of political and cultural transformation in order to minimize the risk of inefficiency or even counter-effects of reconciliation efforts?

This issue is deeply connected to what Mariat Imaeva discusses in her article "Deferring Human Rights: Humanitarian Exhumations as an Alternative Approach to Resolve the Issue of the Missing". In her paper, the author focusses on the strenuous emotional *in-situ* state of the relatives of the more than 5000 missing persons that resulted from the Russian-Chechen wars of 1994 and 1999. Assessing the work and effectiveness of international approaches by the Council of Europe and the International Committee of the Red Cross, as well as civic local initiatives, the author criticizes the broadly legalistic, retributive focus of these initiatives, which – as she explains – in their aim to find and convict the perpetrators do not meet the relative's needs. Drawing both on the broad ineffectiveness of these mostly externally introduced retributive measures and on empirical data from interviews with relatives of victims, Imaeva shows the emotional burden of a life suspended in uncertainty about the circumstances of death of loved ones and the possible location of their mortal remains. She thus underlines the importance of measures, such as truth seeking, location and exhumations as a basis to provide closure and acknowledgement for the relatives.

While transitional justice measures introduced from outside may suffer from a higher risk of being perceived as illegitimate and of being ineffective in consequence, they can also be internally used as power political instrument, more specifically an instrument against parliamentary or civic opponents. In "The Failure of Macedonian Post-Communist Transitional Justice: Purging the Opponents, Lustrating the Dead". Despina Angelovska sheds light on the Macedonian lustration law of 1991. While lustration as pivotal measure of screening and removing actors with a questionable role in the former regime from present day key positions has been widely considered both a necessary

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step and a yardstick for democratic transition, it is particularly with regard to post-communist Europe that lustration of state employees has been criticized for its impact on social cohesion (see Rehrmann) and its instrumentalization when used as a weapon against political opponents. Analyzing critical discourses on related policies in Macedonia, the author shows how lustration – absurdly enough even applied posthumously – has served as a self-white-washing tool for suppressing inconvenient aspects of the past and as an instrument of revenge and intimidation towards inconvenient politicians, judges, journalists and even civil society.

In view of the shortcomings, inherent tensions and risks of political and legal mechanisms of transitional justice that the aforementioned authors suggest, the two concluding articles of this volume are concerned with civil society initiatives that range from trauma reprocessing to de-escalation, political moderation and mutual acknowledgement between former opponents by means of grass-roots transformation of identities.

One of the most immediate spheres of emotional transformation, constructive dialogue and bonding of former rivals (including perpetrators and victims) may be discerned at the social and community level. Here, interactive and emotionally expressive approaches of theater work have proven to be a promising tool for closure, acknowledgement and reconciliation. In her article titled "Theatrical Facilitation in Post-War Societies: The Case of Bosnia" Sonja Kuftinec discusses the potential of theatrical facilitation and community-based staging for the transformation of trauma, and the preservation of sensitive memories in post-conflict societies. Presenting civic theater activities as a unique space of re-negotiating the past and for providing alternative opportunities of artistic and expressional enactment across ethno-religious borders, she demonstrates the potential of theater for reclaiming public space. As Kuftinec argues, this may be achieved through personal testimony, by broadening civic engagement through reconciling conflicting narratives and by promoting inclusive discourses on the future. On a broader level, she thus illuminates how artistic grass-roots activities can contribute to an open and pluralist discourse that for post-conflict societies – particularly divided ones – is essential for overcoming their previous cleavages. Drawing on her decade-long experience with community theatre in Bosnia and Herzegovina, she concludes her argument with illustrating theatre projects carried out with urban youth in the city of Mostar in a bombed-out hotel on the former frontline, while underlining its affective and geo-ethnographic potential.

Similarly, Vesna Nikolić-Ristanović and Sanja Ćopić in their article "Dealing with Conflicts in a Post-Conflict Society: A Restorative Initiative in Serbia" present a restorative justice measure employed by the Victimology Society of Serbia. Titled the "Third Way" it is understood as a middle course of approaching the past between exclusive nationalism and anti-nationalism. In their article the authors draw on self-conducted participatory seminars in

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three different Serbian communities that are all aimed at fostering victim-oriented dialogue. The two authors illustrate the positive dynamic of interethnic personal encounters and open dialogue, as well as the favorable emotional effects of including joint recreational activities as ice- breaker for promoting constructive communication on sensitive, painful and contested issues of the past. Their seminars appear as milestones in the process of deconstructing stereotypes and negotiating new, common perspectives on a democratic and pluralistic living together.

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Carolina Rehrmann

Emotional Reconciliation: Challenges, Prospects, and Inherent Contradictions

Reconciliation as Concept and Strategy

Eric Hobsbawm (1994) has called the Twentieth Century a short "age of extremes". Indeed, it was a century of hitherto unforeseen atrocities, genocides, and mass prosecution, the decades-long polarization of the world into opposing blocks, followed by the outbreak of simmering ethnic and religious conflicts. "The development of Social Psychology during the 20th century took place against the backdrop of intergroup conflicts between and within nations", Nadler and Shnabel (2008, p. 37) write, suggesting how the theories of conflict studies emerged and transformed as a reflection of these upheavals and violent confrontations. Here traditionally, the focus of conflict analysis had rested on the role of material resources and power struggles to be negotiated for purposes of conflict *resolution:*

> "The use of this terminology", the authors say, "reflects more than a semantic preference. It underscores the prevailing view in much of the social science literature that conflicts are attributable to disagreements on the division of scarce and coveted resources and that their ending is predicated on the parties' ability to agree on a formula for their division" (Nadler/ Malloy/Fisher 2008b, p. 4).

By way of contrast, ethno-territorial and ideological conflicts such as those of South Eastern Europe after the dissolution of Yugoslavia and the Caucasus with its pending disputes over the status of Chechnya, Abkhazia, South Ossetia and Nagorno Karabakh, the Middle East or Central Africa show that intractable conflicts (moreover if rooted in century-old feuds) easily result in deeply polarized societies of selective cognition and negative emotions.

Conflicts of this kind are often characterized by unprocessed traumas, competing narratives and biased, stereotypical perceptions of one another. Thus, they are difficult to be negotiated on a pragmatic quid-pro-quo-level, for they fail to tackle the basic needs of the conflict parties that result from the experience of violence, suppression, loss or degradation (Bar-Tal 2007, p. 1438). Referring to the great number of protracted, simmering and recurring identity conflicts considered as being in a state of "no peace, no war" (Khutsishvili 2008, p. 282), socio-psychological approaches to conflict resolution underline the importance of self-categorization, ingroup-outgroup-relations, emotions (such as guilt complexes and the sense of powerlessness), basic needs (such as security, acknowledgement of suffering, and a positive self-image), and the importance of justice for sustainable conflict

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transformation. In this perspective these, so to say, "post-conflict-needs", can only profoundly be addressed by socio-emotional reconciliation. However, as shall be discussed in the following, reconciliation is an intricate and demanding process that harbours a considerable potential for tensions and renewed conflict.

According to Bar-Tal, to achieve a fundamental paradigm shift by socio-emotional reconciliation one needs to address

> "truth, which requires open expression of the past; mercy, which requires forgiveness for rebuilding new relations; justice, which requires restitution and new social structuring; and peace, which underscores common future, well-being, and security for all the parties in a society" (Bar-Tal 2000, p. 356).

Accordingly, reconciliation, first, reflects the central tasks of confronting the consequences of violence: Unmasking crimes, naming the perpetrators, healing past traumas and reconciling former opponents in their cognitions, emotions and interests. Second, as Rafael Biermann (in this volume) aptly underlines, reconciliation does not only look into the past, but also into the future, for by overcoming past injuries and injustices it aims at laying the foundation for a reliable prospect of sustainable peace. In this sense, theorists such as Kelman, Nadler, Bar-Tal and others call for a differentiation and deepening of traditional approaches to conflict resolution, by focusing on the multiple challenges for creating a constructive climate for political cooperation and integration of the polarized groups (Bar-Tal 200, p.355; Bar-Tal & Bennink 2004, p. 14). Here, Kelman suggests three qualitative layers of conflict transformation: settlement, resolution and (ultimately) reconciliation. The first merely implies the absence of military conflict on the basis of an often externally imposed truce. Others refer to this as a state of "negative peace" that actors adhere to following a *logic of consequences* (*rule/agent control*). Such an outcome marks a fragile peace dependent on power relations and is limited to coercion of the elite-political and/or military strata. The Dayton Accords (1996), implemented only after massive international diplomatic pressure, are a case in point, since long-term success and legitimacy of this peace agreement on the part of the war parties remain highly contested until today (Dragnic 2006; Lippmann 2006; Gerard/Dahlman 2001).

The second layer – resolution – refers to peace that the conflict parties (most often) have negotiated out of pragmatic interest. It involves a change of attitude towards each other, marking a relationship based on pragmatic trust that affects some parts of the respective societies and can be labelled a state of peaceful coexistence (*change of roles*). Obviously, in reality such a clear-cut conceptualization is not possible and often remains a matter of interpretation. In his sense, the Oslo Accords (1993) can be assigned to both levels: They were a settlement in as far as they were externally mediated and were a simple agreement on the framework condition for further talk. However, to a certain degree they also reflected the parties' interests related to power-political

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concerns and (social) war-weariness (Hallward 2011, pp. 185–188). The fragility of rapprochement may explain why the Accords were quickly succeeded by renewed ruptures of violence. As Staub (2002, p. 868) states:

"Violence may resume even if it was halted by negotiations and agreements between parties. This is the case because agreements are often not satisfying to all segments of the hostile groups, because they may not be appropriately carried out, and by themselves they do not sufficiently alter the psychological realities of group members created by past history."

As opposed to the former, reconciliation presupposes a significant transformation of identities and values and is perceived here as the result of a paradigm shift pertaining to central beliefs, cognitions and emotions vis-à-vis one another. A paradigm shift of central beliefs includes overcoming self-victimization and the demonization of the outgroup by revising monolithic historical narratives through the inclusion of divergent (or hitherto suppressed) perspectives, including "the other's griefs and losses, but also critical, moderate voices of one's own community. Accordingly, Staub (2002, p. 867) in his definition of reconciliation sheds light on the psychology and the resulting daily realities of the conflict parties:

"The essence of reconciliation is a changed psychological orientation toward the other. Reconciliation means that victims and perpetrators, or members of hostile groups, do not see the past as defining the future (…). It means that they come to see the humanity of one another, accept each other, and see the possibility of a constructive relationship."

Here reconciliation can be considered both a process of individual and social transformation towards an ideal goal *and* an outcome (the realization of that goal). According to Staub (2006, p. 887) this involves entering a direct intra-, and inter-communal dialogue about conflict-related issues, while he strongly underlines the importance of personal contact: The so called *contact hypothesis* postulates that personal meetings and direct communication between opposing parties (which in many intractable conflicts and in post-conflict societies do simply not exist on a daily-life-basis) may initiate a significant process of de-stereotyping, re-humanization and, consequently, contribute to the differentiation of an outgroup formerly perceived as homogenous and bad. Consequently, if the parties can maintain and expand a constructive climate of communication, their engagement and reprocessing of the past may lay the foundation for an inclusive memory, an overarching, common identity and shared norms that are ideally backed by an established routine of institutional cooperation. Such a process of socio-emotional rapprochement, however, is long and complex. It may be significantly facilitated by symbolic acts, such as confidence building measures, goodwill gestures, and public apologies (Kelman 2008, pp. 15–32; Boraine 2006, pp. 22–23).

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However, to broaden and transform deep-rooted exclusive identities, seemingly natural group affiliations or traditional narratives is likely to be met with opposition and debate for three basic reasons.

First, transformation naturally threatens the self-evident, familiar and cherished (*threat to one's group identity*). This may above all relate to deep-rooted identities, gender roles, a sense of coherence based on an engrained world view, political ideologies or beliefs about one's own group and heritage that are an essential condition for psychological well-being and for coping with conflict-related stress and insecurities (for theoretical approaches see Sheff 2009; Rehrmann 2017; for the case of Israel-Palestine see Braun-Lewesohn/Sagy 2013; Mana/Sagy/Srour/Mjally-Knani 2015).

Second, transformation endangers one's material possessions or social standing through a redefinition of existing social, economic or political hierarchies that have been legitimized by exclusive narratives or ethnic affiliations *(threat to one's status*). So, actors may out of material or power-political reasons be opposed to any form of rapprochement (for the case of Cyprus see Rehrmann 2019).

Third, also the tensions and contradictions inherent in the very notion of reconciliation itself pose forensic (legal), emotional, as well as ethical challenges. As has been outlined in this volume's introduction, tackling the past comes with multiple tensions that are related to the notions of memory, amnesty and amnesia (how to give the past a prominent role in the present without endangering the future), to legal accountability versus social cohesion, the difficult task to reach a profound and honest acknowledgement of committed deeds and achieve victims-empowerment and also to secure compensation and economic integration of formerly excluded minorities – even if this includes the abolition of former privileges.

In sum, it is exactly these factors that might not only impede post-conflict transformation but have caused the evolution and escalation of conflict in the first place.

Two profoundly analysed case studies – South Africa and Israel-Palestine – might be revealing in this context – the former to show the importance of deep-rooted world views, the second to show the socio-emotional dynamic of intractable conflicts.

First, the example of Apartheid South Africa with its deeply ingrained routines of dehumanization, discrimination and exclusion might be revealing. Concerning the above-mentioned aspect of ideology and affiliations as root causes of conflict escalation, Staub (2002, p. 871) aptly observes that "mass killings and genocide are the end points of an evolution of doing harm. In the course of this evolution the victims are increasingly devalued, are identified as enemies of an ideology that perpetrators create and are harmed in varied ways." In line with this argument, former South African Archbishop Desmond Tutu (2010, pp. 83–96) narrates the numerous discriminating practices of Apartheid, the daily humiliations, economic degradation, and social exclusion

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that people were born into, while they considered it an irrevocable reality. He recalls an incident when as a child entering a shop with his father, the white girl behind the counter – Tutu describes her as "barely even a teenager"– confronts his father with the words "Ya, boy?" Incisively, he contextualizes that moment with the words:

"She was only living what she had learned – disrespect for an elder of a different race. (…) Apartheid was instituted as a sweeping set of laws and regulations that determined every aspect of a person's life on the basis of their race. It was experienced as a series of daily injustices and humiliations against people of colour that (…) dulled the sensitivities of white people. In isolation, each of the incidents (…) was a small thing. But these hurts and hardships that white South Africans inflicted on their black compatriots were part of a process that got white people used to dehumanizing black people."

In order to make that daily reality work and prevent any possible remorse, he continues, powerful institutional mechanisms guarded the status quo, giving it the appearance of routine and lawfulness, thus lowering the inhibition threshold for discrimination and violence:

"They [the Apartheid officials, C.R.] understood the importance of the details of dehumanizing: separate doors, different amenities, exclusive beaches and benches. (…) The horrors of Apartheid didn't spring from nothing into full bloom. (…) In order to permit ourselves to inflict wanton harm, our actions must be accompanied by a host of rationalizations and justifications. Those we call national enemies are described first as 'them' and then in progressively less human terms before the bombing can start. The rhetoric of the Nazis, the propaganda of the apartheid government, the voices of those who stroked the fury of the Rwandan genocide – in example after example throughout history the drums of war have been preceded by caricatures of those on the other side" (p. 86–89).

Tutu's descriptions underline the fundamental importance of including analyses of radicalization, discrimination and exclusion into the concept of reconciliation and to see the long-term impact of deep-rooted ideologies. Understood in this broad conception reconciliation applies to a pre-, as well as to post-conflict contexts.[1] As such it is a powerful yardstick of social integration and democratic values. Critical evaluations of the quality of reconciliation in South Africa – I will come back to this aspect in the next sections – suggest that even South Africa as an often cited example of a successful reconciliation process has failed in achieving a fundamental

1 It this sense reconciliation defines the quality of what Richmond (2006, p. 2) calls "liberal peace" and Boulding (1988, p. 159) labels as a process of reaching a "stable peace" measured in line with the degree to which a (fragile) stability is based on deterrence, defiance, (economic or political) compulsions, and threat instead of a common identity, social cooperation, economic interdependence and shared norms (Boulding calls them "taboo lines") that make actors refrain from infringing (national) sovereignty or (personal) integrity.

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paradigm shift that would break down engrained economic disparities and political cleavages (see Zenker 2014; Tambe Endoh 2015). This underlines the tenacity of socio-emotional structures and related interests.

This is also the case for protracted, which means politically unresolved conflicts characterized by pending territorial, civil or humanitarian questions, economic depravations related to high military expenditure and profound security concerns. As Bar-Tal (2007) discusses with regard to Israel-Palestine, societies with a heritage of violence, ongoing tensions and security issues have evolved a "socio-psychological infrastructure". This infrastructure consists of common emotions and collective beliefs that strengthen group cohesion and common action. Cohesion provides strength to cope with security concerns, stress and trauma, helps maintain a positive self-image and unites against the rival. Even a long time after the cessation of the conflict through a peace treaty, this orientation characterizes identities and social practices of actors in the respective societies: It shows in selective narratives of ingroup-victimization and outgroup-demonization in history textbooks, exclusive memory places and related media discourses, while whole generations are brought up in the spirit of mistrusting and avoiding "the other" and perceiving the inter-group relations as a zero-sum-game. As a result, actors may not only be impeded in their engagement with reconciliation because of delicate emotional or identity reasons, but they simply may not believe in the benefits of a paradigm shift. Moreover, the longer a conflict lasts, the more actors may have arranged themselves in a specific *interest structure* of power, influence, image, wealth and affiliations that may be threatened by social and political transformations. Thus, they can be considered as having vested interests in maintaining the status quo. In the context of Israel and Palestine interest groups, such as the *Israeli Defence Forces*, religious groups on either side, and political parties seem to profit from the status quo in terms of power, prestige and income. I will come back to this point in the next section when discussing the role of *devious objectives.*

Finally, confronting past trauma, crimes, and material claims in post-conflict societies to lay the foundations for a stable peace, is accompanied by a series of inherent challenges and contradictions. Here, transitional justice (TJ) refers to all kinds of measures legal accountability for crimes, and symbolic acknowledgement of harm and material compensation. TJ-science analyses the challenges and chances for social reconciliation through measures aimed at "doing justice" (in a legal, as well as in an ethical sense), healing trauma, reconciling former opponents and initiating a political, cognitive and emotional transformation of the respective societies: It does so by means of trials, institutional reforms, vetting and lustration, by truth seeking (often by establishing a *Truth and Reconciliation Commission*), by taking care of the diverse needs of victims, and by ideally creating an inclusive memory of the past.

As a range of post-conflict countries show, some preferred to keep the book

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of the past closed, and those who have opted for a profound transformation or where imposed from outside to do so, have been left with shortcomings and disputes.

Chile, Argentina or Spain, for instance, promulgated broad amnesties to protect the perpetrators – amnesties partly lifted by subsequent governments, while victim's associations to date strive for truth and acknowledgement. In Israel-Palestine and Cyprus – although the latter seems to be a cold conflict – TJ measures have been almost inexistent. Hence, the absence of TJ endeavours is always a powerful indicator for the lack of reconciliation.

By way of contrast, criminal tribunals such as the ICTY for the Former Yugoslavia or the ICTR for Rwanda, have been successful in demanding accountability for massive human rights violations of the central political and military actors. However, they also struggled with problems of legitimacy. South Africa's TRC – the most prominently cited example of successful reconciliation through moral accountability and integrative social dialogue – can indeed be considered a cornerstone of South Africa's journey towards healing and political transformation. But it has likewise been accused of providing only symbolic acknowledgement for victims that expected legal accountability and profound economic assistance. Germany's shortcomings in coming to terms with its GDR-heritage – as I will later shortly illustrate – has let to denial, frustration and alienation within East-Germany and between the Eastern and Western communities.

In view of the abovementioned, I will now proceed with an introductory discussion of different qualitative approaches regarding *readiness* and *willingness* of societies to enter a process of reconciliation. Here different techniques for confronting socio-emotional barriers, as well as tackling counterproductive strategic interests of interest groups shall be demonstrated. After giving a short overview over the related theoretical concepts and practical applications of TJ, I will juxtapose and compare the elements of TJ shedding light on its inherent contradictions and dangers, while underlining the added value of a comprehensive approach towards reconciliation. Finally, I will analyse in depth the socio-emotional chances and barriers of doing justice with a focus on criminal tribunals and TRCs to demonstrate the importance of an integrative, socio-emotional approach to conflict transformation.

The Stony Path towards Rapprochement: Different Approaches in Response to Differing Social Realities

"If reconciliation is to succeed", says Alexander Braine (2006, pp. 22–23), former vice chairman of the South African Truth and Reconciliation Commission, "it must have an impact on the life chances of ordinary people.

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If genuine coexistence is to take place, then the building of trust is indispensable. If trust is absent, citizens will not be prepared to invest their energies in the consolidation of democracy".

But how does a society engage into the long process of trust building, if the status quo is characterized by mutual distrust, a collective identity that is based on negative images of "the other" as an established social reality, where social institutions, such as education and the media, victims' or martyrs' associations have been constructed that routinely disseminate and guard their divisive narratives? How can a conflict be resolved, when the status quo secures the power-political and material interests of certain groups, where the perpetrators of the past still command political power as potent veto groups, and where the political culture is based on consensus, hierarchies and mechanisms, which exclude or delegitimize internal critique or deviation from a majority's norms?

Societies in intractable conflict, says Bar-Tal (2000, p. 360–361),

"maintain societal mechanisms to guard consensus evolved around the conflictive ethos, which is viewed as a functional system for coping with the threatening and stressful situation. Individuals and/or groups, who express deviating beliefs from the conflictive ethos, are informally and sometimes even formally sanctioned. The sanctions, thus, inhibit appearance of alternative ideas and opinions."

With the aim of tackling those challenges a series of approaches including top-down and bottom-up transformation or multi track diplomacy have emerged. They comprise high-level talks between political representatives and prestigious public figures, as well as civil society, while they can be process- or outcome-oriented.

On the macro and meso level top-down engagement aims at broad political and institutional impact. Therefore, it involves elite level, including political representatives or religious leaders that can either serve as multipliers of new ideas, or directly introduce political reforms. Conversely, bottom-up approaches will rather include non-governmental actors, such as public figures with prestige, think tanks, humanitarian organizations or artistic initiatives. They are aimed at mobilizing resources and exercising influence on stakeholders and public opinion (Böhmelt 2010, pp.167–178). While political initiatives are more outcome-oriented, "designed to generate ideas for political agreements that can be adopted by official diplomats", civic engagement is most *process-oriented*, "designed to build relationships, trust, and mutual understanding among adversaries at both the elite and the grassroots level to prepare the groundwork for peace to take hold" (Çuhadar/Dayton 2012, p.158)

The latter encompass scientific, cultural or educational initiatives that bring together peace activists or people from diverse ethnic or religious backgrounds to promote dialogue and mutual knowledge-enhancement. These initiatives can be based on the training of locals to engage as mediators into

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promoting transcultural understanding between former conflict parties, as does the "Karuna Center in Bosnia and Herzegovina" (Karuna Center, n.d.). Or else, it may include initiatives established by affected persons, such as the Israeli-Palestinian "Parent's Circle Family's Forum"[2] (Parent's Circle, n.d.). The Parent's circle's motivation and effects prominently appear in Israeli filmmaker Shelly Hermon's documentary "The Eyes of the Storm". It features two fathers, a Palestinian and an Israeli, whose children have both fallen victim to the conflict (one was killed by an Israeli sniper, the other by a Palestinian suicide bomber). Both bereaved fathers engage into a journey of deconstructing the exclusive, national narratives of their respective communities, which they perceive as ideological basis of ongoing violence. Having once been representatives of maximalist and non-reconciliatory positions, the documentary traces how the loss of their daughters triggered their mutual engagement to open up to the perspective and pain of the other. In a bi-communal radio-show they talk about key moments in their lives on the path towards rapprochement, they hold speeches in front of multi-ethnic audiences, talk to pupils about the need for a paradigm shift and mingle with nationalist protesters in the street. Various scenes depict both the scepticism, but also the fierce opposition against dissenters (Hermon 2012). Thus, the documentary can be considered a vivid example of socio-emotional transformation.

Such an inner transformation, however, presupposes a basic willingness to leave known spheres behind, while at least implicitly allowing for the possibility of new, potentially inconvenient insights to have an impact on traditional understandings of self and other. If this willingness does not exist, if the wounds of the past are weeping and ethno-national cleavages are so deep that any form of intercommunal dialogue might be like a blind person's exploration of a minefield, other methods of rapprochement have to be applied.

Here, instrumental approaches aim at creating a common basis for communication, understanding and (pragmatic) trust (*resolution*-level) beyond the "hot" issues. This includes cooperation on technical or environmental issues that are not directly conflict related. Since, intractable conflicts are often characterized by non-communication and stereotypic perceptions towards one another, encounters of people who usually do not meet can help undoing stereotypes (as postulated in the mentioned *contact hypothesis*). Common engagement in, say, environmental issues, may promote a common identity by uniting in a shared goal and by temporarily blanking out the

2 Weder et. Al. attest in their psychological analysis that members of the Parents Circle-Families Forum expressed a significantly lower Post-Traumatic-Stress-Disorder and a lower Prolonged-Grief-Disorder and displayed more hope and trust in the future of the intercommunal relations. (Weder et. Al. 2011).

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exclusive ethnic identities. Bi-communal environmental youth camps are a case in point (for Cyprus see Avgousti 2005; 2008).

Thus, the instrumental approach is based on the idea of, first, offering a neutral ground that would make it more likely for the conflict parties to be willing to meet in the first place and, second, of, so to speak, causing an unintended, unconscious transformation of the participants' belief system and emotions by (temporarily) blanking out the conflict-related sphere.

Another prominent example is peace education. It aims at sensitizing for peace-related concepts, such as human rights, (ethno-) empathy, tolerance, and employs means of multi-perspectivity or role-switch. When it comes to history education, for instance, which in ethnic rivalries often comes as a monolithic, sacred narrative to be memorized, peace education would encourage open, critical self-reflection, and show the contingency and complexity of historic events from more than one perspective (for the case of Cyprus see e.g. Makriyianni/Psaltis 2007). Peace education can be non-conflict related or – if the climate allows it – directly touch on the "hot" issues. Moreover, it may help actors become aware of possible double standards in their conflict-related daily reality. Since, in societies that are in a state of protracted conflict central conceptions, such as respect, tolerance, human rights or security often appear in media debates as central demands to back one's own perspective, while they are implicitly denied to the rival community. Thus, peace education might serve as counterweight against maximalist positions and zero-sum-perspectives ("no alternative"), against selective representations of a conflict's root causes, and /gainst biased and unfavourable interpretations of the outgroup's actions, beliefs, and intentions. Rehumanizing and being able to empathise with the other may help bridge the cognitive cleavages between the in- and the outgroup and find common ground.

Social Identity Theory (SIT) reinforces this assumption when proving how people can undergo an even revolutionary change of attitudes towards one another. This happens when a specific situation invites them to preserve or enhance a positive self-image. Greece and Turkey, for instance, whose relations appear to be based on a deep-rooted ethnic rivalry, would in 1996 by a hair's breadth have become embroiled in a hot war over a small inhabited island (*Imia Crisis*). Only three years later two consecutive earthquakes in the respective countries were the catalyst for a wave of mutual empathy and help. This has even been considered as initial spark for a paradigm shift of traditional Greco-Turkish relations until the present. Speaking from a social psychological perspective, this remarkable finding illuminates the tremendous importance of social, moral and emotional structures for triggering both deadlocks *and* change: Greeks and Turks were invited to temporarily let go of their traditional, ethnic-exclusive identity under the imperative of humanitarian aid, thus preserving their positive self-image albeit not through aggressive differentiation, but through the expression of altruism and

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kindness (for a historical account on the Greco-Turkish relations and their sudden shift see Dembinsky 2006, p. 29).

Still, all occasions and attempts of socio-emotional transformation might be ineffective, if – as mentioned in the previous section – actors out of strategic interests oppose the resolution of conflict. Here, Richmond and Newman aptly point to the fact that even if parties concede to engage in peace negotiations, they may harbour *devious objectives,* for they may not perceive the resolution as a desirable goal. As mentioned before, governing elites, parties and (economic) interest groups, military, police, or religious and educational institutions may benefit from the ongoing conflict materially and in terms of power political or social influence. Thus, actors may engage in negotiations for the sole purposes of face saving or for avoiding painful concessions. The insistence on maximalist positions whilst engaging in long-term and low-level negotiations, politicians conceding to internal or external pressures, while simultaneously deploying a maximalist rhetoric when referring to domestic constituents or party members may be a sign for devious objectives (Newman, Richmond, 2008, pp 1–19). These phenomena are visible in Cyprus, as well as in the Israel-Palestine or in Serbia (see Biermann, in this volume).

Moreover, declarations of goodwill on the political level are also often in harsh contrast with the continued existence of exclusive narratives, the establishment of exclusive places of memory, and ongoing discriminating practices. Indicators and contradictions of this kind can be perceived in the Middle East (see Ranstorp 2006), but also in the Cyprus Conflict, and in Bosnia and Herzegovina. While in the two former cases colliding interests and perceptions have withstood a solution until today, in the latter these interests impede the comprehensive implementation of the agreement. In all three cases, the status quo of ethnic division seems to serve political circles and economic interest groups within the respective communities.

As Tocci (2008) aptly illustrates for Cyprus, both parties hide behind maximalist positions giving reasonable ground for suspicion about their sincerity to negotiate. Similarly, also the establishment of the Federation of Bosnia and Herzegovina ran, and continues to run against specific interests, socio-economic dependencies and political cultures. In particular, as Bojicic-Dezelilovic (2008, p. 203) states, the profiteers of a patronage and client system of intra-group privileges ranging back to the time of war have left their imprint on a system of loyalty and ethnic separation until the present:

"War, sanctions and large population movement within and across the borders of newly created Yugoslavia's successor states opened many opportunities for irregular activity, including organized crime with links to the highest political establishment. The combatants were provided privileged access to resources, including looting and dispossession of other ethnic groups, and diversion of humanitarian assistance to compensate for irregular payments of salaries. The fact that this was condoned by the political leadership, and indeed sometimes openly encouraged, affected the combat-

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ants' perceptions of their position and expectations regarding their status (and the distribution of the spoils of peace) once the war was over. This type of profoundly irregular political economy survived the conflict to become one of the key obstacles to peace consolidation, as its operation could only be sustained in an ethnically divided and antagonized space."

Eventually, apart from the measurable material or political gains that conflict parties might see connected to an unresolved status quo, also the exclusive narratives themselves, together with unresolved trauma and loss, might hamper the willingness to reconcile and be exploited for political purposes. This is more likely, since in Cyprus, as well as in Bosnia and Herzegovina parties have been left behind with the feeling of being treated unfairly. The Bosnia and Herzegovina feelings of injustice are reinforced and perpetuated by transmitted traumas, fears, a long-time reality of ethnic separation and by the "three mutually exclusive ethno-national narratives about the role of their own community and the role of others in the Bosnian war" (Kostić 2012, p. 653). Aptly, the author sums up, how these narratives are being exploited by respective stakeholders for their own political purposes:

"In order to justify their own visions of the past and relate these to the present, political elites engaged in commemorations of tragic events, and continue to propagate their own side's views about the causes of the war, the hostility of the "other" and their own victimhood (…)" (p. 654).

In this sense, maximalist positions are a symbol of maximalist perspectives resulting from divergent realities, traumas and groups affiliations, and expressions of vested interests based on endeavours for maximum personal and ingroup profit.

With this in mind, one can conclude that strategies of instrumental and socio-emotional reconciliation based on goodwill gestures, concessions, peace education, cooperation and dialogue, can serve two purposes:

First, they can help promote mutual understanding by disseminating formerly suppressed knowledge about "the other", while decreasing fear and defensiveness, and encouraging empathy. Thus, mechanisms of boosting sensitization and cooperation in order to redress the *cognitive prism* (Bar-Tal) of the respective societies can bring about the next step, the direct, emotionally delicate and contested, conflict-related issues to be confronted.

Second, the de-legitimization of maximalist positions and monolithic narratives through the establishment of a new climate of moderation and understanding can help isolate, expose and "put on the spot" spoilers that try to take advantage of the political polarization, relying on the legitimacy and self-evidence of exclusive narratives to underpin their policies.

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Pictures' description: Public signs urging not to forget the atrocities of the past in Mostar (top) and Nicosia (bottom)
ΔΕΝ ΧΕΧΝΩ *(I don't forget*) has become a slogan of the Greek Cypriot Community's dominant discourse for the memorialization of the islands division, and the Greek Cypriot community's pain and loss. In Cyprus it is also increasingly considered a strategic instrument of promoting an image of self-victimization legitimizing maximalist political positions. The ironical completion of the slogan with the added words ΝΑ ΒΟΥΡΤΣΙΣΩ ΤΑ ΔΟΝΤΙΑ ΜΟΥ *(to brush my teeth*) might be considered a sign of mocking opposition to the dominant narrative.

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Transitional Justice: Coping with Troubled Pasts

In the preceding sections different forms of post-conflict rapprochement, and accordingly various methods that take into account the basic challenges for initiating change have been presented. As introduced in the first section, one of the most extensive research areas of reconciliation is related to the concept of Transitional Justice (TJ). Justice relates to the legal, as well as to the broader, ethical meaning of justice, encompassing notions like righteousness, equity and fairness. As part of the overall question of how to tackle hot or protracted conflicts TJ is concerned with how to judicially, emotionally and ethically confront legacies of violence, of gross human rights violations, in order to (ideally) reconcile the former opponents and promote sustainable peace. Thus, TJ can be seen a means to reconciliation based on the establishment of justice ranging from its collective, comprehensive to its more individual, subjective dimensions.

The two pillars of TJ are retributive (focusing on punishment) and restorative (focusing on healing and reconciling) justice. The latter comprises reparative (aimed at compensational issues) and transformative justice (measures to initiate a paradigm shift), while a number of other overlapping conceptions may be used to define the specific quality and goal of justice. Charles Villa–Vicencio, Director of Research for the South African TRC, adds "deterrent justice; compensatory justice; rehabilitative justice; justice as an affirmation of human dignity; and justice as exoneration" (Clark 2008, pp. 333).

When it comes to the implementation of TJ, there are six pillars: "Trials, truth commissions, vetting, reparations, memorialization and institutional change" (Fletcher, Weinstein & Rowen 2009, p. 165; ICTJ). They are directly related to the four cited elements of reconciliation (truth, mercy, justice and peace). Each of them has an important part to play in coming to terms with the past. However, each also bears dilemmas and dangers.[3]

Criminal or retributive justice is the first and most direct measure for calling to account those responsible for mass atrocity crimes, including genocides, war crimes, crimes against humanity, and the crime of aggression, as the Rome Statue of the ICC states (Rome Statue, 2002). The International Military Tribunal at Nuremberg (as the first of its kind), the ICTY for ex-Yugoslavia or the ICTR for Rwanda, as well as the many local courts, have become international symbols for legal accountability. They represent the individualization of guilt, the visualization of pain and help avoid vengefulness, circles of violence or lynch law (Leebow 2008, p. 110). However, as will be discussed later, criminal justice without further reconciliation is limited in

3 As a standard work into theory and practice of TJ see Kritz (1995) and the ICTJ; for a recent analysis of "vetting", including several case studies, see Mayer-Rieckh/de Greiff (2008).

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effect, and – when externally imposed – is confronted with questions of legitimacy and ownership.

The second measure, the establishment of a Truth and Reconciliation Commission (TRC), foremost belongs to the sphere of restorative justice. TRCs are considered organs of truth investigation and function as loci of catharsis for victims and perpetrators (Rim et. al. 2011, p. 695). Complementing or replacing criminal justice, they are installed when criminal trials, due to the large number of perpetrators, might be practically difficult and dangerous for social cohesion. Exceeding the scope of criminal trials, they aim at the reprocessing of past crimes, re-empowerment of victims and of social reintegration of both victims and perpetrators. In TRC's hearings victims are offered a platform to publicly communicate their stories that are broadcasted and filed. Perpetrators have been invited to testify and to apologise. Thus, in providing space for unusual encounters and acknowledgement TRC's are instrumental in creating a long-term memory of victims' suffering. More than thirty TRCs have been established since the 1980s, ranging from South Africa, to Serbia and Montenegro, where unfortunately the *Komisije za istinu i pomirenje* due to internal disputes dissolved before it could start functioning.

Third, TJ provides reparations. They are "the most tangible manifestation of the state's efforts to remedy the harms they have suffered" (Boraine 2006, p. 24). As case studies show, democratic transition processes have handled the question of material compensation quite differently: Post-communist Russia, for example, has appeared reluctant to acknowledge and compensate victims' claims, and has focused instead on symbolic acknowledgment of past crimes. By way of contrast, Chile, although it had until recently opted for comprehensive amnesties for crimes committed in the Pinochet-era, "undertook instead one of the most comprehensive programs of compensation and rehabilitation (…) encompassing life-long-pensions for survivors (…), compensation for prison time (…), educational benefits, a national network of medical and psychological services for victims and their families, and exemptions from military service" (Kritz, 1995, pp. xxvii).

Eventually, TJ encompasses vetting and institutional transformation. That is (individual) replacement and (structural) renewal of corrupted political systems. While vetting is defined as "processes for assessing an individual's integrity as a means of determining his or her suitability for public employment" (Mayer-Rieckh/de Greiff 2008, p. 17), it is only one of a wider range of measures comprising institutional reforms. The latter include the rearrangement and reform (disarmament, dissolution) of existing institutions to increase transparency and legitimacy (through new, controlling organs), the establishment of new policies and legal frameworks to foster human rights protection, and ideally also an educational reform turning away from former (national) narratives (ICTJ 2016).

Eventually, the broadest measure of reconciling former opponents and also a long term yardstick of success, is the establishment of an institutional, trans-,

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inter-, intra-communal and intersubjective memory "that can be acknowledged by those who created and implemented the unjust system, those who fought against it, and the many more who were in the middle and claimed not to know what was happening in their country" (Boraine 2006, p. 22).

In view of the above mentioned, it is clear that the concept of TJ – as does reconciliation – goes far beyond criminal prosecution and the replacement of corrupted political structures. In addressing the needs of post-conflict societies, it seems indispensable for achieving a profound paradigm shift that minimizes the risk of a relapse into past conflict structures.

TJ: Irreconcilable Goals, Related Dangers, Adverse Effects

However, TJ mechanisms are confronted with a multitude of inherent contradictions and societal challenges that complicate or even impede reconciliation. This section will discuss dilemmas and dangers of TJ measures to underline the importance of integrated approaches and socio-emotional reconciliation's share in a stable peace.

The first difficulty refers to the tension between legal and moral accounting and truth seeking on the one hand, and the promotion of hope and trust for the future on the other. This refers to the essential tension between retributive and restorative justice. Here, a rising number of authors, while acknowledging the need for criminal prosecution and its success in providing accountability and closure, criticize an exclusive focus on retributive justice: In particular, as mentioned in the previous section, the questionable impact of the ICTY on reconciliation has met with criticism. Clark (2008, pp. 332–344), for instance, diminishes the theoretical claim of criminal trials to ensure justice, provide accounts of the truth and individualize guilt by showing how in the case of the ICTY the disputes and frustrations around the court's decisions as perceived by the related communities – foremost Serbia – corrupted those claims for the exclusive narrative of the conflict remained the same. Recounting the widespread rejection of the ICTY's proceedings by a Serbian majority that considered it as NATO-friendly, Western-oriented and biased against them, Clark (2008, p. 335–336) aptly illustrates the subjectivity of the term *justice:* "Truth, like justice, is a disputed concept. For example, the 'truth' about the wars in the former Yugoslavia during the 1990s will vary according to whether one is speaking to a Serb, a Croat, or a Bosnian Muslim. Each side is prone to see itself as the principal victim of war crimes". As visible in the reactions to the trials against Milosevic, Mladic or Karadzic, the Serbs perceived the convictions of their political or military leaders as personal humiliation. This underlines that endeavours for justice and reconciliation need a fertile, respectively a favourable ground. Furthermore, the ICTY's trials are an example of externally enforced justice. Beyond the lack of consensus on guilt

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and blame, this has also stimulated opposition and denial on the part of the offenders and related interest groups. This underlines the importance of legitimacy, respectively of "local ownership" of transitional processes. International intervention, say Fletcher et. al. (2009, p. 190–207), "leaves an indelible mark on the nature of the transitional justice response adopted by a country" (for further critical accounts on the ICTY's legitimacy see Garbett 2012; Kostić 2012; Meernik 2005)[4]. Therefore, a broad constituency within a country supporting TJ measures and the involvement of central local actors appear crucial to minimize the risk of downright rejection of the TJ process. As particularly the cases of Rwanda and South Africa show, the effect of TJ seems far more effective, if it is initiated by local actors and resonates with local traditions. Vora and Vora (2004, pp. 305–306), for instance, report that the hearings of witnesses in the South African TRC used to be preceded by prayers and singing. Similarly, the process of legal and moral accountability in Rwanda has been, apart from a small number of trials by the ICTR, based on the local *Gacaca* tribunals that tried roughly 1.9 million people. These public tribunals were staffed with local people and concerned with crimes committed in the respective village or area (Herrmann 2012, p. 106). In view of the tremendous atrocities committed and the fact that there were no institutional reforms and no material compensations for the victims who had to relive their traumas through public testimony, Rwanda – albeit far from being reconciled – shows how much can be achieved when the transformation is undertaken under the leadership and with the involvement of the affected people.

However, local ownership cannot solve the problem of (far-reaching) impunity. The larger the number of perpetrators in a respective society, the more difficult it will be to impose universal justice. A significant amount of TRCs confronted that challenge by focusing on truth finding and healing. For this aim, however, they "paid the price" of very limited criminal authority. They did so not only for purposes of social integration, but also for practical reasons. In order to establish truth and thus provide accountability, acknowledgement and closure TRCs often have to rely on testimonies from large numbers of people who would not easily make a statement under the threat of punishment (Boraine 2006, p. 20). Here, TRCs run the risk of lacking credibility and thus diminishing the social impact of their findings. Moreover, opting for impunity in order to promote dialogue and avoid an eruption of social disputes, may be considered by victims as offering perpetrators a legal framework to "buy themselves free". This applies especially to those cases, in which confession, as the case in South Africa, is rewarded with impunity. A recent study with South African students, asking what they thought about the effectiveness of the TRC in bringing about truth and reconciliation in their

4 A lack of legitimacy can also hamper the effect of local ownership: That appears to be the case in Serbia, where the local courts deriving from the ICTY seem limited in their impact (see Biermann, in this volume).

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country, shows that a significant amount believed perpetrators lied or stated half-truths to avoid image loss and penal consequences (Vora, Vora 2004, pp. 309–310).

Furthermore, the process and outcome of truth finding and moral accountability instead of healing can be detrimental for the relationship between victim and perpetrator. Rim et. al. (2011, p. 704) report a dramatic increase of negative emotions, such as anger and disgust, on the victims' side in the Gacaca tribunals in Rwanda, caused by the confrontation with the perpetrators and the resurgence of traumatic memories. Perpetrators, in contrast, seemed to benefit from the legal certainty they gained:

"In sum, the fairness of the procedure and the outcomes of the ritual justice proved more satisfactory for the former [here: the perpetrators, C.R.] than for the latter. For perpetrators, these trials meant the end of a long state of uncertainty about their fate as well as their possible reintegration in the community."

These findings show that TJ mechanisms have to be carefully balanced and supervised with regard to their immediate and long-term effects and their mutual impact. They also underline the added value of a prudent combination of retributive and restorative measures. Here, Clark (2008, p. 344), for instance, underlines the importance of an integrated approach for the former Yugoslavia, that comprises also the socio-psychological, legal and integrative potential of NGOs like the "Group 484" (assisting refugees in returning), the "Victimology Society of Serbia" (carrying out opinion polls and promoting dialogue on the past and measures for the institutionalization of memory – see Nikolić-Ristanović, Ćopić in this volume), or the "European Initiative for Democracy and Human Rights" (undertaking teacher training).

The mutual dependency of TJ measures is also visible in the question of reparations and acknowledgement: As already stated, acknowledgement of harm without criminal trials can appear as lip service and a lack of sincerity. The same is true for acknowledgement without reparations. Conversely, reparations without public recognition of harm may seem like blood money. As South Africa's ongoing debates about compensation claims, and the lack of material compensation for victims of sexual violence in Kosovo and Bosnia indicate, compensations are rare. This might be due to a general lack of TJ measures, out of concern that compensation might be seen as admission of guilt (both relevant in Cyprus), or because of economic strain:

"More often than not, the legacy left by departing totalitarian or authoritarian regimes includes a weak economy and empty government coffers, depleted through corruption or mismanagement. The nascent democratic government must use its limited resources to turn the economy around, restructure the bureaucracy to restore public trust" (Kritz 1995, p. xxvii).

However, it is obvious that those economic reasons are most often intertwined with a lack of criminal justice that is related to compensation procedures. In

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