Negotiating the Cyprus Problem(s)

Mete Hatay
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TESEV

FOREIGN POLICY
PROGRAMME

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Preface

The Foreign Policy Programme has long been working on Cyprus by advocating reconciliation between the two communities and, ultimately, a sustainable and just solution to the Cyprus problem. TESEV was one of the first organisations to advocate the Annan Plan in Turkey and has worked significantly to develop opportunities for reconciliation between the two communities and Turkey through our Turkey-Cyprus civil society dialogue series. More recently, we embarked on an innovative project that sought to build cooperation between the two communities around an issue unrelated directly to the conflict yet of interest to both sides – in this case the human rights of refugees and asylum-seekers on the Island.[1]

Yet despite the efforts of TESEV and many other well-intentioned people, a solution to the Cyprus problem has yet to be found. Whereas negotiations have restarted, several rounds of failed talks have led many to hold little hope of a solution resulting in the near future. The further this path continues, the more unlikely a constructive solution will ever be found.

Alas it is the Turkish Cypriots that are most disadvantaged by the current situation. Economically isolated, unrecognised by the international community and de facto not part of the European Union, many see their plight

as unjust. Indeed, many promises have been made to work towards ending the isolation but little has been achieved, if tried. The European Union has failed to start direct trade with the North and attempts to foster trade between the two communities have been largely unsuccessful. In short, Turkey remains the only Turkish Cypriot gateway to the world.

But the very nature of the Turkish Cypriot relationship with Turkey and vice versa came to the fore in 2011. Protests in the North openly questioned the relationship with Turkey. Yet the nature of these protests and what they mean for the relationship is little understood in Turkey and abroad.

For this reason, the Programme contacted experts based in Cyprus to assess the current state of affairs from a Turkish Cypriot perspective and look at how a solution to the problem may be furthered. As a result, this paper was prepared by Mete Hatay and Rebecca Bryant. Mete Hatay is based in the North and has worked with TESEV for many years – we are again delighted to be continuing our profitable working relationship. Rebecca Bryant is an academic who has long worked on the Cyprus conflict. What they successfully achieve in their paper is articulating the Turkish Cypriot viewpoint regarding the negotiations, the property question and the relationship between Turkey and North Cyprus. Despite the seemingly countless barriers and setbacks, Hatay and Bryant also outline suggestions that can build confidence between the two commu-

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[1] Christalla Yakinthou, Öncel Polili, *Reconciliation through a Common Purpose: Third Party Human Rights in Cyprus,* (Istanbul: TESEV Publications, 2010)

nities so that step by step the Cyprus problem can get closer to being solved.

As with all our publications and activities, the Foreign Policy Programme would like to thank the Open Society Foundation Turkey and its High Advisory Board for their continued support. Without their backing, this and other projects would not be possible.

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The most recent attempt to reach a negotiated settlement in Cyprus appears to be drawing to an inconclusive close. There is public scepticism about the negotiations on both sides,[2] and in the island's north, news about the negotiations has for quite some time been relegated to a secondary story in the media, trumped by events such as the closure of the Turkish Cypriot "national" airline and Turkey's attempt to impose austerity measures on the economically dependent unrecognized state. Leaders on both sides of the island have been engaged for some time in a blame game, as they try to sidestep responsibility for an anticipated failure. And many observers suggest that the 2010 election of conservative Derviş Eroğlu as Turkish Cypriot leader and chief negotiator makes this game easier, because despite his stated acceptance of the UN negotiating framework, his record is one of an intransigent insistence on recognition for Turkish Cypriots' statelet.

That election and its aftermath, however, may tell us more about the structural causes of any possible failure than its immediate ones. Turkish Cypriots have long had to accept –as Republic of Cyprus (RoC) President Makarios once said– that the desirable may not be the possible. While all polls indicate that Turkish Cypriots desire self-determination and recognition of their de facto state, those same polls show that they see the unlikelihood, even impossibility, of that.[3] This desire remains, then, what in Turkish would be called "the lion in their hearts" and the election of Derviş Eroğlu and his party might be seen as a recent manifestation of that.[4] Of course, Turkish Cypriots are not alone in playing this diplomatic game, as polls in the island's south indicate that while most Greek Cypriots prefer a unitary state in which Turkish Cypriots would have minority rights, many are willing to settle for some form of federation.[5] The bi-zonal, bi-communal federation envisaged by such a

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2   The United Nations Secretary-General noted in his November report on his good offices mission that, "while there is an appetite for peace in both communities, public skepticism regarding the potential success of the ongoing negotiations in reaching a lasting agreement, continues to grow. Polls indicate overwhelmingly low public expectations that a settlement will be reached, as well as distrust on both sides that, if a settlement were to be reached, the other side would have any serious intention of honouring it. A solution therefore needs more than a comprehensive plan. It needs strong and determined leadership that will make the public case for a united Cyprus with all the benefits this brings". (Secretary General's Report, S/2010/603, 24 November 2010).

3   One of the most recent such polls shows that "Turkish Cypriots favor two states (90% support), but are prepared to accept federation as a compromise (76% support)" (Cyprus 2015: Research and Dialogue for a Sustainable Future, Interpeace, December 2010).

4   Derviş Eroğlu won the presidential election by receiving slightly more than 50% of votes in the first round. This followed a 2009 victory by Eroğlu's National Unity Party (UBP), which won 44% of the vote in parliamentary elections.

5   "Greek Cypriots favor a unitary state over other alternatives (92% support). Federation is a distant second, but still acceptable to a majority of the population (79% support)" (Cyprus 2015).

plan is what current Republic of Cyprus President Dimitris Christofias called a "painful compromise" intended to "terminate occupation and avert division".[6] The difference between these two forms of realpolitik is that while Greek Cypriots currently occupy a recognized, EU-member state and so stand to lose in such a deal, Turkish Cypriots are perceived by many observers as having everything to gain.

There currently is no institutional means for Turkish Cypriots to voice their desires, no political structure that will give them presence.

And they stand to gain for one of the main reasons that negotiations are now teetering: Because there currently is no institutional means for Turkish Cypriots to voice their desires, no political structure that will give them presence. While Greek Cypriots have a state that is recognized as sovereign over the entirety of the island, the island's north has become for the EU "the areas not controlled by the government of Cyprus" while the European Court of Human Rights (ECHR) calls the Turkish Cypriot administration "Turkey's subordinate authority" in the island's north. Structurally, then, only the Republics of Cyprus and Turkey have voice, while Turkish Cypriots

remain in the shadows. In turn, Turkish Cypriots resort to other tactics to make themselves heard, tactics that have brought the island's north to the brink of political chaos.[7]

In the midst of that chaos, however, there may be new signs of hope, if the political will exists to take advantage of them. For while a comprehensive solution to the Cyprus Problem may appear remote, the past few years have also shown that more and more Cypriots on both sides of the Green Line are increasingly concerned to solve their own "Cyprus problems". The Cyprus Problem itself has been increasingly fractured, we argue here, and such a fracturing may call for more piecemeal, trial-and-error solutions.

6   In his introductory remarks, during a televised press conference at the Presidential Palace, Christofias noted that "the settlement providing for bi-zonal, bi-communal federation is a painful compromise that was accepted by our side to terminate occupation and avert the division of our homeland". He also added that "the strategic goal of the bi-zonal, bi-communal federation and the bi-communal dialogue aiming to solve the internal aspects of the Cyprus Problem, have been adopted in many UN resolutions" (http://www.hri.org/news/cyprus/cna/2010/10-03-18_1.cna.html)

7   For sociologist Michel de Certeau, tactics are "dispersed, tactical, and makeshift creativity" which constitute the banal resistances of everyday life (Michael de Certeau, *The Practice of Everyday Life* [Berkeley: University of California Press, 1984], pp. xiv). We may also see them as what James Scott calls "weapons of the weak" the tools employed by subaltern groups to resist power without bringing consequences on themselves (James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* [New Haven: Yale University Press, 1987]).

Negotiating negotiation

The past decade in Cyprus has been marked by considerable changes, as well as stumbling-blocks to change. Former Turkish Cypriot President Rauf Denktaş was long known in diplomatic circles as "Mr. No" or "Mr. Intransigent" as someone opposed to any solution that did not give some form of recognition to his breakaway state. At the same time, that leader's refusal of most solutions left Greek Cypriot leaders with little to do and much political cache. It also made it impossible to see the contradictions that were emerging in Greek Cypriot political life, contradictions that came to the surface only when a concrete plan was put on the table and sent to a referendum of the people.

While Greek Cypriot leaders declared for decades that they accepted a federal solution in principle, Denktaş's intransigence at the negotiating table meant that those leaders had little reason to explain it to their people. Indeed, it became possible rhetorically to accept such a plan while politically and practically undermining it. Greek Cypriot leaders had known for almost three decades that a bi-zonal, bi-communal federation would mean some territorial readjustment in the creation of two ethnic-majority constituent states, as well as negotiations over property in which not everyone would be able to return to their homes.[8] But despite that knowledge,

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much of Greek Cypriot domestic political life went on as though all Greek Cypriot displaced persons from the island's north, a considerable body of voters today in the south, would ultimately return. The politically active refugee organizations insisted on the absolute rights to return, property, and movement that they believed would be guaranteed by EU accession.[9] And in turn, politicians in the south appealed to displaced persons by insisting that

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8   As expressed, for example, in the 1992 Gali set of ideas: "The agreed guidelines of 1977 high level agreement reads as follows: 1. We are seeking an independent, non-aligned, bi-communal Federal Republic; 2. The territory under the administration of each community should be discussed in the light of economic viability or productivity and land ownership; 3. Questions of principles like freedom of movement, freedom of settlement, the right of property and other specific matters, are open for discussion, taking into consideration the fundamental basis of a bi-communal federal system and certain practical difficulties which may arise for the Turkish Cypriot Community; 4. The powers and functions of the central federal government will be such as to safeguard the unity of the country having regard to the bi-communal character of the State" (http://www.cyprus.gov.cy/moi/pio/pio.nsf/0/372 B6BAF332C88E3C2256D6D00348CF1/$file/ Set%20of%20Ideas%20(1992).pdf) (emphasis added).

9   For an analysis of this politics in the post-2003 period, see Rebecca Bryant, *The Past in Pieces: Belonging in the New Cyprus* (Philadelphia: University of Pennsylvania Press, 2010).

EU membership would allow them to squeeze Turkey into compromise. And since in official Greek Cypriot histories the conflict is solely a result of Turkey's invasion and occupation of the north in 1974, a federal solution always seemed like rubber-stamping the violation of their rights. As a result, Greek Cypriot leaders' federalism rhetoric often contradicted a domestic rhetoric that emphasized using international forums to bring Turkey to its knees.

It was the new millennium that brought significant changes. In the previous decade, Turkish Cypriots had been hard hit by two legal judgments in European courts. In 1994, the European Court of Justice forbade the export to Europe of north Cyprus' products, such as textiles and citrus fruits, that bore the official stamp of the unrecognized Turkish Republic of Northern Cyprus. This was followed only two years later by an ECHR decision in favour of the plaintiff in a case brought by a Greek Cypriot woman, Titina Loizidou, against Turkey for loss of use of her property in the north. The effect of these two cases on Turkish Cypriots was immediate, as the textile sector cut more than five thousand jobs, while citrus producers began to let their orchards dry up. Turkish Cypriots responded by developing casino tourism and universities, relying mostly on customers and students from Turkey. But they were soon hit again, this time by a Turkish Cypriot banking crisis in 2000 that stirred up dissatisfaction over the economic penalties imposed on citizens of an unrecognized state. This was followed in 2001 by a Turkish economic crisis that hit the island's north and left Turkish Cypriots feeling that they were knocked about by whatever wind was blowing hard in Turkey.

Turkish Cypriots flooded into the streets, protesting against Denktaş's intransigence and in favour of a negotiated solution. That solution, in turn, would have allowed them to join the EU with their Greek Cypriot partners, as a unified state under a federal system. Those protests resulted most proximately in the easing of movement restrictions and the opening of crossing checkpoints throughout the island. That sudden freedom brought euphoria, anxiety, and ultimately disappointment, as a UN reunification plan was put on the table, and Turkish Cypriots saw little support for it amongst their Greek neighbours. In fact, the then president Tassos Papadopoulos vilified the plan, while the church condemned it as satanic. Current president Christofias and his party, AKEL, claimed that they had no time to explain the plan to the people and so decided at the last minute to give it what they called a "soft no", thereby sealing its fate. When the plan was put to twin referenda, Turkish Cypriots solidly supported it, while Greek Cypriots overwhelmingly rejected it.[10] A week after the referendum, the Republic of Cyprus entered the EU as a member state and began immediately to block implementation of the many promises the EU had made to Turkish Cypriots to guarantee their support for the plan. If you vote yes, they had been told, we'll lift restrictions on trade. Turkish Cypriots were expecting direct flights from Europe, and instead they got a relatively modest packet of aid. And the experience of the referendum and its disappointments and fears laid the groundwork for negotiations today.

10 **On 24 April 2004, the Greek and Turkish Cypriots voted for the Annan Plan which envisaged the establishment of United Cyprus Republic on the island. 76% of the Greek Cypriots rejected the plan whereas 65% of the Turkish Cypriots voted for it. As a consequence the Republic of Cyprus joined the European Union on 1 May 2004.**

President Christofias came to power with the promise that the Annan Plan was dead and buried, that not even its ghost would return to haunt the current negotiations. Instead, they would negotiate a "Cypriot solution" meaning a solution agreed without the interference and pressure of outside parties, and without timelines.

President Christofias came to power with the promise that the Annan Plan was dead and buried, that not even its ghost would return to haunt the current negotiations.[11] Instead, they would negotiate a "Cypriot solution" meaning a solution agreed without the interference and pressure of outside parties, and without timelines. The Annan Plan had often been vilified as an "Anglo-American plot", one in which allowing outsiders to act as referees and distil the two sides' proposals resulted in a plan that many Greek Cypriots perceived as being to their disadvantage. The desire to avoid timelines, on the other hand, is both a reference to the hurried nature in which the last version of the Annan Plan was finalized and also to the fact that the current Greek Cypriot negotiating strategy is clearly one of playing for time. For many Greek Cypriots, the most important advantage of EU membership is being able to play gatekeeper for Turkey. The Republic of Cyprus has used its veto to block the opening of most chapters in Turkey's EU accession process, and it is putting

pressure for Turkey to open its ports to ships bearing the RoC flag, which most Greek Cypriots believe will be a form of "recognition" of their state by Turkey. In addition, EU membership has allowed the RoC to block any moves to bring direct flights or trade to the island's north, even as Greek Cypriots speak on behalf of Turkish Cypriots in the EU parliament, as the recognized government of the island.[12]

Turkish Cypriots, in turn, have suggested from the beginning of the current negotiations that the talks would be haunted by the spirit of the previous plan. Indeed, they have insisted that there is ultimately no way to avoid such an apparition, as the Annan Plan had been worked out on the basis of all previous negotiations and contained many elements that had been present in all such plans. Elements such as the idea of two ethnic-majority constituent states under a federal system formed the core of the Annan Plan, leading many Turkish Cypriots to ask if Christofias' demand for a "Cypriot solution" might not be a call to scrap even this element on which previous Greek Cypriot governments had agreed.[13] Turkish Cypriots also want the

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11 See, for instance, Vincent Morelli, "Cyprus: Reunification Proving Elusive" 1 April 2010, Congressional Research Service (www.crs.gov), who notes that with his election Christofias "also reaffirmed that the 2004 Annan Plan was null and void and could not be the basis for a future settlement" (p. 3).

12 The Republic of Cyprus currently possesses six seats in the European Parliament, two of which Turkish Cypriots believe should belong to them, in accordance with the distribution of representation in the RoC constitution. Although the RoC says that Turkish Cypriots have the right to stand for office and to vote, they must do the latter in the south, while attempts to stand Turkish Cypriot candidates have so far met with failure, as they are not elected within their own community.

13 In a recent interview concerning the negotiations, former TRNC president Mehmet Ali Talat observed that "if we had begun the negotiations on the basis of the Annan Plan, the Cyprus Problem would have been solved in 5-6 months. Although I told [Christofias] this many times, he wanted to start from scratch. Because he had demonized the Annan Plan, we began negotiations in the way he wanted". When the

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mediation and timelines that Greek Cypriots abhor, because without them they fear becoming pawns of Christofias' time-biding strategy, or of getting squeezed between Greek Cypriot demands for something more closely resembling a unitary state and Turkey's desire to enter the EU. And in their unrecognized state, Turkish Cypriots also want timelines that will lead to clarity, or to an end in which their political status will become clear.

Negotiations, then, have been hampered by this push and pull, which in the media has often overshadowed actual proposals put on the table. The March 2011 report of UN Secretary General Ban Ki-Moon called for a quick solution before a new electoral cycle in both the RoC and Turkey disrupts the talks' momentum. The report noted that there were points of agreement but also described major "divergences" and called on all parties for creative proposals to overcome them.[14] The tone is cautious, not quite daring to be optimistic. And while the report praises the leaders for their commitment to the spirit of the negotiations, there is some impatience

with talks that seem to be stuck in the particulars. The assumption appears to be that because the two leaders have agreed in principle to a bi-zonal, bi-communal federation, the rest is just detail.

But what any Cypriot knows is that the main areas of divergence listed in the report —property, territory, and security— are no simple details that can be resolved with a bit of creative thinking. These are areas that call not simply for creativity but for sacrifice, not only for compromise but for concession. Indeed, most Cypriots would say that the issues of property, territory, and security represent the crux of the Cyprus Problem and the two sides' stances on it. And this, in turn, makes them areas defined by principle, ripe for political grandstanding, and recalcitrant to dissection on a negotiating table.

interviewer noted that Christofias views federation as a concession, Talat replied that Christofias "wants a unitary state and wants us to be a patch on that state. Because we do not accept this, he's been obliged to negotiated on the basis of the bi-zonal, bi-communal federation desired by the UN" ('Yavuz Hırsız,' *Kıbrıs Gazetesi*, 23 March 2011).

14   Secretary General's Report, S/2011/112 - March 2011

The property puzzle

Not long after the Annan Plan failed at referendum, it became quite common to hear Cypriots say that "the Cyprus Problem is really all about property". And in his recent report, it was especially on the issue of property that Ban Ki-Moon remarked that the positions "remain far apart". This should not be surprising given that loss of property is one of the ways in which conflict leaves lasting marks on individuals' lives and shapes their prospects for the future. Indeed, during the Annan Plan referendum it became clear that for many Cypriots on both sides of the divide, perceptions of the plan's property provisions were central to their support or rejection of it. But the centrality of property to any solution became especially clear in the immediate post-referendum period, when a spate of lawsuits began in various transnational courts, especially against persons using Greek Cypriot property in the island's north. What made those suits particularly significant was that they had clear implications far beyond the force of title deeds. Rather, the suits appeared to crystallize contests over sovereignty by asking European courts to rule on issues of historical right. And it is these issues of sovereignty defined by historical right that vex the negotiations today and are most obviously condensed in the property problem.

Starting in the 1990's, Greek Cypriots had begun to open lawsuits against Turkey in the ECHR, demanding restoration of the property that they had lost in 1974. Even in the initial test case, Loizidou vs. Turkey, it was clear that the aim was not only to regain lost property for a displaced person but more significantly to attack and weaken Turkey by non-military means. With the failure of the Annan Plan and the RoC's unilateral entry into the EU, lawsuits multiplied, as Greek Cypriot lawyers discovered that they were able to use the RoC's courts to sue persons living in Greek Cypriot property in the island's north and potentially to have those decisions enforced in Europe. The number of suits has exploded in recent years, and venues are being used creatively. Only recently, one Greek Cypriot lawyer announced that they were preparing to sue the international banking giant HSBC in U.S. tort courts for facilitating monetary transactions regarding Greek Cypriot property in the island's north.[15] Court decisions have often contradicted each other, and the complicated implications of these decisions for ongoing negotiations have still to be worked out.

What is clear is that, at least in the Greek Cypriot side, lawsuits are seen as a way of acquiring a "justice" that they fear a negotiated solution won't secure. Achilleas Demetriades, the Greek Cypriot lawyer who spearheaded the use of the ECHR, has repeatedly said that the courts should be used "to make Turkey pay", something that may not happen in the way that he and others wish in the eventuality of a solution. Moreover, we see in both the strategies and arguments used in

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15 http://www.cyprus-mail.com/cyprus-problem/
trnc-targeted-commercial-enterprise/20110223

such suits that they aim not only at the restoration of individual rights but equally at the achievement of a desired, communal end. And this is only to be expected when we remember that ideas of "justice" are based in understandings of historical right and that matters of property are inevitably tied to definitions of territory. In other words, a property regime acquires legitimacy because the state that guarantees it is recognized as having sovereignty over its territory. The property suits brought by Greek Cypriots aim at showing the opposite, also indicating that they are not only suits over property but also over sovereignty.

Indeed, both lawsuits brought in European courts and current negotiating strategies point to the centrality of sovereignty: While Greek Cypriot negotiators wish to use, emphasize, and as far as possible maintain the RoC's de jure sovereignty over the entire island, Turkish Cypriots wish as far as possible to use and maintain their de facto sovereignty in the island's north. One sees this, as well, in the ways that each side has used the conflicting decisions of transnational courts to bolster and justify their positions regarding property. Because while a recent ECHR decision supported an immovable property commission in the island's north and emphasized that the de facto situation could not be abolished without violating human rights,[16] a European Court of Justice decision in 2009 had called on European courts to recognize the sovereignty of the RoC's courts over the island's north.[17] These differing decisions, in turn, have become the

In negotiations since 2008, Turkish Cypriot proposals regarding property have offered the three solutions of restitution, exchange, and compensation for properties affected by the conflict.

cornerstones of each side's approach to the property issue.

In negotiations since 2008, Turkish Cypriot proposals regarding property have offered the three solutions of restitution, exchange, and compensation for properties affected by the conflict. In other words, Greek Cypriots with properties in the north or Turkish Cypriots with properties in the south would have one or more of these three options, and eligibility for these options would be determined through a set of principles to be worked out in negotiations. Turkish Cypriot negotiators collaborated with UN advisors to draw up a sketch of such principles, a main section of which attempts to solve the problem of devaluation of Turkish properties in the island's south as a result of neglect over almost forty, or in many cases almost fifty, years.

These proposals take the Annan Plan as their starting point and are a world away from the days when Denktaş insisted on a global exchange of property that would create an ethnically cleansed zone. Backed by the ECHR decision, Turkish Cypriots also argue that the return of all Greek Cypriot refugees would result in further violations of human rights, as half the Turkish Cypriot population has been displaced in the past, and many would have to be displaced again. Indeed, in its decision the court had ruled that it could not order the reversal of a de facto situation if that reversal would result in further human rights violations. As a result, the court appears to encourage a variety of approaches to

16 http://cmiskp.echr.coe.int/tkp197/view.asp?item=23&portal=hbkm&action=html&highlight=immovable%20|%20property%20|%20commission&sessionid=71189088&skin=hudoc-en

17 http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-420/07

such property issues, as long as the resolution of individual cases is satisfactory by measurable standards. And in this regard it had accepted as valid the decisions of the Immovable Property Commission in the island's north, an institution set up in 2005 as a "first resort" for Greek Cypriots seeking to resolve individual property cases. In its 2010 ruling, the ECHR found that the work of the IPC to date had been satisfactory and that even de facto entities may resolve such problems on the ground.

The Greek Cypriot team's proposals, on the other hand, have reiterated, as such proposals have done in the past, that the only acceptable solution is the right of first choice. For Greek Cypriots with property in the island's north, it should be their choice whether or not to take back their property, and whether or not to return to it. While in private Greek Cypriot negotiators emphasize that very few people would actually return, they refuse to negotiate on the principle of right. And to support their argument, they use the European Court of Justice decision, which acknowledges the sovereignty of the RoC's courts over the north.

The test case (Apostolides vs. Orams) at the heart of that decision concerns property located in a town in the Turkish Cypriot-controlled area of Cyprus, near Kyrenia. In its decision, the court affirms that "the land is situated in the territory of the Republic of Cyprus and, therefore, the Cypriot court had jurisdiction to decide the case".[18] In other words, although the RoC government does not control the area, according to the court the area still falls within its territory and therefore within its domestic jurisdiction. Moreover, the court notes that, "[a]ccording to national legislation, the real property rights relating to those areas of the Republic of Cyprus in which the Government of that Member State does

not exercise effective control ('the northern area') subsist and remain valid in spite of the invasion of Cypriot territory in 1974 by the Turkish army and the ensuing military occupation of part of Cyprus".[19] This decision, then, has been a reference point for negotiators wishing to bargain only on the basis of de jure, rather than de facto, realities.

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While not on the surface obvious, the use of such sovereignty arguments in negotiations over property has clear implications for the principle of bi-zonality, which in the Annan Plan and previous plans was defined as the creation of two ethnic-majority states. The insistence by Greek Cypriot negotiators on a right of first choice is also, by implication, a rejection of the principle that the two states that would form a federation should also be ethnic-majority ones. On the other hand, the three principles proposed by Turkish Cypriot negotiators are intended to ensure that Turkish Cypriots would remain a majority in the north by keeping a majority of the property in the island's north in Turkish Cypriot hands.

18 Ibid.

19 Ibid.

Indeed, through the prism of the property issue it becomes quite clear that as with the Annan Plan, the two sides have divergent ideas about what a federation means or entails. While on the surface it would appear that bi-zonality and bi-communality implies a federation of two ethnic-majority constituent states, and while this is certainly the principle on which Turkish Cypriots have negotiated, both the plans proposed by Greek Cypriot negotiators and remarks made by Greek Cypriot leaders suggest that their understanding of the link between bi-zonality and bi-communality is considerably different. Because while Greek Cypriot leaders have accepted in principle that there will be two states within a federal system, all proposals regarding property to date suggest that these will not be ethnically defined states. The principle of bi-communality, then, or the idea that there are two main communities with political rights in the island, does not define bi-zonality but simply exists alongside it.

So while UN assessments of the current negotiations imply that principles have been agreed and that the devil is in the details, negotiating strategies and proposals belie that claim. It is not enough, after all, to agree to use the word; one must also agree on its meaning.[20] While there are places for what in the Annan Plan negotiations was called "constructive ambiguity", the very nature of the state that would result is surely not something that should be left open to interpretation. That ambiguity allows Greek Cypriot negotiators to play for time in the hopes of squeezing Turkey and thereby achieving a solution closer to their own ideal. For Turkish Cypriots, however, that ambiguity becomes only another part of the uncertainty that surrounds their everyday lives as citizens of an unrecognized state. And with the anticipated failure of negotiations, it is an ambiguity that is pushing them towards increasingly desperate measures to achieve the political clarity that negotiation has so far failed to bring.

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20 Or as UN Special Advisor on Cyprus Alexander Downer noted in 2010, "It's easy to sound in favour of a solution. . . . You can train a parrot in a pet shop to say that" ("Criticism? Go Ahead. Make My Day" Stefanos Evripidou, *Cyprus Mail*, 27 March 2010).

"Neither a hostage to Turkey nor a patch for Greek Cypriots"

In the first months of 2011, the relationship between Turkish Cypriots and Turkey suddenly entered a new phase. Although the change was sudden, it was not unanticipated, as Turkish Cypriots had for some time expressed dissatisfaction and even anger at large investment projects from Turkey, which many perceived as overwhelming local capital, and the presence of large numbers of Turkish workers, which many see as a threat to their own identity. North Cyprus has been hampered for almost four decades by an economic and political isolation that has left it dependent on Turkey, which technically has recognized the state in the island's north while at the same time often treating it as a Turkish province. In the past fifteen years, as Turkish Cypriots have encountered globalization through the neoliberal economy and the internet, they have increasingly chafed at the sense that they are being gradually incorporated into and overwhelmed by Turkey – or are becoming, as they put it, Turkey's "backyard".

In everyday life, it is economic isolations that most affect Turkish Cypriots, who for almost thirty years have had only one door onto the world, opening through Turkey. Although the 2003 opening of the island's ceasefire line technically gave Turkish Cypriots another gate to the global economy, in fact attempts to trade across the Green Line have had limited success.[21] When the EU proved unable to keep

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its promises regarding direct trade after the failed referendum, it implemented instead a set of regulations intended to encourage inter-island trade. However, both structural and political factors have hindered such trade, which in the EU's 2010 reporting period had reached less than seven million euros.[22] Moreover, the report notes that trade had decreased during the previous year by 17%.

In fact, in contrast to expectations and despite their second door in the island's south, Turkish Cypriots have been increasingly incorporated into the Turkish economy since the failed referendum. The Turkish economy itself has grown by leaps and bounds over the past decade, and many of the brand-name items that Turkish Cypriots want are now made in the "motherland". Turkish business has gone increasingly global, but it is a globalization

21 For a list of problems, see Mete Hatay, Fiona Mullen and Julia Kalimeri, *Intra-island trade in Cyprus: Obstacles, oppositions and psychological barriers,* Peace Research Institute Oslo (PRIO), 2008.

22 European Commission, "Report from the Commission to the Council: Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application" SEC (2010) 1094, Brussels 21/9/2010.

that has at its foundation new inroads into regional economies. One now finds Turkish-made buses and blouses in Bosnia, Turkish-made televisions and textile machines in Aleppo. The so-called "Neo-Ottoman" foreign policy of the Justice and Development Party (Adalet ve Kalkınma Partisi – AKP) is ultimately a regional form of neoliberalism: Wherever new policy initiatives go, business is not far behind. And while the AKP government gave its full support to the Annan Plan during the referendum, in the post-Annan Plan period north Cyprus has seen major Turkish investments in the tourism sector, apparently in anticipation that the next several years will lead to some solution to the island's division. The Cratos Hotel in the Kyrenia district or the Kaya Artemis Resort in Bafra are multi-million dollar complexes that cater to upscale Turkish tourism, and especially the casino market. Some speculate that new hotels in the Bafra area will make it a "Vegas on the beach". And in the meantime, Turkish Cypriots feel that while resources such as land and water are being given to these enterprises, the island's north is receiving little of the benefit, as most of the employees of these new businesses are brought from Turkey.

Indeed, not only in the tourism sector but especially in construction, north Cyprus saw a significant increase in the Turkish workforce after 2004. In the immediate post-Annan period, there was a boom in construction, as many developers speculated that the Greek Cypriot rejection of the plan would give them justification to build on Greek Cypriot-titled land. Almost thirty thousand new houses sprang up in prime locations in the island's north, most built by Turkish labour and sold to foreign customers. Although new lawsuits beginning in 2005 soon put a damper on this boom, the influx of unskilled labourers, most male and originating from Turkey's south and southeast, led to a renewed sense amongst Turkish Cypriots that they were experiencing a numerical and cultural threat.

For more than a hundred years, Turkish Cypriots have periodically complained that their population is shrinking. At the beginning of the British period in the island, Muslim Cypriots often migrated to Anatolia, and when Cyprus became a British Crown Colony in 1925, the island's Turkish population shrank from 25% of the total to 18%. New waves of migration occurred during the island's inter-communal conflict, and since 1974 there have been periodic waves of Turkish Cypriot out-migration, mostly to the U.K. and former British colonies. In recent years, however, in spite of much return migration, especially from the U.K., Turkish Cypriots have felt the impact of labour migration and have responded with charges that the Turkish Cypriot way of life is changing and that Turkish Cypriots are in danger of extinction. And despite growing numbers of immigrants from the former Soviet states of Central Asia and from Pakistan, Turkish Cypriots charge that they are most threatened by those closest to them: Their neighbours in Anatolia.

As has happened throughout the world, the new labour and consumption patterns that accompany globalization have left Turkish Cypriots feeling culturally battered. But unlike other places, globalization has hit north Cyprus through a single gate, namely the one opening onto Turkey. As a result, the demands to limit immigration and reclaim local cultures so common in the global era are experienced in north Cyprus as a direct reaction to what is often labelled "Turkish intervention". Such "intervention" only seemed to manifest itself in new form when Turkey threatened to attach IMF-like austerity measures to the aid package it gives to north Cyprus every year.

Large segments of that package go to pay for the civil service sector, and it was this sector that was most threatened with potential cuts of pay and benefits. Two large rallies in late January and early March brought tens of thousands of Turkish Cypriots into the streets to protest this package, indeed to protest the general chaos into which they feel their country is being dragged. But even for many of those who turned out to express their frustration, it remained unclear what their goal should be. Rather than protesting *for* something, they were only protesting *against*.

Indeed, the atmosphere in Cyprus' north has become increasingly volatile, as shrinking chances of a solution despite a decade of efforts seem to leave them with the prospect of another long future of uncertainty. "Who are we in the world?" many youth ask, a question that implies both their own uncertainties about identity and their doubts that the world can hear them. Their liminal state, a state of permanent in-betweenness, is one that with the advent of globalization has made them feel more and more marginalized, on the verge of extinction, and has pushed them toward more desperate attempts to make their voices heard.

But it would be a mistake to see the recent protests as only a reaction against Turkey, or a desire for a solution by any means. In a second rally at the beginning of March, a telling slogan was widely displayed: "Neither a hostage to Turkey nor a patch for Greek Cypriots" (*Ne Türkiye'ye rehin, ne Rum'a yama*). The idea that they might be "hostage" to Turkey referred to that country's EU bid, which has determined much of Turkey's Cyprus policy over the past decade and often left Turkish Cypriots feeling that they could be "sold out" or that their own future would be put on hold until Turkey had secured its own. The "patch" to which the slogan refers is like a piece of cloth one sews

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onto torn pants: If it's ripped away, it might be embarrassing to the wearer. In other words, Turkish Cypriots were claiming that while they would not let themselves be used to advance Turkey's EU prospects, they also wouldn't let Greek Cypriots use them to cover their own misdeeds.

And when they displayed another common slogan, "This country is ours, and we're going to run it" (*Bu memleket bizim, biz yöneteceğiz*), it was a variation on the "This country is ours" slogan that had swept the north in the form of pins, decals, and posters in the lead-up to the 2004 referendum. At the time, the slogan had seemed open and potentially inclusive, and many interpreted it as also encompassing their Greek Cypriot neighbours. This new variation on the slogan, however, clearly aimed both at Turkey and at the island's south, underlining a desire for some form of self-determination.

What is clear is that Turkish Cypriots are tired of having the present put on hold for a future that seems increasingly remote. Endemic corruption, collapsing infrastructure, and a teetering economy have all made it difficult for Turkish Cypriots to stand on their feet without Turkey's aid, even as ongoing negotiations have encouraged them to think of reunification as a form of salvation. Much reform had been put on hold in the north in anticipation of a federal solution, in which reform would have come through the creation of a new federal state and entry into the EU. But as the future begins to seem unreachable and the present more bleak, increasingly serious public discussion has begun about what reforms might be undertaken even without a solution.

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Turkish Cypriots are not the only ones to think this way. In his November 2010 report on progress in the talks, Ban-Ki Moon had remarked that "greater economic and social parity between the sides will make the eventual reunification not only easier but also more likely". The policy of isolating the north, he noted, is a strategy that can only undermine negotiations, while "the establishment of economic, social, cultural, sporting or similar ties and contacts will have a positive impact".[23] In other words, the secretary general was suggesting that the strengthening of the Turkish Cypriot economy and of certain institutions would be to everyone's benefit. And Turkish Cypriot protests since that report appeared show that there may be problems that can no longer be held hostage to the Cyprus Problem, indeed that the Cyprus Problem itself may no longer be a single problem but may in fact be multiple and fractured. And in this sense it may be the case that a potential failure of the current negotiations may tell us less about the intransigence of the problem than it does about the need for a new approach.

23 **Report of the Secretary-General on his mission of good offices, 24 November 2010, S/2010/603.**

Building confidence, step by step

In recent years, there has been increasing discussion on both sides of the Green Line of issues that until now have taken a back seat to "the Problem": Lack of gender equality,[24] rising discrimination against immigrants,[25] and the need to reform the public sector[26] are only some of the most obvious examples. The division of the island has hindered environmental action, while defence of the rights of other groups in the island has seemed a distraction from rights contests between the two main parties to the conflict. But with entry into the EU, increased immigration to the island, and the rising threat of environmental change and destruction, many civil society organizations have emerged to push these issues more to the forefront on each side of the island.

At the same time, even in the absence of a comprehensive solution, many of the smaller measures to emerge from the negotiations have shown that tackling problems of concern to average Cypriots can have considerable measures of success. The openings of the Ledra

24 See, for instance, Maria Hadjipavlou, *Women and Change in Cyprus: Feminisms and Gender in Conflict* (London: Tauris Academic Studies, 2010).

25 Nicos Trimikliniotis and Corina Demetriou, "Evaluating the Anti-Discrimination Law in the Republic of Cyprus: A Critical Reflection" *Cyprus Review* 20: 2 (2008), pp. 79-116; Nicos Trimikliniotis and Corina Demetriou, "Flash Report on Racism and Xenophobia in Cyprus" Issue 2 (2009), http://works.bepress.com/nicos_trimikliniotis/28

26 "Are We Expecting the Corrupt to Legislate Against Corruption?" Poly Pantelides, *Cyprus Mail*, 13 March 2011.

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Street crossing in 2008 and the Limnitis crossing in 2010 were met with enthusiasm by local residents and business people, and the openings have helped to stimulate economic growth in those areas. In 2009, a bi-communal "Advisory Board for the Preservation, Physical Protection and Restoration of Immovable Cultural Heritage of Cyprus" quietly began efforts to restore mosques in the island's south and churches in the north. And perhaps the most successful initiative, the bi-communal Committee on Missing Persons (CMP), began its work within the framework of the previous negotiations in 2003 and by the end of 2010 had uncovered the remains of more than 760 missing persons and returned to their families the remains of 263 of these. The success of the CMP over a recognized humanitarian issue has considerably de-politicized the issue of the missing and has been one of the most important steps towards the closure of an unresolved problem. The leaderships on both sides have fully supported the work of the CMP and have asked citizens to refrain from interfering in their work. The public political, legal, and structural support for this committee's work, then, have made it the most successful measure to emerge out of ongoing negotiations.

Indeed, even as negotiations are ongoing, the

island has witnessed a peculiar fracturing of the Cyprus Problem. Lawsuits over property and their resolution; the uncovering of remains; or simply returning to one's village and realizing that the past will never return——these have all led to the realization that everyone has his or her own Cyprus problem, and that for many people solving their own Cyprus problems is more than enough. The result is that even as negotiations are ongoing, the pursuit of justice or compensation by legal means is changing the very ground of those negotiations in ways that have not yet been fully assessed. And even more than that, the pursuit of such piecemeal means seems to present the best argument yet for thinking that even in the event that the current negotiations fail there may still be a way forward, one that moves step-by-step, building confidence along the way.

In the event that the current negotiations fail, it seems unlikely that the UN will willingly undertake another effort. Cypriots have experienced more than four decades of almost unbroken negotiations, and while there remains a desire to pursue negotiations, there is little public will to make the concessions necessary to achieve resolution. The failure of negotiations of course implies the continuation of the status quo, a status quo that on both sides of the island is comfortable enough to make average Cypriots fear radical change. What is clearly less frightening is solving the many other "Cyprus problems", the problems that have sprung up in the wake of conflict and division and which have mostly remained unattended over several decades of ongoing negotiations.

Indeed, if we look at the measures that average Cypriots have taken to solve their own "Cyprus problems" it becomes clear that there is much to be done, step by step. We offer below suggestions for further reflection:

1. *Repatriation of Varosha refugees and resettlement of Varosha*

   The return of the ghost city of Varosha and repatriation of Greek Cypriot displaced persons would mean the return of more than 30,000 Greek Cypriots –approximately one-fifth of the total Greek Cypriot refugee population– to their homes. For many years the possibility of returning the city in exchange for opening ports in the north has been discussed.[27]

2. *Fulfillment of the Ankara agreement without excluding Turkish Cypriots*

   Turkey should open its ports to Greek Cypriot ships, but the EU should enable it to do so in a way that will not exclude Turkish Cypriots. Currently, if Turkey opens its ports, Greek Cypriots and Turkey will be able to trade directly within the EU, while Turkish Cypriots will be excluded. Only if Turkish Cypriots are also allowed to enter the EU customs union will it be possible to have a level ground on which competition and trade can take place fairly.

3. *Compensating refugees on both sides of the divide in cases where their property is irreversibly developed for public purposes*

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27 Confidence-Building Measures Announced by the Government of the Republic of Cyprus in the Commercial and Military Fields, available at http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/A9 DDF6C50EB0B1D5C22571B900269A77?OpenDocument

On both sides of the Green Line, substantial amounts of private property have been irreversibly developed, becoming the sites of refugee and social housing, hospitals, airports, dams, electric plants, and other public works. These constitute thousands of donums of property that cannot be reclaimed, even in the event of a settlement, as the land has been expropriated for the public benefit. Given this fact, there is no reason to wait further to compensate the Greek Cypriot and Turkish Cypriot owners of these properties. Immediate compensation would constitute an important step towards resolving the property issue.

4. *Overcoming "ethnocracy" on both sides of the island*

Although the de jure RoC and the de facto TRNC are parliamentary democracies, they are both at the same time "ethnocratic" states, or states dominated by a single ethnic group.28 In the island's south, the incorporation of the Turkish language into more aspects of governance, as well as the alteration of history books in the schools to be more inclusive of Turkish Cypriots and to promote multiperspectivity and multiculturalism, are two important steps that could be taken.

In the island's north, the first important steps would be the removal of the ongoing "state of emergency" that ties the police and other security services to the army, and even more importantly a stepping down of the army position from offensive to defensive, enabling the reduction of troop numbers. This would be perhaps the most important confidence-building measure from the Greek Cypriot perspective.

5. *Increased international cooperation with Turkish Cypriots on humanitarian issues*

A lifting of the RoC's blockade of international cooperation by Turkish Cypriots on purely humanitarian issues, such as education, environment, and human rights monitoring, would surely be an important step toward creating what the UN secretary-general referred to as "social parity" between the two sides. Similarly, a new census in the island's north is desired on both sides of the island, but it would only have effect if the RoC did not block its oversight by international monitors.

Even in the event that negotiations fail, there is much to be done on both sides of the Green Line to decrease mistrust and to increase inclusiveness. It may be time for Cypriots to turn more fully to the issues that until now have taken a backseat to "The Problem": Growing racism against immigrants; endemic and pervasive gender inequality; disregard for the environment; and a need for increased transparency in politics being only the most urgent issues shared by both sides. Along with the step-by-step measures suggested above, the creation of a democratic climate of accountability would aid in increasing trust, potentially leading to a viable solution, comprehensive or otherwise.

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28 **Oren Yiftachel,** *Ethnocracy: Land and Identity Politics in Israel/Palestine* **(Philadelphia: University of Pennsylvania Press, 2006)**

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