INTERNATIONAL MIGRATION

International Organization for Migration (IOM)

doi: 10.1111/imig.12290

Turkey's Position on IDP Properties: Lessons (Not) Learned

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ABSTRACT

Three issues: security, economics and justice, are the keys to comprehending the essence of problems of property and IDP return in conflict settings. The case of Turkey presents an interesting framework for analysing issues related to IDP property, both in the context of the Kurdish issue in the Southeast of the country, and in Cyprus. Comparing the position of Turkey in these two settings, the article argues that, while it utilizes domestic mechanisms to avoid international pressures very well, especially by exhausting the decisions of the European Court of Human Rights to reinforce legitimacy of its policies, Turkey's position on the return of and/or compensation for IDP properties lacks transparency, disregarding principles of justice without respect for human rights.

INTRODUCTION

Earlier studies claimed a close relationship between property and IDP return where conventional wisdom believed that granting people their property rights facilitated their physical return back home (See for example: Leckie, 2003; Black et al., 2006). Now we know, based on empirical evidence from different peace-building cases, that granting people their property rights does not always facilitate physical return; but it may enable resettlement elsewhere, given a sense of either physical or economic security and justice in reparations. Compensation packages, defined here as a form of reparations that requires supplying money or other benefits to victims of human rights violations, are important tools to create justice in reparations. To qualify as a transitional justice method, compensation packages should refund any economically measurable damage caused by those violations like "physical or mental harm, including pain, suffering and emotional distress; lost opportunities, including education; material damages and loss of earnings, including loss of earning potential; harm to reputation or dignity; and costs required for legal or expert assistance, medicines and medical services, and psychological and social services" (UNCHR, 2000).

Compensation packages vary from case to case and country to country, based on different conditions such as the types of crimes that verify victims as compensation beneficiaries, the number of victims and their relatives to be compensated, the total funds allocated to the compensation programme, the form of the compensation (material or non-material), the payment process (whether to pay lump sums or give monthly payments), and the time frame during which victims can apply for compensation (Sert, 2013). Turkey is an interesting case. providing a comparative framework for analysing compensation schemes in relation to properties of conflict-induced internally displaced persons (IDPs hereafter) in two contexts of Cyprus and Kurdish issues. Focusing on the Immovable Property Commission (*Taşınmaz Mal Komisyonu*, TaMK hereafter) created to compensate the

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International Migration Vol. 55 (5) 2017
ISSN 0020-7985

Published by John Wiley & Sons Ltd.

losses of Cypriot Greek IDPs in Cyprus; and the Law on Compensation for Losses Resulting from Terrorism and the Fight against Terrorism (Law No. 5233), shortly known as the Compensation Law of 2004, established to pay damages to Kurdish IDPs in the Southeast of the country, the article seeks to analyse Turkey's position on IDP properties more critically. Based on the literature on transitional justice, the article seeks to provide insight into the motivations behind Turkey's compensation schemes in these two cases. We explore whether these schemes are real means of redress for human rights violations by the state, or serving other interests.

Already in 2012, Kurban stated, "a close study of the government's policies on displacement in general and the compensation law in particular shows that the international community has hailed Turkey prematurely for its compensation scheme for the displaced" (Kurban, 2012: 5). Kurban's statement was a result of her analysis of the implications of the 2004 Compensation Law only. By extending the analysis to Cyprus, the article reiterates the case that while Turkey utilizes domestic mechanisms to avoid international pressures very well, especially by exhausting the decisions of the European Court of Human Rights (ECHR) to reinforce legitimacy of its policies, Turkey's position on return and/or compensation of IDP properties lacks transparency, disregarding principles of justice without respect for human rights.

The case of Turkey is interesting and important, because it provides a comparative case where we can observe and comment on the acts of a single player, i.e. the Turkish state, in two different contexts of internal displacement. On the one hand, there are Kurdish IDPs who were displaced within Turkey's territory as a result of state violence against its own citizens. On the other hand, there are Cypriot Greek IDPs, who were displaced as a result of Turkey's actions outside its territory performing as a guarantor state based on an international agreement. Thus, in the former case, Turkey exploits its legitimate use of violence against its own citizens with reference to the Weber's definition of the state within the limits of sovereignty of a nation-state. In the latter case, it is really the ECHR that judges Turkey as the effective jurisdiction in the north of Cyprus with its military presence on a foreign land as an international guarantor. In both cases, we notice that Turkey's compensation policies are not genuine efforts at transitional justice, but blanket schemes shaped by international pressures.

The srticle aims to provide a bridge between disparate literatures such as displacement studies, European human rights law, and conflict resolution more broadly. We follow a comparative approach where a single actor's actions, i.e., the engagement of Turkey, are analysed in two cases of forced displacement –in Cyprus (international) and the Kurdish region (domestic). With regards to the research design, the case studies and methods employed here are believed to present a detailed contextual analysis, from which others studying similar questions can learn. Although Turkey seems to be unique in exploiting ECHR institutions (see Dinsmore, 2016 and Paraskeva, 2010), there can be a role for political learning and institutional cross-fertilization across different cases.

The article is composed of three main parts. The first section details the discussion on compensation packages and their role in transitional justice. The second part, in two subsections, presents the empirical contexts of Cyprus and Kurdish issues, especially in relation to IDP properties; and the final section is the conclusion.

COMPENSATION PACKAGES: TOOLS OF TRANSITIONAL JUSTICE

The United Nations defines transitional justice as "the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation" (2010). There are five components to transitional justice: prosecution initiatives, facilitating initiatives in respect of the right to

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truth, delivering reparations, institutional reform, and national consultations (ibid.). The UN also developed a definition of reparations. Accordingly, '(a)dequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law" and "(r)eparation should be proportional to the gravity of the violations and the harm suffered" (United Nations, 2005). There are many components to reparations: *restitution* to restore victims to their original situation through, among others, the return of property; *restoration* of employment, identity, dignity, and liberty; *recognition* of the right to return to the original residence; *compensation* providing for "any economically assessable damage, as appropriate and proportional to the gravity of the violation," like "physical or mental harm, material damages and losses of earnings, moral damage, and the costs of medical, legal, and social services"; *rehabilitation* seeking to provide the victim with medical and psychological treatment, as well as social and legal services; *satisfaction* entailing truth-seeking, official and public apology, the search for the disappeared, abducted, and bodies of those killed, prosecutions of perpetrators, and public commemorations for the victims; *guarantees of non-repetition* including enhanced protection of human rights, effective civilian oversight over the security sector, judicial reform, human rights training for law enforcement officers, conflict resolution, and legal reform. (ibid.)

Compensation packages have become tools of transitional justice after World War II, when West Germany began to compensate the victims of Nazi persecution. In the following period, an extended scale of compensation packages was designed in different post-conflict reconstruction phases. While compensation was mostly the product of legal proceedings concerning material losses until the 1980s, recently it has been incorporated into wider social, political, and judicial reform processes that impact social reconstruction or reconciliation, embody political recognition of the crimes, and offer remedies to victims and their families. The disposition, reach and intensity of compensation packages vary in different contexts, based on the type and scale of the conflict, the inclination of the state to execute the policy, the recognition of the offender and the victim, and the existing funds.

The packages have also differed in their management. There are three observed methods: *First*, compensation policies can be completely managed by international organizations like the United Nations. An illustrative case is the United Nations Compensation Commission (UNCC) created in 1991 to process the claims of compensation for losses and damage suffered during Iraq's unlawful invasion and occupation of Kuwait during the first Gulf War of 1990. *Second,* courts can command compensations, where perpetrators remunerate their victims, as a way for the committers to accept the suffering of the victims, providing material compensation to victims as well as having a symbolic meaning. *Third*, states can design and manage compensation packages as part of their state responsibility. While this is a way for the governments to acknowledge the suffering of the victims and/or their surviving relatives, as the funder of such programs, they also decide who is to receive compensation and how much they should receive.

Thus, there are two main issues regarding compensation packages as a transitional justice method: how to identify the victims and to select the beneficiaries, and how to ensure the availability of financial resources during the processing of compensation packages. The two are closely related. In principle, the policy should make sure that every victim is a beneficiary of compensation, either directly or through his or her relatives. However, this is rarely the case, as most state budgets cannot sustain the full compensation of the large number of victims. Therefore, most policies of compensation are directed towards violations of rather limited rights, without justifying why benefits are granted for the violations of some rights and not of others; subsequently, creating hierarchies of victims and suffering. Ideally, compensation packages should ensure that every victim receives fair reparations.

De Greiff (2006) identified two desirable qualities that a reparation programme should entail in order to realize acceptable levels of legitimacy and justice; accurately stressing the importance of

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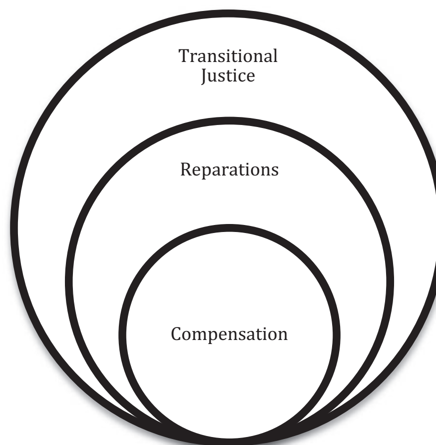
integrity or coherence of such policies, i.e., reparation policies should be both "internally" and "externally" coherent. On the one hand, "internal" coherence refers to the fact that different benefits or components of the plan such as material and symbolic, or individual and collective, reinforce each other. On the other hand, "external" coherence underlines the requirement that plans should be complementary to other transitional justice mechanisms, like truth telling. To illustrate, De Greiff argues, material benefits for victims without truth telling and without genuine efforts to hold perpetrators accountable can be seen by beneficiaries as the attempt on the part of the state to buy silence or acquiescence of victims and their families, turning the benefits into "blood money" (also cited in Yepes, 2012).

All in all, Figure 1 depicts the definitions provided by the UN in a Stacked Venn diagram. While transitional justice is the all encompassing term as "the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses"; reparations stipulate redress for violations, where compensation is payment for economically measurable damage. Based on this, compensation is really the least that a state can provide for the victims of violations. Yet, states tend to choose the compensation measure, because other non-material mechanisms need a longer term and true commitment. In fact, literature on transitional justice argues that we need to follow a holistic approach as:

> truth-telling in the absence of reparations can be seen by victims as an empty gesture, as cheap talk ... Reparations in the absence of truth-telling can be seen by beneficiaries as the attempt, on the part of the state, to buy silence or acquiescence of victims and their families turning the benefits into "blood money" ... By the same token, reparative benefits in the absence of reforms that diminish the probability of repetition of violence are nothing more than payments whose utility, and furthermore legitimacy are questionable ... The punishment of a few perpetrators without any effort to positively redress victims could be easily seen by victims as a form of more or less inconsequential revanchism (De Greiff, 2006: 461, also cited in Budak, 2015: 17).

As the next section shows, Turkey's compensation policies in relation to Kurdish and Cypriot displacements are only material commitments that try to bypass important issues such as apology and responsibility.

FIGURE 1
STACKED VENN DIAGRAM OF TRANSITIONAL JUSTICE MEASURES



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EMPIRICAL CONTEXTS: KURDISH AND CYPRUS ISSUES

There are two empirical contexts where Turkey is involved in compensation schemes: it established the TaMK in the Turkish Republic of Northern Cyprus (TRNC) in order to compensate for the losses of Cypriot Greek IDPs; and passed the Compensation Law 5233 in 2004 to pay damages to Kurdish IDPs in the Southeast of the country. The following subsections present these contexts in more detail.

Compensation for Kurdish Properties

They packed homes, went to other lands

Mad girl, mad girl, my dear

Mice and snakes eating our meats

Girl, beautiful girl, my friend . . .

They packed homes, migrations on the way

Mad girl, mad girl, my dear

My heart aches; my breast is burning

Girl, beautiful girl, the woman of my house

(From the song "Malan Bar Kir")

Displacement has long been a part of Kurdish history. Scholars of forced migration in Turkey differ in their views on the reasons for internal displacement of the Kurds. While scholars like Jongerden (2007) and Ayata (2011) claimed that the Turkish state had a systematic plan to displace Kurds and used the armed conflict in 1980s and 1990s as an opportunity to realize this aim, others like Kirişci (1998) and Çelik (2005) argue that it was the villagers' security concerns and the pressures of the Kurdish insurgents *and* the state to take sides in the conflict that caused their displacement (Çelik, 2012, emphasis added). In any case, around a million Kurds were internally displaced in Turkey (HÜNEE, 2006), and almost three thousand villages were emptied in the Southeast of the country in order to prevent them from being used as logistic support by either party to the conflict. For a long time, the Turkish state did not acknowledge either the evacuations or the displacements. In 1994, when the Turkish Human Rights Association (HRA) published a document validating the destruction of villages, the document was banned and HRA officials were prosecuted under the Anti-Terror Law.

Turkey had no intention of accepting neither the incidents of displacement nor any responsibility that might have resulted from them, and maintained this position until it began to face a series of international pressures. The first one came when the European Union (EU) recognized Turkey as a candidate country to become a EU member state in 1999. The EU demanded that Turkey revise its human rights reforms as part of the Copenhagen conditions, and in 2003, revised its Accession Partnership with Turkey to include a specific requirement to facilitate and accelerate the return of internally displaced persons (European Commission, 2003, also cited in HRW, 2006). Additionally, in 2002, the former Special Representative of the United Nations Secretary-General on Internally Displaced Persons Francis Deng's report on Turkey was submitted to the United Nations Commission on Human Rights with recommendations to compensate the IDPs (UNCHR, 2002). Similarly,

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in 2004, the Parliamentary Assembly of the Council of Europe (PACE) urged Turkey to "move from a dialogue to a formal partnership with UN agencies to work for a return in safety and dignity of those internally displaced by the conflict in the 1990s" and to endorse measures to compensate the IDPs (PACE, 2004, also cited in HRW, 2006). In 1996, in its judgment on *Akdivar v Turkey*, the ECHR, for the first time, ruled that it was the state security forces that had destroyed these villages;

> The case concerned a village guard family from Kelekçi village, near Dicle, in Diyarbakır province. When three members of the family were killed by a PKK attack in July 1992, the rest of the family resigned from the village guard corps. In November 1992 the gendarmerie instructed the *muhtar* to evacuate all of the inhabitants. As he gathered the villagers together, soldiers in armoured cars began firing with heavy weapons at the villagers and their houses; soldiers also set fire to nine houses, which burned to the ground together with their contents. The soldiers shot the villagers' livestock. The Kelekçi villagers fled to nearby towns. Soldiers burned the rest of the village – 136 houses in total – in April of the following year. (HRW, 2006)

Similar decisions of the ECHR on cases such as *Menteş and others v Turkey* in 1997, *Selçuk and Asker v Turkey* in 1998, *Bilgin v Turkey* in 2000, *Dulas v Turkey* in 2001, and *Dogan and others v Turkey* in 2004 also continued to exert pressure on Turkey both politically and financially. These judgments were significant, because they established a true record of events, held the Turkish state responsible, *and* provided compensation relating to displacement in the southeast of Turkey (ibid.).

Pressures from the ECHR, the UN and the EU resulted in different measures taken by Turkey like the Return to Village and Rehabilitation Project in 1999, and Van Action Plan in 2006. However, the most important and concrete step taken by the government in addressing the problem of internal displacement was to pass the Law on Compensation for Losses Resulting from Terrorism and the Fight against Terrorism (Law No. 5233), also known as the 2004 Compensation Law. The law aimed 'to deepen trust in the State, to strengthen the State-citizen relationship, to contribute to social peace and the fight against terrorism', and was really the first expression of political will on the side of the Turkish state. The objective of the law was to compensate for the displaced people's material losses caused by the damage resulting from the conflict between the Kurdish insurgents and the state security forces. The time frame set by the law was a period of seventeen years between 1987 and 2004. In fact, even the discourse of the Law is interesting, as it chooses to use the word 'terrorism' rather than 'displacement', leaving a room to maneouvre that can be manipulated by the state where IDPs are presented not as victims of displacement, but side effects of the state's legitimate fight against terrorism. Moreover, the term internally displaced person is translated into Turkish not as *'yerinden edilmiş kişi'* (a person who is displaced by something; in passive voice) but *'yerinden olmuş kişi'* (a displacing person, implying an active role for the person), disclaiming the role of the state in displacing these people.

The Compensation Law was passed in July 2004, just one month after the ECHR's Doğan decision, which had stated that Turkey's displaced were being deprived of any effective remedy; by 2005, claims by displaced persons were already being evaluated by the damage assessment commissions operating under the Ministry of Interior (HRW, 2006). In order to ascertain the credibility of the law, the government of the time circulated a note to provincial governors calling on damage assessment commissions to act fast, be accommodating in the level of evidences they required, and be generous in the settlements made (Kurban, Çelik, & Yükseker, 2006, also cited in HRW, 2006). However, this generosity ended with the ECHR decision in *İçyer v Turkey* in 2006, when the Court declared the Compensation Law an effective remedy "capable of providing adequate redress for the convention grievances of those who were denied access to their possessions in their places of residence." Thus, İçyer's application to the ECHR was found inadmissible on the grounds that he had not exhausted domestic remedies, i.e. the 2004 Compensation Law.[1]

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It is beyond the scope and aim of this article to go over the details of application of the law. Since its enactment, especially after the ECHR's İçyer decision, the law has been criticised by the NGOs, academics, international organizations and the public substantially. The 2006 report of the Human Rights Watch declared the law as 'Unjust, Restrictive, and Inconsistent' claiming that the Damage Assessment Commissions established by the law use different methods to reduce or avoid payment to the IDPs (HRW, 2006). They argued 'house price scales were manipulated to reduce property values; there were arbitrary reductions in valuations; underestimation of land holdings; insufficient compensation for orchards; exclusion of stock and stock keeping; exaggeration of compensation or assistance already received; application restrictions under the single-person "rule" or the "rule" concerning children born away from the village; exclusion of applicants displaced prior to July 1987; 1999 closure of conflict "rule" (especially in Diyarbakır and Bingöl provinces); and exclusion of rent from conciliation payments' (ibid.).

Thus, there are many problems cited in relation to application of the law, including access to the process, arbitrary decisions on the duration of the conflict and valuation of damages, and delays in the evaluation of the cases and payments of compensation. Usually, the evaluation process of the commissions takes as long as the judicial process, therefore, compensations are paid with large delays, the evidentiary bar is very high, and there is no guarantee that people will receive compensation. Based on data provided by the Provincial Administration of the Ministry of Interior, up until August 2015, out of a total of 366,782 applications, 342,954 cases were resolved, where only 183,319 were decided to receive compensation (İller İdaresi, 2016); 159,635 cases, 47 per cent, were rejected on the grounds of lack of documentation and the state's refusal to accept the extent of the displacement.

There are also other problems: The *first* is lack of awareness. Çelik rightfully notes IDPs' relatively low level of awareness of the domestic resources available to them (2012). To illustrate, based on a state-commissioned study in Turkey, compared to 79 per cent IDP population who were aware of the ECHR, only 53 per cent were aware of the Compensation Law (HÜNEE, 2006, also cited in Çelik, 2012). A *second* issue relates to return. As it stands, compensation seems to be the only choice given to the IDPs. In fact, based on figures provided by the HÜNEE study, more than half the IDP population (around 55 per cent) are willing to return to their place of origin (ibid.). A recent article investigating the attitudes of victims of forced migration, through analysing survey data on Kurdish displaced persons and returnees in Turkey, underlines the conditions under which IDPs return home despite continuing tensions, lack of infrastructure and risk of renewed violence (Stefanovic, Loizides, & Parsons, 2014). The findings indicate that contrary to conventional wisdom, more educated IDPs exhibit a stronger desire to return to their ancestral communities, suggesting that education increases available options for displaced persons (ibid.). Thus, return is still desired by some.

A *final* issue is related to the intentions behind compensation. As explained in the previous section, compensation packages need to have an external coherence, i.e. they need to be complementary to other transitional justice mechanisms, like truth telling, or other genuine efforts to hold perpetrators accountable. Instead, as Biner rightfully argues, in the context of contemporary Turkey:

> ... the Compensation Law as a mode of reparation did not engender any practices or discourses that transformed relationships between the state and Kurdish citizens. This does not mean that it did not open up discussions of past injustices. It opened up the possibility of documenting losses and searching for traces of the abandoned property and loved ones who had disappeared or were dead. Despite such spaces of disclosure, the law did not provide opportunities for negotiation between victims and perpetrators. The state did not use the law to offer an apology or explicitly acknowledge its full responsibility for those losses and damages incurred during the conflict. Rather, the Compensation Law *reproduced* historically and politically embedded symbolic and

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material relationships between the state and the Kurdish citizens. The state reproduced its power as the sovereign with the double sword of protection and violence.' (Biner, 2013: 75)

Compensation for Cypriot Properties

I knocked at a door which a woman opened.

She said in Turkish: Come in. Welcome.

Hoşgeldiniz. Hoşgeldiniz.

She handed an album of photos of me,

my husband, our children, this house,

pre-1974. The blue album. My living room.

I kept these for you, she said.

I thanked her in Greek. Efcharisto poli.

A tiny space the size of a pinhead

between each word stung the air, the moment,

the dream. She offered coffee and sweets.

One of us was guest, the other hostess- but which?

('Don't Forget' by Nora Nadjarian in Hanne, 2004)

Nora Nadjarian's poem is one among many examples of Cypriot literature which address the sentimental value of land and property for the island's populations. The property issue is a great concern to the approximately one-third of Cypriots who had to uproot themselves and leave behind their houses, lands, and other immovable property between 1963 and 1974 as a result of civil strife and Turkish invasion (Sert, 2010). Thus, property in Cyprus has a sentimental, economic, and political value.

Compared with the Kurdish issue, we observe a longer period of displacement in Cyprus, with the longest standing internal displacement problem in Europe. The number of IDPs is also much lower than the former case. According to the Internal Displacement Monitoring Centre (IDMC) estimates, by May 2015, the total IDP population in Cyprus is 212,400 persons. The figure is based on the number of people registered as IDPs by the government of the Republic of Cyprus, and includes around 117,000 people with IDP registration who were displaced in 1974 and who are still alive. Descendants of these IDPs are also eligible to receive such identity cards and to be recognized as IDPs, which is defined by law as part of their paternal rights.[2]

Like the Kurdish displacement and the following compensation scheme, it is really international pressure that questions Turkey's position in Cyprus. The ECHR considers Turkey as the effective jurisdiction in the north of the island, as the self-declared Turkish Republic of Northern Cyprus (TRNC) is neither an internationally recognized *de jure* state, nor a party to relevant human rights covenants. In 1996, the ECHR declared that Turkey violated Cypriot national Titina Loizidou's right 'to the peaceful enjoyment of (her) possessions' guaranteed under Article 1 of Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

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> It suffices to recall in this context . . . finding that the international community considers that the Republic of Cyprus is the sole legitimate Government of the island and has consistently refused to accept the legitimacy of the "TRNC" as a State within the meaning of international law . . . It follows from the above considerations that the continuous denial of the applicant's access to her property in northern Cyprus and the ensuing loss of all control over the property is a matter which falls within Turkey's "jurisdiction" within the meaning of Article 1 (art. 1) and is thus imputable to Turkey.' (ECHR 1996)

In 2003, Turkey had to pay damages of 1.2 million euros to Ms. Loizidou. The same year, as a step to respond to the adverse ruling against Turkey in the Loizidou case, and to avoid similar judgments in thousands of similar applications to the ECHR, the TRNC established a special committee to handle property complaints from Cypriot Greeks. Initially, the commission presented only compensation or property exchange as options available to potential applicants.

Starting with the Loizidou case, the ECHR has to date issued six major judgments on Cyprus concerning the ongoing consequences of Turkey's military intervention of 1974, which are the rulings of the court on *Cyprus v. Turkey* (2001), *Demades v. Turkey* (2003), *Eugenia Michaelidou v. Turkey* (2003), *Xenides-Arestis v. Turkey* (2005), and *Demopulos and others v. Turkey* (2011) (See Türkmen & Öktem, 2016). In *Xenides-Arestis v Turkey,* the ECHR, while not rejecting the commission completely, stated that there were certain deficiencies in its operations. One such shortage was underlined as the absence of any form of restitution. Accordingly, the Court asked Turkey to establish a domestic remedy, which secures genuinely effective redress for the Convention violations.

In response, in 2005, TRNC issued the Law for the Compensation, Exchange and Restitution of Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution (Law No. 67/2005). Referred to in brief as the Immovable Property Law, the law:

> regulates the necessary procedure and conditions to be complied with by persons in order to prove their claims in respect to movable and immovable properties within the scope of this Law, as well as, the principles relating to restitution, exchange of properties and compensation payable in respect thereof, having regard to the principle of and the provisions regarding protection of bizonality, which is the main principle of 1977-1979 High level Agreements and of all the plans prepared by the United Nations on solving the Cyprus Problem and without prejudice to any property rights or the right to use property under the Turkish Republic of Northern Cyprus legislation or to any right of the Turkish Cypriot People which shall be provided by the comprehensive settlement of the Cyprus Problem.' (TRNC Law 67/2005 passed in December 2005)

Thus, restitution also became a possible option for the applicants. In 2010, in its decision on *Demopoulos and Others v Turkey*, the ECHR proclaimed the applicants' claims unacceptable due to non-exhaustion of domestic remedies. The Court concluded that the Immovable Property Law, as endorsed by the authorities of the TRNC delivered an accessible and effective domestic framework for redress for the applicants. As a result, based on the records of the TaMK, '(a)s of 19 July 2016, 6,292 applications have been lodged with the Commission and 775 of them have been concluded through friendly settlements and 25 through formal hearing. The Commission has paid GBP 227,162,314 to the applicants as compensation. Moreover, it has ruled for exchange and compensation in two cases, for restitution in one case and for restitution and compensation in five cases. In one case it has delivered a decision for restitution after the settlement of Cyprus Issue, and in one case it has ruled for partial restitution' (TaMK, 2016). The Commission declares itself to be a just, fast and effective remedy for property claims, intending to contribute to the comprehensive settlement of the Cyprus issue (ibid.).

In other, and maybe more sensitive, issues in relation to the Cyprus conflict, such as missing persons, a window of opportunity for reconciliation was created as a result of policies that de-linked the issue from wider political settlement (Kovras, 2012). Instead of becoming a driving force of transitional justice, the solutions proposed by Turkey on the property issue in Cyprus have the

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potential to deepen alienations in the island. In fact, as in the Kurdish case, the compensation scheme in Cyprus does not serve as an apology or explicit acknowledgement of Turkey's responsibility for the victims of displacement, but becomes a tool for Turkey to reproduce its power as the sovereign against international pressures.

CONCLUSION: BLANKET REMEDIES

> Over the past decade ... the elements of transitional justice have moved from being aspirational to embodying binding legal obligations. International law – particularly as articulated by bodies such as the European Court on Human Rights, the Inter-American Court on Human Rights and the Human Rights Committee – has evolved over the past twenty years to the point where there are clear standards regarding state obligations in dealing with human rights abuse and correspondingly clear prohibitions regarding, for example, blanket amnesties for international crimes (Van Zyl, 2005).

Are there really clear standards regarding state obligations in dealing with human rights abuse? There is no objection to the fact that Turkey is liable for the forced displacement of Kurds in the Southeast, and of Cypriot Greeks in Cyprus. In these two different contexts of internal displacement, it followed a similar path to recompense for the damages created by its actions, namely providing compensation packages to the victims of displacement for the properties that they had to leave behind. In both contexts, Turkey wisely utilized the ECHR decisions to reinforce legitimacy of its policies. Indeed, Turkey created blanket domestic remedies for the victims, and utilized, to a level of exploitation, internal mechanisms to avoid international pressures.

As De Greiff rightly argues, to provide an effective remedy for victims, different transitional justice mechanisms must be considered coherently as parts of a whole (2006). Looking at the two contexts in which the Turkish state is involved as a side in conflict, we see that it is engaged in delivering reparations only in the form of compensation, nothing else. The move in neither case shows acceptance of Turkey's wrongdoings, apology to the victims, or punishment for the perpetrators on the part of the state. Moreover, the compensation packages available to the victims lack transparency, principles of justice, and in many cases, respect for human rights. In both contexts, whether Turkey is providing compensation to 'any economically assessable damage, as appropriate and proportional to the gravity of the violation' is also questionable. Accordingly, Turkey is not only offering the minimum it can provide for the IDPs, but it is also doing the least for the wrong reasons. Instead of establishing a fully designed coherent policy of transitional justice where different mechanisms are employed, Turkey forms blanket domestic remedies for the victims to evade international pressure. All in all, as transitional justice mechanisms, the compensation laws that Turkey employs in both contexts are necessary, but not sufficient. Thus, in relation to the general theme of this issue, 'Peace Processes and Durable Returns', Turkey presents a case of failure both in establishing peace and in creating durable returns. The Turkish model does not serve peace and does not entail mechanisms of reconciliation or durable returns. In fact, the only return that we observe here is a return to the state's interests and continuing aggression. Thus, this article argues, ways out of the current impasse regarding increasing securitization in Turkey on the Kurdish issue versus the efforts to resolve the Cyprus question are limited.

NOTES

1. For a detailed analysis of the role of the ECHR on the conflict, see Dinsmore (2016), where the author argues that the ECHR system had served a unique function in the Turkish case, where we observe both 'a special level of *protective* access, and an unprecedented, proactive approach to fact-finding.'

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2. The right is reserved for children of men displaced during the invasion. In a recent case, the ECHR awarded Maria Vrountou, a 35-year-old Cypriot daughter of a woman displaced during the 1974 invasion by Turkey, €40,000 in damages after ruling that her rights were violated by the Republic of Cyprus (See: http://cyprus-mail.com/2015/10/13/echr-awards-woman-damages-for-being-refused-refugee-status/ accessed on 25 February 2016.)

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