

**2/2010**

**November 2010**

**MUST HISTORY REPEAT ITSELF BY DUPLICATING  
EARLIER MISTAKES  
IN THE 60-YEAR LONG NEGOTIATIONS ABOUT  
CYPRUS'S FUTURE?**

Claire Palley

Foreword by  
Andreas Theophanous



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Nicosia, November 2010

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## Foreword

*by Andreas Theophanous*

The paper by Claire Palley entitled “*Must history repeat itself by duplicating earlier mistakes in the 60-year long negotiations about Cyprus' future?*” was finalized in the latter part of 2009 at a time when there was domestic and international pressure for a fast and fruitful outcome in the negotiations between President Christofias and the (then) Turkish Cypriot leader Mehmet Ali Talat. The main premise of those urging intensive negotiations was that there was a golden opportunity for a breakthrough provided by the presence of two ideologically related community leaders who had sustained a friendship and had cooperated in the past.

Palley acknowledges the significance of timing but wisely stresses that it is the substance of the issues being negotiated which is the decisive factor. Palley also put forward the view that if Christofias and Talat had not come to a conclusive arrangement this would not have been the end of the world as negotiations could still go on even with Dervis Eroglu, who was at the time leading in the polls for the Turkish Cypriot leadership. Palley was proven correct as indeed the negotiations resumed and are going on since May 2010. The logic is that if Turkey for its own objectives decides that the time has come for major decisions and concessions to persuade the majority of Greek Cypriots that at last there is an opportunity for a breakthrough, the Turkish Cypriots will follow accordingly. It was never considered difficult for Turkey to “persuade” any Turkish Cypriot leader to follow its own policies.

Much has been said about what is being described as a solution “of the Cypriots by the Cypriots”. And inevitably both Greek Cypriots and Turkish Cypriots must take initiatives to promote a common future. On the other hand, as Palley stresses it is essential to realize that external players have a major role to play. In the case of Turkey this role is critical. So it is misleading when Turkish leaders insist that Ankara is a third party to the conflict and that it is “one step ahead”; this may constitute good public relations but certainly it is not convincing. On the other hand, it must be pointed out that it is the lack of a comprehensive strategy on the part of the Republic of Cyprus on substantive issues as well as on public relations that has allowed Turkey to move on with little or no cost.



There is currently, as in last year, strong pressure for a specific time framework; that by the end of 2010 there must be a solution. If not, the UN, it is being said, would no longer be interested in mediating a solution. Even worse, it is also being said, there may be developments leading to the upgrading of the “TRNC”, what is often referred to as Taiwanization, a state of affairs whereby the Turkish Cypriot side will operate and trade as a state short of having international recognition.

Certainly, time is important. And Palley acknowledges that, but what she considers as critical is a comprehensive agreement which would have a good chance of being sustainable. This means that such a framework should entail the conditions for cooperation, creativity and security. Moreover, both sides must feel that they have a strong stake in what has been agreed. This may be the only way for the new state of affairs to acquire legitimacy.

The Cyprus question is a complex issue and, not surprisingly, generations of diplomats and analysts frustratingly have described it as intractable. Despite frequent pessimistic assessments it will be essential to continue the efforts, Palley correctly believes. Timing is important but reaching agreement on the fundamental issues is what matters. For any arrangement to be viable and sustainable all parties must feel that it is an honest compromise and not a “diktat”. In this regard it should be noted that this is precisely what led to the overwhelming rejection of the Annan Plan (V) by the Greek Cypriots in April 2004.

It has been the consistent policy of Turkey to “delegitimize” the Republic of Cyprus. Everything that it has done since 1974 aims at legitimizing the fundamentals of the *status quo* and the results of its invasion, which, crucially, was described at the time as an attempt “to reestablish the constitutional order”. Ankara now insists on a new partnership of two equal constituent states which will create a very loose federation. Such an arrangement would put aside the Republic of Cyprus. No major decisions will be taken without Turkish (Cypriot) participation/consent. In essence this would require double majorities. On top of this Ankara aims to maintain its own guarantees in the set-up to emerge. Even if there are territorial concessions it is very doubtful whether the overall arrangement would constitute an improvement for the Greek Cypriots. And how about the Turkish Cypriots? On the one hand, they feel the overwhelming presence of Turkey, including that of the settlers; on the other hand, the *status quo* entails “benefits” which they may in the end not be willing to risk for what they may see as an uncertain outcome.

The question is how we move forward. Palley believes that it is important to work on the fundamentals of what has been agreed so far with good faith. I would also add that in order to address this question it is essential to recall what Turkey stated when it invaded Cyprus on July 20, 1974: that its “intervention intended to reestablish the constitutional order and to protect the Turkish Cypriot (minority) community”. Consequently, the Republic of Cyprus has a legitimate right to put forward the position that the solution must be the outcome of a constitutional amendment of the 1960 constitution. Such an approach entails a more integrationist philosophy and is also in line with the European value system.

One of the major differences since the seventies has been the insistence of the Turkish side on what may be described as strict bizonality. Such an approach though, if adopted, would lead to a segregated society which will not be in line with the value system of the EU. In contrast, loose bizonality will contribute to the implementation of the three fundamental freedoms and pave the way to a more integrated society. The experience after April 23, 2003, with the partial lifting of restrictions to free movement across the Green Line, despite a difficult and unpredictable political climate at the time, may be indicative of the opportunity for an integrated society. I feel Claire Palley would agree with such a federal internationalist philosophy.

Obviously such an objective may be practically difficult to achieve in the immediate short run. Furthermore, for an integrated society there must be a better climate and greater trust. Palley believes that despite the fact that there has not been a solution so far there is, now, greater understanding about what each community may see as priorities. Furthermore, she notes, networks of Greek and Turkish Cypriots established over the years could be very useful in various ways. In this spirit I would also suggest that taking all relevant factors into consideration the next immediate steps may have to include some substantive confidence building measures. Such an approach may lead to benefits for all the parties involved as well as much positive psychological and political capital, which eventually may pave the way to a final solution. As we approach yet another assessment juncture of Turkey's accession course the issue of the return of Famagusta to the Greek Cypriots acquires vital importance.



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## Hope and Contradictions

International actors have faced Cyprus issues since 1948<sup>1</sup>. They attempted to impose decisions, but these were soon followed by rejection of the proposed arrangements, or by failure should these have been accepted. Today negotiations have a major advantage: perhaps out of exhaustion, most Cypriots and States concerned with Cyprus are anxious that a settlement soon be reached. Common hope for a settlement exists despite political actors favouring widely differing recipes, ranging from governing the Island as a majority-rule union to partitioning it into two independent States. This broad range of views persists, even though internal High Level Agreements of 1977 and 1979, expanded in UN Security Council Resolutions from 1992<sup>2</sup>, accept that a Cyprus settlement should be based on a single sovereign Cyprus State in a bi-communal and bi-zonal federation, excluding any form of partition.

## An End to Theoretical Conceptual Debates

Years have been wasted by Greek and Turkish Cypriot representatives in interpreting the 1977 Agreement and Security Council Resolutions, disputing what was agreed as to “bi-zonality”.<sup>3</sup> No sensible person would advocate a return to conceptual debates and lengthy theoretical papers being exchanged (as in the direct and indirect talks in 1981-82, 1984-1986 and 1989-1992). Nonetheless,

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<sup>1</sup> The UK had in 1948 to decide whether its Colony of Cyprus, denied union with Greece (*enosis*) for reasons of imperial defense, should be given a degree of self-government.

<sup>2</sup> SCR 774 (1992), 26 August 1992, para. 2, is the first of often-repeated statements on the Council's position on a Cyprus settlement.

<sup>3</sup> Greek Cypriots believe they agreed to a Cyprus federation made up of two territorial units, with the Community forming the population majority in each unit having predominant political control. In contrast, Turkish Cypriots and Turkey believe that “principles of bi-zonality and bi-communality” were agreed. Those principles require perpetuation of the ethnic character of the federal units, thereby ensuring permanent political and economic control, including the ownership of a majority of the land in the unit, by the ethnic community which, when the federation is founded, is exercising control. Any settlement must provide for Turkish Cypriots' ethnic political control and dominance in land ownership by restricting return of displaced Greek Cypriots and the establishment of any others in the Turkish Cypriot federal unit. Greek Cypriots consider that this Turkish interpretation in effect legitimises Turkey's ethnic cleansing of northern Cyprus (from 1974 onwards) and violates individual human rights, which, subject only to arrangements to meet practical difficulties, must be restored and fully implemented. Until at least April 2003 (see Report of the UN Secretary-General, S/2003/398, 1 April 2003, para. 98) the UN Secretariat accepted that what the Greek and Turkish Cypriot sides meant by “bi-zonality” was fundamentally different. Nevertheless, at Turkey's insistence, the Secretariat, on 29 March 2004, adopted the Turkish “principle of bizonality” (see Article I of Version V of the Annan Plan) and inserted mechanisms implementing “bi-zonality” throughout the Plan.

as a safeguard against charges of reneging on agreed philosophies and interpretations, both sides need, if possible, to record agreed interpretations, or to record their agreement to differ. Thus, neither side's interpretations could authoritatively be invoked when applying the terms of any settlement.<sup>4</sup> Other practical advantages would be retention of “face” by both sides, who could refer to their own rights and beliefs, and use, without fear of outraging their supporters, the ambiguous words and phrases which have become compulsory baggage when discussing a Cyprus settlement. Instead of getting enmeshed in ideological debates, they will be able to pursue the practical task of discussing concrete mechanisms of a settlement.

### **The ill Consequences of Historical Perceptions**

The rejections and failed talks in the last 60 years have primarily been due to both sides' insistence on presenting maximalist positions and then on obstinately adhering to them lest moves be construed as weakness.<sup>5</sup> However, it must be emphasized that the Greek

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<sup>4</sup> Failure to do this was a fundamental UN error in Annan V. It was facilitated because, to avoid international accusations about repeatedly engaging in theoretical debates, the Greek Cypriot side in the direct talks in Nicosia in 2002 and again in February and March 2004 formally recorded opposition to “the principle of bizonality”, or merely lodged a refuting document without insisting that fundamental dividing issues be a focus of discussion. This conduct was because they had agreed with the UN Secretariat not to discuss principles but instead to concentrate on concrete provisions. Although it was sensible to avoid fruitless debate, this was always on the basis that “the chairman” (the UN Secretariat) honestly recorded the sides' fundamentally different views on e.g. “federation”, “confederation”, “sovereignty”, “people and peoples”, “political equality”, “security” and “state”. But, as indicated in n.3 above, the UN Secretariat simply adopted Turkish concepts, interpretations and methods of implementing these. Thus it was that a Turkish version of apartheid permeated Annan V. The details necessary to implement that policy (non-return of most displaced persons, massive expropriation of land and the ability to permit greater Turkicisation) were the last nails in the Plan's coffin and explain the Greek Cypriot negative vote in the referendum on the Plan.

<sup>5</sup> Many Cypriots have characteristics found in island peoples: combativeness, impatience to achieve goals, even cussedness and unruliness. Historically, Greek Cypriots' greatest errors were in the period from 1948 to 1956 when they rejected constitutional arrangements (the Winster Constitution and the Radcliffe Proposals) which would, given the British Empire's disintegration, inevitably have led to an independent democratic (majority-rule) State. Instead of biding their time, Greek Cypriots from 1955 waged a guerilla war. After they had had the complex 1959-1960 power-sharing independence Constitution imposed upon them, their leadership would not accept internal but minor changes as a first phase in order to make the Constitution more functional. Instead, between 1961 and 1974 they pressed for their view of an almost perfect solution immediately. Strikingly, a crucial Turkish document, outlining a struggle policy for Turkish Cypriots, contemporaneously recognised that they had to do little: the Greeks would repeatedly make mistakes, giving Turks fresh opportunities. This principle was again illustrated in February 1993 when the Greek Cypriot electorate repudiated the conciliatory Set of Ideas gradually extracted from the UN Secretary-General by President Vassiliou at a time when the USA had brought President Ozal around to a compromise on Cyprus. Only in 2001 did substantive negotiations re-start and then because Turkey

Cypriot side in the February 1977 Agreement made a major move to accepting all participatory rights modernly accorded minority groups.<sup>6</sup> Even though the changed positions have been dictated by the need to make a “re-united Cyprus” acceptable to Turkish Cypriots, they have, until now, not been sufficient in Turkish Cypriot eyes to render “re-union” desirable, especially since mistrust of Greek Cypriot intentions (similar to Greek Cypriot mistrust of Turkish intentions) remains widespread. The root causes for such attitudes are both Communities' perceptions arising from the Island's history and the tragic experiences of their ethnic kin in south-eastern Europe and Anatolia, combined with their own subjection to modern foreign interventions in Cyprus (during the colonial independence struggle, foreign incitements to intercommunal violence, the Greek coup and Turkish invasion in mid-1974). But perceptions based on folk history or on personal involvements are too often distorted, seldom being balanced by the countervailing interpretations of other actors, especially ones coming from groups in political competition. Thus Cypriot actors from the two major Communities<sup>7</sup> usually blame the other Community, its Motherland and non-kin third States.

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wanted to prevent Cyprus becoming an EU Member State or at least to get her own membership too. In contrast, Greek Cypriot voters' rejection of the Annan Plan in April 2004 cannot fairly be characterized as cussed or extremist: the Plan's great risks and disadvantages outweighed its admitted benefits. See the writer's *An International Relations Dilemma. The UN Secretary General's Mission of Good Offices in Cyprus, 1999-2004*, Hart Publishing, Oxford, 2005, pp. 221-237.

<sup>6</sup> The concept of minority rights as used in the mid-20<sup>th</sup> century did not embrace participation rights or equal political status for minority groups, who were only attributed the rights of cultural groups. Turkish Cypriots who are not committed to Turkish Cypriot nationalism appear not yet to have appreciated that the new status and rights attributed since the 1990s to all national minorities is not degrading, but instead offers autonomy, which can be so extensive as in some cases to amount virtually to independence. Willy-nilly, Greek Cypriots and the Government of Cyprus have accepted those international standards.

<sup>7</sup> There are smaller Communities of Maronites, Latins, Armenians and Roma in Cyprus quite apart from the large but scientifically unquantified numbers of immigrants from Turkey. In the Government controlled area there are large numbers of legally permitted foreign workers and retirees. The existence of the small national minorities (and also of non-national minorities) requires measures to protect such groups' identities, but does not impact on the major Greek/Turkish Cypriot divide except in so far as the Maronites, Latins and Armenians are identified as members of the Greek Cypriot Community, while the Roma, who are culturally Turkish Cypriot, have alternatively been ignored or discriminated against by “TRNC administrations”.



### **Third States' Blindness to their Own Responsibilities**

Third States tend to blame the Cypriots exclusively, overlooking the fact that Cyprus now, as well as historically, is just as much an international problem as it is an internal one. Third States neglect their own responsibility for contributing to the creation of problems in Cyprus, for exploiting these,<sup>8</sup> and for acquiescing in the continuance of an illegal situation of military occupation of northern Cyprus by Turkey. Such an illegal situation requires action by all States to terminate it.<sup>9</sup>

### **General Acceptance of Responsibility is a Pre-Requisite**

An essential first step if an overall settlement is to be reached is for all actors involved to acknowledge to themselves and then in accordance with the current fashion of saying “sorry”, publicly to declare that all parties, whether they are internal or external actors, have injured each other. One is far from suggesting any detailed confession to having inflicted historical wrongs. Nor do I advocate an immediate exercise in determining responsibility (and its precise proportions) in relation to particular events.<sup>10</sup> More resulting “blame games” will not progress a settlement. Holding back from mutual accusations of wrong-doing does not imply that greater attempts to improve history teaching in both Communities' educational systems should not be made. It is essential to remove inflammatory emphasis on the misdeeds of only one ethnic or religious group while ignoring reciprocal or even preceding misdeeds against other groups.<sup>11</sup> The legacies of historical misdeeds still resonate

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<sup>8</sup> Turkey and Greece (and even Germany under Chancellor Schroeder) have used the Cyprus problem in their internal politics.

<sup>9</sup> States' duty to terminate an illegal situation was spelled out in the International Court of Justice's Advisory Opinion on Namibia (1971).

<sup>10</sup> If any settlement is to be durable, there must be a Historical Commission. This should not be under supervision of a Reconciliation Commission which could, out of goodwill, be tempted mistakenly to suppress some sensitive studies. To create long-run attitude changes objective academic studies are necessary. However, public historical debates *in medias res* too often give messages reinforcing parties' prejudices. Enough writings (although not in the same books!) are already available to alert all actors to relevant events in the period running from the commencement of violent struggles for self-determination in the Ottoman Empire, through the break up of various empires into new national States, right up to the present time when foreign States still pursue their strategic interests and intervene in Cyprus.

<sup>11</sup> The education profession, seeing itself as the font of all knowledge, tends to extreme conservatism about methodological reform. It is essential in a situation where that profession has political allies that it be coaxed into changing its messages, rather than being directed to do so without full consultations. Current delays in producing relevant and appropriate messages for upcoming generations are the price both Communities are paying for earlier allowing history teaching to be overly ideological and to be employed as a propaganda tool.

with resulting bitterness, suspicions, fears and divisions. Regrettably, most members of the two Communities glide over determining events, ignoring the other Community's perceptions, concentrating on their own different identities, interests and loyalties and assuming that they have the right to decide all political questions on that biased basis.<sup>12</sup> Most Cypriots focus on their own Community's "victimhood", dismissively acknowledging their own Community's limited (in their view excusable) responsibility for harm inflicted on members of the other Community.<sup>13</sup>

<sup>12</sup> Of course neither Community is monolithic. Attitudes and emphases also shift over time. Thus Turkish Cypriots became more conscious of their own Turkish Cypriot identity (as opposed to being Turks) after 1878 when the United Kingdom became the administering power in Cyprus. In the late 1940s, fearing union of Cyprus with Greece, Turkish Cypriots adopted Turkish nationalist stances. Currently, having experienced much autonomous government power from 1975, but facing *diktats* by Turkey, combined with settlement from Turkey and Army interference in domestic affairs (e.g. policing), Turkish Cypriots, especially those on the left of the political spectrum, have appreciated the benefits of Cyprus' EU membership and see themselves as EU citizens of Cypriot nationality and Turkish Cypriot heritage and descent. Similarly, while most Greek Cypriots saw themselves from the outset of British colonial rule (1878) as Greeks seeking union with Greece, many shifted their attitudes, certainly no later than 1974 when hopes of *enosis* were annihilated in consequence of the insane Greek Junta coup against President Makarios, followed by Turkey's invasion and occupation of 36.4% of the Republic of Cyprus. Thereafter, while characterising themselves as a Hellenistic people, Greek Cypriots became more determined to maintain an independent State of Cyprus. Except in narrow nationalist circles, they came to appreciate that majoritarian attitudes cannot result in peaceful co-existence of the Communities. This attitude change is proved by the fact that even politicians critical of Annan II (as "negotiated" by the UN Secretariat in 2002 and early 2003) only sought "improvements" and did not attempt to abandon the Plan's power-sharing approach. Yet, because of Community perceptual blinkers, neither side fully appreciates the changes in each other. Most Turkish Cypriots dispute significant alteration in Greek Cypriot attitudes, while many who see the change would describe it merely as a desire to Hellenise within a Greek-dominated Cyprus State. Conversely, Greek Cypriots tend to see Turkish Cypriot separatist attitudes or the desire for autonomy as being due solely to incitement by Turkey, failing to recognise that Turkish Cypriots have always cherished their distinct identity and have aspired to govern themselves, rather than being assimilated into a common Cypriot society which, given the size of their Community and democratic procedures, would they believed, inevitably be Hellenised. Non-recognition by each Community of the other's attitudes is as misguided and self-serving as was the British Colonial Government's view that Greek Cypriots were not "Greeks" (as they professed to be) but constituted an ethnically mixed eastern Mediterranean Community which did not generally desire *enosis* quite apart from not, in the British view, being entitled to claim this.

<sup>13</sup> Whereas there may be formal acknowledgement that, as the Ottoman Empire was torn apart, Turks as well as Greeks, suffered, and further that both Communities suffered in the 1955-1958 and 1963-1967 intercommunal violence while, following Turkey's 1974 invasion of Cyprus, both Communities were subjected to atrocities and to extreme hardships, the focus is on each Community's own suffering. This, Community members consider, far outweighs any suffering of the other Community as does the responsibility of that other Community for inflicting harm.

Only if an atmosphere of sympathetic mutual understanding is developed without being detracted from by repeated accusations of responsibility for harm inflicted<sup>14</sup> can the Communities' "leaders" attempt to reach a settlement and obtain the necessary public endorsement of their Community members.

Outsiders also need to be sympathetically alert to the divisive factors still blocking the path to a settlement. This entails that not only must they appreciate Cyprus's internal history, but that they must also appreciate the wider international relations context which spawned the Cyprus problem. It cannot sufficiently be emphasized that Cyprus does not exist in a vacuum (something which would render easier an accommodation between its ethnic Communities). Cyprus is in a situation where external Powers can determine the final outcome of internal negotiations and can disrupt, even destroy, any internal settlement. Turkey in particular will, if there is to be a real settlement, have to agree to it.<sup>15</sup>

### **Seeing the Elephant**

Adapting a current cliché, third States do not wish to and do not see a rogue elephant State in the room - especially since that elephant transports energy supplies and provides military facilities. It goes by the name of "Turkey". Third States will not endanger their perceived interests, unless they believe that they would, on balance, be better served by pressuring (or, if they can, cajoling)

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<sup>14</sup> Such accusations need to be removed from the heated political sphere. It is otherwise where the venue for determining the truth or otherwise of accusations is a court (such as the European Court of Human Rights). The purpose of proceedings there is to establish the facts in a dispassionate manner and to mete out individual justice. Individuals should not have to face the double loss of initial injury coupled with loss of their right to a remedy because of hopes for general political progress, hopes usually dashed in any event. It is particularly convenient for a wrongdoing respondent State to urge dropping litigation against it lest the negotiating atmosphere be spoiled. On that basis, the Council of Europe's Committee of Ministers took no action against Turkey from 1977 to 1992, despite two weighty condemnatory Reports by the European Commission of Human Rights.

<sup>15</sup> In November 2009, the UK Government announced it would not stand in the way. This was coupled with the condescending statement that, upon settlement, the UK was prepared to surrender half the area now constituting Sovereign Base Areas in Cyprus. But the UK has a questionable legal right, and no moral right whatever, to Sovereign Bases (Crown Colony) in Cyprus. She extorted these Bases by two 1960 Treaties following duress applied to the leaders of the Cyprus self-determination struggle at the 1959 London Conference.

the elephant to co-operate on Cyprus issues, thereby reducing the foreign policy nuisance occasioned by the Cyprus situation.<sup>16</sup>

### **Free Choice by Turkey is the Only Road to Progress**

Turkey is not susceptible to pressure. She does what she chooses and only when she is ready to act.<sup>17</sup> Even were she to accede to foreign pressure, duress is counter-productive, leading to resentment and long-term rejection of what has been imposed. Turkey herself has experienced such Greek Cypriot responses: the 1959 Zurich/London settlement was resented as an alien imposition; Turkey's 1974 invasion and continuing occupation of northern Cyprus have not settled the Cyprus problem which, 35 years later, still reverberates internationally; and, even with UN, EU and US help, Turkey could not impose upon Greek Cypriots the Annan Plan (Version V) which she had shaped with those powerful bodies. Instead, Turkey further embittered her relations with a majority of Greek Cypriots, reinforcing their scepticism about Turkey's intentions.<sup>18</sup> Only when Turkey is satisfied that it is in her best interests to rid herself of the political incubus of Cyprus<sup>19</sup> will she actively pursue a settlement, agree to compromises and move into EU grazing grounds.<sup>20</sup>

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<sup>16</sup> Cyprus could easily return to foreign policy agendas because implementation of a settlement will be a Security Council responsibility and difficulties could well arise.

<sup>17</sup> Turkey was not, despite international pressures and incentives, ready to act at Copenhagen in December 2002 or at The Hague in March 2003, declining to agree to Annan II and Annan III. Much earlier, getting what she wanted, Turkey acted at Zurich and London in February 1959 to impose a Cyprus settlement she could live with. She attempted the same thing in March/April 2004, having achieved Annan V at Burgenstock.

<sup>18</sup> Despite massive international pressure and even implicit threats about negative consequences of a "No" vote, 75.83% of the valid votes cast in the Greek Cypriot referendum on 24 April 2004 were against the Annan Plan. (The poll turnout was 89.25% of the electorate).

<sup>19</sup> In time of economic recession Cyprus has become an increasing financial burden on Turkey, but Turkey will not merely for financial reasons abandon her perceived duty to protect Turkish Cypriots.

<sup>20</sup> Turkey keeps her EU options open, doing the minimum she needs to for that purpose. Thence her formal support of re-opened Cyprus negotiations from 2008 to date, while simultaneously insisting on retaining all the "concessions" in Annan V made at Turkey's instance. In late 2009, alleged acquiescence by President Christofias in all earlier Greek Cypriot concessions still standing and being "pocketed" by Turkey became the subject of heated Greek Cypriot political debate on the President's negotiating approach.

### **Turkey's Security Perceptions Still Block Prospects of Settlement**

Currently, because Turkey has not directly been involved in the negotiations, these have skirted around the issues involved in Cyprus "Security". Those issues are probably the ones of most concern to Greek Cypriots who have memories of Turkey's military interventions in August 1964 and from mid-1974, as well as of threats of invasion in 1963, 1964 and 1967. Turkish Cypriots similarly recollect the violence of Greek Cypriot para-military organisations against members of their Community during inter-communal violence of the 1950s, 1960s and in mid-1974 and regard a "protective" right of military intervention by Turkey as a prerequisite for any settlement. Turkey's powerful military hierarchy is crucial because it determines what Turkey's strategic interests are in relation to Cyprus. Revision of long-standing military views as to Cyprus's significance has been discouraged by the unstable environment east of Turkey and by potential threats posed by modern weaponry. Until revised or overridden by a civilian government, military claims regarding Cyprus will remain a barrier to settlement.

Turkish reconsideration is also necessary in respect of the economic sphere. In particular, as an intending EU Member State, Turkey needs to come to terms with the archipelagic State of Greece, especially over Aegean sea-bed resources. Turkey needs to do the same with Cyprus as regards the eastern Mediterranean seabed's gas and oil. Since it has been agreed that in a future Cyprus federation these natural resources will be federal, financial benefits will enure to Turkish Cypriots. By dropping Turkey's claims upon the resources surrounding Cyprus, Turkish Governments will be financially aiding their protégées and will be respectabilising themselves in EU eyes.

But "Security" is not merely a narrow military conception: it impacts on most aspects of any settlement. Without acceptable "Security" arrangements, government will be suspect and unworkable; territory and property rights risk violation; financial arrangements will be unstable etc. Moreover, Greek Cypriots associate "Security" with Turkish population transfers to occupied Cyprus (a war crime under international humanitarian law) and fear further large-scale Turkish immigration of settlers. Greek Cypriots now accept that humanitarian considerations require that Turks who have married Turkish Cypriots and Turkish nationals born or raised in Cyprus

must be permitted to remain there after a settlement. (This explains why President Christofias proposed that 50,000 Turkish nationals may do so.) But the Turkish view is that ALL Turks must be permitted to remain.<sup>21</sup>

### **What Turkey Needs to Accept Regarding the “Security” Sphere**

If a settlement is to be reached (quite apart from “unpocketing” her 2004 Annan V gains regarding limited return of Greek-Cypriot owed property in northern Cyprus and restrictions on residence and business by Greek Cypriots) Turkey will have to renounce any military rights in and over Cyprus. She will also have to effect the return to Turkey of the bulk of the mainland Turks she encouraged to move to the Island. She needs too to agree to the UN (or possibly the EU) supervising implementation of any settlement if it is to be effective and durable (and thus acceptable). She should certainly not cynically just agree to an advance adjustment of territory and private property in order effectively to arrange for a pre-agreed divorce settlement when the “marriage” falls apart.<sup>22</sup>

### **Other Crucial “Security” Aspects on Which Agreement is Essential**

In the Cyprus context, “Security” does not as already indicated refer only to military issues: it also covers foreign intervention in Cyprus's internal affairs and foreign-imposed constraints upon Cyprus State action whether under treaty rights (as has been Turkey's claim since 1960) or indirectly through the political input of foreign settlers. “Security” also requires adequate policing and maintenance of order in Cyprus territory. Above all, it necessitates

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<sup>21</sup> The number of Turkish settlers has not reliably been quantified. They could amount to anything between 130,000 to 230,000. They certainly far outnumber Turkish Cypriots.

<sup>22</sup> Neither Cypriot side should be similarly cynical. If they are, failure will be pre-determined. A realistic measure of Turkey's sincerity in agreeing a settlement would be provided by a mechanism permitting reversion to the current *status quo*. The Republic of Cyprus would then revert to its current status as the only internationally recognised State in the event of collapse of the new settlement, while the “TRNC” would revert to its current unrecognized status. Unless this is agreed, neither of the “ex-spouses/partners” would have international status, a serious disincentive for Greek Cypriots' acceptance of an inherently risky plan. Both intending “spouses” should, if their intentions are honorable, be considering agreed contingency mechanisms to assuage fears in their Communities which will, separately, have to approve the settlement in two Community referendums.

measures to reassure both Communities that their situations are secure. The need for such measures comes back full circle to the fundamental requirement that the two internal parties recognize each other's identity and aspirations: they cannot reach agreement on a settlement which would permit policies either of Hellenicisation or of Turkicisation. Thus there must be internally applicable mechanisms to achieve protection for the Communities<sup>23</sup> and also appropriate external ones. From the external aspect, protection of both Communities' identities requires removal of external threats and potentiality for injurious action. This dictates that both Communities should renounce (repudiate) the rights of any third State, particularly a "Motherland," to intervene in Cyprus, whether politically or militarily. Accordingly, the 1960 Treaties of Guarantee and of Alliance, imposed as part of the 1959 Zurich/London arrangements, must be terminated.<sup>24</sup> Not only must "allies" be unable to use force, but the use of internal force must also be renounced. Thus, both from the

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<sup>23</sup> Internal protective mechanisms are interrelated with the system of government. Modern requirements regarding minority groups (see n. 6 above) entail rights to participate at all governmental levels. Also required is symbolic acknowledgement of the political equality (i.e. equal status) of each Cypriot Community. The Security Council has since SCR716 (1991) adopted the UN Secretary General's definition of Community "political equality", which makes it clear that equal numerical representation in all state organs is not intended (*S/21183*, Annex, para. 11). The precise numbers/proportions/percentages necessary have occasioned endless argument between the sides. Greek Cypriot leaders, aware of modern concepts of democracy and human rights, have moved from the earlier view that Turkish Cypriots were entitled only to traditional minority protection (as in earlier minority treaties) and would have to live in a State in which majority decision-making would always prevail. For many years Greek Cypriot leaders have accepted power-sharing as being necessary even if they disagree about the detailed machinery for effecting this. In contrast, Turkish Cypriot politicians assert that their Community has a right to equality of power, to equal representation (or separate Community decision-making) and to insist upon actual support from their Community by way of positive votes for particular decisions. These rights are their due, they assert, not merely mechanisms to protect themselves against potential Greek nationalism. Such claims (often phrased as "we are not to be treated as 'a mere minority'") go well beyond the internationally accepted standards governing the rights of national ethnic groups to participate in State organs. The claims explain Greek Cypriot unwillingness to agree on machinery proposed for governmental decision-making, quite apart from an ingrained belief that it was the Turkish Cypriot Community's right to insist on separate Community approval for financial measures which led to constitutional crisis from late 1960 to December 1963, when inter-communal violence erupted.

<sup>24</sup> The Treaty of Guarantee is between Turkey, Greece, the UK and the Republic of Cyprus. The UK is not a party to the Treaty of Alliance. Neither Treaty has been lawfully terminated or suspended, although the Treaty of Guarantee has comprehensively been violated by all parties thereto, as has been the Treaty of Alliance.



external and internal aspects, there must be “demilitarization” consistently agreed as policy from 1976 onwards by all six of the Republic of Cyprus's Presidents.<sup>25</sup>

It would be prudent to exclude external intervention by any group of foreign States.<sup>26</sup> Nor should there be pre-authorized collective intervention on the basis of allegedly upholding a guarantee even if the sides could agree which organisation should have this right.<sup>27</sup> It is doubtful whether a collective UN guarantee would be effective. This is obvious from the fact that mandatory Security Council Resolutions on Cyprus, particularly SCR 353 of 20 July 1974, demanding an immediate end to foreign military intervention in Cyprus, have effectively been ignored, with Turkey for 35 years stationing an army of occupation (currently about 45,000 in strength) in northern Cyprus. Nonetheless, a Chapter VII Security Council decision, demanding that all concerned uphold any settlement, and prohibiting acts or omissions in any way facilitating or assisting action contrary to the settlement's terms, should be taken. Even if, on current form, the Security Council and States will take no enforcement action, such a decision would reinforce the settlement.<sup>28</sup>

### **What Procedures and Attitudes are Appropriate?**

Forget past disappointments and alleged lost opportunities - reaching agreement on Cyprus is not comparable with a quick deal in the marketplace.

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<sup>25</sup> EU membership and potentialities for participation in European defense policy need not alter this policy. Ireland has successfully remained “neutral” since 1937. In the Cyprus context, it is not responsible politics to suggest abandonment of the policy of demilitarisation in order that tiny Cyprus should not be constitutionally precluded from contributing to peace-keeping and regional activities to counter emergencies. Cyprus would, even with demilitarisation, be able to contribute police and humanitarian services if so desired and avoid internal dissatisfaction by retaining displaced military personell to perform these duties.

<sup>26</sup> Only the Security Council should be able to authorize use of force and such authorization should be explicit. Claims to be engaging in humanitarian intervention or allegedly to be acting in support of prior unclear Council Resolutions have provided bases for unauthorized use of force in south eastern Europe and Iraq, contributing to the wars of the last quarter of the 20<sup>th</sup> century.

<sup>27</sup> Under the 1960 Treaty of Guarantee, the Turkish, Greek and British Guarantor Powers failed to act collectively. Individually each Guarantor violated the Treaty: Greece and Turkey each attacked the Cyprus State, while the UK excused her generalized policy of inaction and supported Turkey's policy of bringing about a bi-zonal, ethnically-cleansed federation by force.

<sup>28</sup> If the International Court of Justice were to be seized with jurisdiction by a request for an Advisory Opinion, third States' legal obligations not to facilitate action in breach of the settlement could be spelled out.



It is obviously true that the negotiations between States concerned with Cyprus and the internal Cypriot actors have been scarred by mistakes and disappointments.<sup>29</sup> To attribute blame to the internal Cyprus actors or to the elephant in the room is not fruitful.<sup>30</sup> Nor is it accurate to claim that there were “lost opportunities”.<sup>31</sup> Settling a major international problem is a continuing aim of States concerned. Setbacks are temporary. Opportunities come and go, with some being better than others.<sup>31a</sup> As the long Northern Ireland process has shown, talks will always be resumed.<sup>31b</sup> Fortunately,

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<sup>29</sup> The negotiations started in 1948 between the UK Governments and Greek Cypriots. From 1954-1960 negotiations involved the UK, Turkey, Greece, a behind-the-scenes USA and Greek Cypriots, with Turkish Cypriots scarcely involved. The 1961-1963 negotiations were between the two Communities, with change being blocked by Turkey. The 1968-1974 negotiations involved the Communities and the reckless Greek Junta Government, watched by Turkey biding its time. From 1975 to 1994 Turkey was the determining force and the internal actors were in effect impotent. From 1999 to 2004 Turkey remained the determining force, and, backed by international Powers, achieved version V of the Annan plan, which the Greek Cypriot electorate rejected.

<sup>30</sup> Some embittered commentators concentrate on Greek Cypriot mistakes. But mistakes were made by all concerned.

<sup>31</sup> Unless the political circumstances permitted offers and acceptances of proposals, there were really no missed opportunities. It is not unfair to conclude that it was not until early 1992 that Turkey, under President Ozal, was persuaded by President Bush (Senior) of the merits of a settlement, although Mr. Yilmaz was dragging his heels. Since 1993, Turkey has not manifested serious will to settle unless she has her way with the EU, involving full membership for Turkey. Even as regards Annan V in 2004, there are grave doubts whether Turkey's civilian government could have adhered to the settlement had the Plan been accepted by Greek Cypriots: elements of the Turkish Army envisaged a coup if the Annan Plan was adopted. Looking back at the whole period, it is clear that from 1964 to 1974 Turkey did not really care about municipal autonomy for Turkish Cypriots, but wanted internal control in Cyprus through Turkish Cypriots. After her occupation of northern Cyprus, Turkey rejected (as in effect did Greek Cypriots) a compromise American-Canadian-British plan. She did not accept the UN Secretary General's 1983 “indicators”. She and Mr. Denktash forced such extensive changes in the 1986 UN plan that it was unacceptable to Greek Cypriots. At best, Greek Cypriots, by accepting each new set of international proposals, would have been characterized as reasonable and compromising, while Turkey would have been described as “obstructive”. But this would not have been sanctioned in any way. Indeed, Turkish refusals usually led to watered down proposals possibly acceptable to her - as in the 1993-1994 negotiations on confidence-building measures and in 2002 and 2003 with Annan II and III. Indeed, in Annan V, Turkey was then given (by the UN, the EU, the USA and the UK) all that her civilian government had demanded.

<sup>31a</sup> For example, the much-praised-at-the-time “Gobbi line” of 1981 was improved in 1992 from the Greek Cypriot perspective of reacquiring particular territory where Greek Cypriots had had their homes. There was further potential improvement at the end of 2002, although, as of now, the Karpas peninsula has apparently not been agreed as forming part of any Greek Cypriot federal unit or common federal area.

<sup>31b</sup> President Makarios died, but his “arch-rejectionist” successor, President Kyprianou, resumed talks in 1979. After “UDI of the TRNC” and isolation of the Greek Cypriot leadership, which, at the National Council, had in 1986 unanimously rejected the UN Secretary General's proposals, talks were resumed by President Vassiliou in 1989. Mr Denktash, after numerous rejections, invited President Clerides to direct

the current talks have, through the Gambari process of 2006-2008, set out a broad procedural outline. With minor tweaking, the procedure of preparation has thus far been followed, with the result that discussions have been serious, not superficial.

### **A “Cypriot-Owned” Process**

The major change from previous negotiations is that the current ones are seen as being CYPRIOT i.e. the responsibility of the internal actors who “own” the process. They set the pace, determine procedural details, and do the talking, although intermittent hints of an impatient more aggressive USA and UK approach have emerged. But there is nothing like the “brokerage” model employed by UN envoy Alvaro de Soto, who used his team to formulate positions into which the two Cypriot sides were then maneuvered, often after distortions as to what was or was not on offer, or as to the consequences. Certainly, each side was shown different pictures when Mr de Soto's agents were attempting to extract their agreement.

In the revived talks, following detailed lower level side-to-side discussions between both Communities' public servants and some political actors (without there being an attempt to represent internal political parties), each side has fully presented its positions. That some of these may have been rigid, overly demanding, or even regarded as “extreme” by their opponents does not really signify. The exercise meant that each side learnt of the other Community's concerns and understood the reasons for its preferred positions (e.g. why Greek Cypriots are concerned that government decision-making could become impossible and how this could be avoided without prejudicing Turkish Cypriots' interest, or how deep Turkish Cypriot concerns are about protecting their identity and autonomy).

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talks in 1999 because of Turkey's EU aspirations. A skeptical President Papadopoulos agreed in February 2003 to continue talks, “subject to improvements” on Annan II. He invited re-opening of talks (abandoned by Turkey) in December 2003. After the 2004 referendum in which Greek Cypriots rejected Annan V, President Papadopoulos pushed the UN and third States for 2 years to re-open talks with the carefully negotiated Gambari process. He offered the Turkish Cypriot side vetoes on decision-making, something abhorrent to many other political figures. Once in power, politicians change their negative positions. President Clerides, who won the 1993 election by condemning the UN Set of Ideas, in effect fought for these from 1996 to 2003. Even those in opposition talk about compromises e.g. Mr. Serdar Denktash has intermittently spoken flexibly about positive intercommunal policies.

### **The Absence of Direct Foreign Presence and Input at the Talks**

A great advantage has been that, apart from low-key UN chairing which has by and large been sensitive, there has not been direct foreign presence and pressure, even if some international “facilitators” are in the background, and third States hover around the leaders and their advisers, making suggestions. But there has, so far, been nothing to parallel the heavy direct psychological pressures exerted in London in 1959 and at Burgenstock in 2004. Moreover, the principle of “knocking heads together” has, at least until now, been set aside.

By the end of 2009, there had been more than 60 leader-to-leader meetings following the low-level talks. Early in 2010, intensive virtually continuous meetings of the leaders were scheduled. Such talks avoided the UN's earlier “brokering” approach. They were also more fruitful because the ground had been well-covered in advance by the low-level talks.<sup>32</sup>

### **Absence of Duress as to Time**

In the current talks, there has not hitherto been duress as to time by applying deadlines for achieving results and ending discussions. The UN has facilitated the sides thoroughly canvassing their positions, recognising that, to negotiate a complex and complete settlement involving a governmental system operating at all levels in a super-charged environment, time is essential.<sup>33</sup>

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<sup>32</sup> In producing the Annan Plans through the “brokering” process, instead of direct low level-talks, there was mostly coffee-drinking and joking at high level meetings. The only serious talking was done early in 2003 and early in 2004 by experts of both sides to draft laws for the future federal republic.

<sup>33</sup> *Inter alia*, the sides need to negotiate local government systems providing participation for “minorities” who are especially concerned with education and language, as well as in regard to hospitals and municipalities, none of which will be federal competences. Such matters were not seriously discussed in the 1999-2004 negotiations, but must be if any settlement is to provide long-term satisfaction. The “municipalities” issue played a major role in the collapse of the 1959/1960 settlement.

### Patience is Required

It is not only third States who need to be patient:<sup>34</sup> it is the Cypriots themselves. As already indicated, Greek Cypriots would have had Cyprus falling like a ripe plum from the imperial tree into their garden had they not rejected enhanced self-government in the Colony in 1948 and thereafter embarked on a guerilla war against the Colonial Power, rejecting also the 1956 Radcliffe proposals which would have given them internal self-government without unsurmountable complications. Today many Cypriots are deeply frustrated by the way the years have gone by without a settlement. When they contemplate the possible political demise in 2010 in the “TRNC Presidential election” of Mr Talat, currently “President of the TRNC” and thus leader of the Turkish Cypriot Community, they fear the last chance of settlement will be lost.<sup>35</sup> Similar fears over loss of potential co-operative partners (whether Greek or Turkish Cypriot or Turkish) have plagued the talks throughout their long history, but there has as required by the situation been reversion to a negotiating process. Settling the Cyprus problem is not about having a drink in “the last chance saloon”. It will not be the end of the world if Mr Talat’s electoral term ends before an agreement with him and he is replaced by another elected leader with policies akin to those of Mr Rauf Denktash. Indeed, by some manipulation, his negotiating functions may, “in the national interest” be extended. What counts is if the Republic of Turkey decides to pursue a settlement through whoever becomes the Turkish Cypriot leader. If she decides to concede terms offering Greek Cypriots sufficient benefits, justice, self-respect and real prospects of implementation, Greek Cypriots could be persuaded by their political leaders to approve an agreed settlement. Turkey herself will be able to persuade any Turkish Cypriot electorate of the benefits of a settlement she approves.

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<sup>34</sup> The third State whose impatience brought tragedy to Cyprus was Greece. Her Junta's action in July 1974 gave Turkey the opportunity she had been seeking since Christmas 1963 to invade Cyprus.

<sup>35</sup> This is superficial thinking. Matters must not be assessed on the basis of leaders' personalities and personal friendships. Despite their long friendship and joviality, President Clerides and Mr. Rauf Denktash never reached agreement in negotiations stretching over 40 years (1962-2003).

### **The Risks of Making Concessions When One is the Weaker Party**

Pressed by third States, who have wished for a Cyprus settlement, particularly in earlier years when such States perceived Greek Cypriot positions as “majoritarian”, rather than as merely “democratic” as Greek Cypriots would themselves characterise their proposals - consecutive Greek Cypriot leaders<sup>36</sup> manifested their desire for a reasonable settlement by moving from majoritarian approaches and sought to extract reciprocal concessions by Turkey. The UN Secretariat and interested Powers encouraged them also to envisage a deal on the basis of “exchange of constitution for territory”. Accordingly, from 1976, they offered a federal constitution which broadly met many Turkish Cypriot demands. Such offers were not reciprocated by concrete offers to return territory or to permit Greek Cypriots to return on any large scale to their homes and properties.

When the relevant negotiations collapsed, conditional compromises by the Greek Cypriot side somehow were treated as unconditional. Thereafter, each time new ideas for a settlement were developed, the UN treated the earlier Greek Cypriot concessions as “givens”, despite Turkey's failure to produce agreed balancing concessions (e.g. in 1977, by 1982, 1986, mid-1994, November 2002 and March 2003). The result is that repetition of old “concessions” - even privately in the talks - causes storms in the tense Cypriot political atmosphere, especially since nearly all Greek Cypriot “ammo” on the Constitution has been spent. Thence the furore in late 2009 when President Christofias allegedly agreed to a presidency rotating between the Communities, weighted voting (presumably in the federal senate and in the federal executive), deadlock resolution machinery, 50,000 Turkish settlers permitted to remain after settlement, ethnic public service composition, policing, restrictions on return of Greek Cypriot displaced persons, demilitarization and international guarantees for Cyprus. The possibility of agreement with Mr Talat on some of these issues raised deep-seated Greek Cypriot fears of Turkish dominance and constitutional unworkability. But, if a settlement is to be reached, compromises on all these issues will be necessary. Whether the compromises are reasonable, appropriate and tolerable can only be appraised when a complete package has been put together. Only then can balancing gains and losses be analysed and evaluated. For example, what areas of territory now militarily occupied

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<sup>36</sup> Presidents Makarios, Kyprianou, Vassiliou and Clerides.

by Turkey will become part of the Greek Cypriot federal unit (such as the Karpas, Kythrea, more of the Morphou and Zodhia areas, villages to the rear of Famagusta etc)? How speedily will Greek Cypriots be able to return to their homes and properties and to what extent?

The recent furore arose out of partial “leaks” about the contents of the talks, suspicions and fears that concessions would be made or rather reiterated (most alleged concessions having earlier been agreed to in broadbrush outline by prior Greek Cypriot leaders). The core problems have been lack of confidence in the firmness of the leaders and fear that “the pass will have been sold” before all politicians and the public can assess any package.<sup>37</sup> The fears expressed by other political figures not directly involved in the talks process are unsurprising in light of the history of Greek Cypriot concessions being cumulatively reflected in Annan Plans I, II and III, followed by the UN's impositions in Annan V. Many politicians see the UN Secretariat as ever-present and are conscious of background diplomatic pressures. They need reassuring that further concessions “for pocketing” are not now being made. “Thus far, and not further” is their stance, even though ultimately they will have to assess any concessions made in an overall package.

### **The Essential Capacity Required by Any Leaders to “Sell” their Deals**

Steely nerves are required of any negotiator, let alone by ones in so delicate a situation as that of the highly-politicised Cyprus problem. But certain abilities are essential. First, negotiating leaders must remain unshaken by interim criticism.<sup>38</sup> Second, they must be able to carry along the press, loose coalition partners, the opposition and the public. This is difficult because it has been agreed that the talks process is to be confidential and public involvement puts the talks at risk. Communication of details to other politicians (e.g. at National Council meetings or at private briefings) is problematic, because issues are so “hot” that it is almost impossible to contain them. “Leakages” alarm the public, while full explanation in response is constrained both by the

<sup>37</sup> Turkish Cypriot politicians have voiced similar fears about Mr. Talat's handling of the negotiations.

<sup>38</sup> Some politicians (allegedly including Mrs Thatcher) did not read upsetting newspapers, relying on aides' summaries for vital information. Criticism is of many kinds. It often is designed to further very different goals e.g. partition, or maintenance of the status quo in the hope that something else will turn up. Whatever the objective of the critic, the target needs a rhinoceros' skin.

confidentiality requirement and the need not to negotiate in public when a package has not been finalised. This makes particular “leaks” dangerous, apart from being foolish, because overall assessment is impossible prior to the leaders' overall agreement.<sup>39</sup> Third, leaders should consider providing impartial public information about the characteristics of the envisaged institutional arrangements. These are unfamiliar and possibly therefore suspect to members of the public e.g. the principles upon which federations operate and what is involved in power-sharing. However, it is easy to cross the fine line between providing information and engaging in propaganda. In any event, the extent of the impact of such general education is unlikely to be great, or to persuade doubters. It would probably be better to delay provision of information until agreement has been reached and then to provide thorough, specific information over a reasonable time period extending before a referendum. Four, leaders must be able, once they agree a settlement, to reach out to their electorates and to persuade them, taking sufficient time for this purpose, that they should approve the settlement in the two separate referendums for members of the Greek and Turkish Cypriot Communities. In that period, cumulating confidence-building measures will much assist.

In sum, an agreement developed in serious negotiations by principled leaders, who are nonetheless prepared to do a deal on their principles, and who have the nerve to impose such deals upon their followers and then actively persuade opponents, is what is essential. An agreement reached in that way is more likely to enjoy legitimacy and to be adhered to.<sup>40</sup> The leaders also need good

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<sup>39</sup> But leakage in a conspiratorial society could also be designed to alert and condition the public to controversial concessions which may ultimately need to be made. The public may otherwise perceive the topics of the “leaks” as unexpected “bombshells”. As of now, the reality is that no concession allegedly made by President Christofias and “leaked” has not, at some or other time, been made by one or by several of his predecessors, or even by the National Council in an agreed Cyprus solution policy formulated in 1989. Examples are weighted ethnic voting in Presidential and Vice-Presidential elections, a rotating Presidency and demilitarisation.

<sup>40</sup> An agreement between leaders from “the extremes” may be the most effective as exemplified by President de Gaulle's decision on Algeria and the Northern Ireland deal between Democratic Unionists and the Official IRA. I am not convinced that assemblies of good-willed members of civil society to act as a “constituent assembly” are the best procedure for achieving results and legitimacy. Democracy, especially in a divided society, like Cyprus, could result in endless debates. This is why I do not suggest that “bringing along the public” by such a method is advisable.



fortune: the time must be ripe - which covers not only the absence of disruptive events and the transparent development of positive public opinion, as opposed to covert manipulation, something the USA has, in other contexts, labelled as “voter education”.

### **What in General Should a Cyprus Settlement Provide?**

It cannot be sufficiently emphasised that any settlement must reflect the major Communities' acceptance of each other's sense of identity and equal political status, afford protections for those, and assuage fears that either side's status can be threatened. Any government machinery adopted (the permutations are infinite depending upon the draftsmen's ingenuity) must be workable (functional) if the settlement is to endure. Above all, the settlement, seen as a whole, must satisfy the Communities' differing senses of justice. The failure to reflect criteria of this nature was why the 1959/1960 settlement collapsed.<sup>41</sup> Similarly in April 2004, most Greek Cypriots were left resentful at the injustice of Annan V's property, territory and right of return home provisions, and were fearful that, in the longer run, the Plan authorised Turkish military action and immigration from mainland Turkey.<sup>42</sup>

The substance which any agreement needs to cover falls under the following headings: Security; Property and the Right of Return; Territory; Fiscal and Economic Matters; Governance; and EU Accommodation.<sup>43</sup> In the revived post-Annan negotiations, the many lower-level meetings of civil servants, advisers and aides from both sides have set out each Community's position and thoroughly discussed the differing proposals. The same thing

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<sup>41</sup> Greek Cypriots saw denial of their democratic right as the population majority (78.21%) to decide on union with Greece (*enosis*) as unjust. Turkish Cypriots (18.13%) feared assimilation even in an independent Cyprus, while Greek Cypriots feared Turkey's invasion threats (made from 1963 until 1974 when Turkey was provided with justification for such action by the Greek Junta's Cyprus coup).

<sup>42</sup> My book, *An International Relations Debacle* etc, pp.221-238, explained Greek Cypriot objectives. Although the UN aspired to apply the criteria described above, it fell down in execution, giving too much attention to assuaging Turkish Cypriot concerns. The book does not analyse the latter - except in so far as they emerged from Turkish demands for certain provisions, which were all accorded (see pp.128, 155-161, 181 and 259). The underlying Turkish Cypriot concerns have now been comprehensively discussed in the 2009 talks.

<sup>43</sup> See *An International Relations Debacle*, pp. 315-31. These are inevitable headings for any constitutional settlement.



has occurred at the more than 60 high level meetings between the two Community leaders. Only such thorough discussion and resultant mutual understanding of each other's positions can lead to negotiated compromises on specific aspects.

It is too easy for an outsider (a trap the UN Secretariat fell into with Annan III and V) to propose seemingly logical mechanisms and hope that a little head-banging will result in agreement. Such a procedure cannot in practice overcome fears of risks of being dominated or of political collapse. Even the details of mechanisms (especially blocking ones) will need close scrutiny by the sides for agreement to become feasible. The sides will also need to be sure of the factual situation in relation to which any agreement will operate. For example, what is the actual size of the Turkish Cypriot 'indigenous' population and the size of the Turkish settler population which has integrated with it by marriage or by being born and educated in Cyprus? Only with accurate answers can the scale of the resulting problems be assessed and practical solutions be agreed upon. Similarly, if arguments about return of property to its lawful owners are to be resolved and there is to be phasing in of the application of such rights, facts about current property occupiers and the living situation and desires of displaced owners need to be quantified: persons who have re-made their lives in urban areas, with good state schools and hospitals, and where they have jobs and entertainment, may well not wish to return to rural areas and a subsistence economy. It also needs to be known how many owners would willingly sell or long-lease their property, and how many current occupiers would willingly move to new accommodation in Cyprus or to their original homes in Turkey if given financial incentives. Fortunately, it has been agreed that there will be assessment of the facts regarding population and land. With facts in hand, the principle of recognising legal rights to property is easier to apply. If this occurs, there is the major benefit that a settlement becomes less costly, because the need for large-scale compulsory land acquisition will disappear.

Even more significantly, if local ownership and occupation issues can be settled, it is likely that appropriate territorial 'boundaries' for each federal unit will be indicated by concentrated patterns of land ownership or of occupation.

The precise mechanisms which will be agreed will only emerge upon finalisation of a settlement package. It matters little what exactly they are, so long as they are workable, something which will ultimately depend upon the sides' goodwill and determination, because even ideal constitutional machinery will not work absent good faith. Indeed, some dictatorships may be more liberal and smoothly operating than democracies disrupted by incessant disputes.

### **Potential Outcomes to the Negotiations**

Should the two leaders agree and succeed in carrying the two separate electorates in approving referendums, the world and most Cypriots will applaud. But that will not be the end of Cyprus's political ups and downs. There are no panaceas for the hazards of life in political societies and environments. There will need to be constant good will, educational development, reconciliation and determination to maintain the settlement in an orderly society.<sup>44</sup>

Should the leaders not succeed in their current attempts, there must (and will) be further attempts at negotiation. Much has been gained from recent negotiations: a large number of Cypriots from the two Communities have worked closely together; they have learnt on which issues they will have either to give way or for which they must work out acceptable alternative arrangements; and they by now appreciate what is at stake and what they have to, and can, sacrifice ultimately to achieve a settlement. Finally, their closeness through working together makes possible the development of trust in each side's integrity and its will to settle. Even failed negotiations have taught both Communities a lot about each other's aspirations and what they both need to do to secure a better future for all Cypriots.

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<sup>44</sup> Firmness as well as goodwill will be necessary. For example, 'hooliganism' and endemic violent responses by individuals and groups require a deterrent law with a three-year non-remittable minimum sentence for violence which is directed to the person or property of a person from another ethnic group.

## POSTSCRIPT

1. In this article, written in September 2009, I tried to put Cyprus negotiations in perspective. I was inspired by Dag Hammarskjöld's approach to the UN Secretary-General's task of dealing with international problems, an enduring approach equally applicable to the Cyprus question. Hammarskjöld used the analogy of mountaineering to explain the necessary attitudes. The qualities required are

“perseverance and patience, a firm grip on realities, careful but imaginative planning, a clear awareness of the dangers but also of the fact that fate is what we make it and that the safest climber is he who never questions his ability to overcome all difficulties”.

A year later, impatiently questioned about lack of action on the diplomatic front, Hammarskjöld replied:

“One who is really serious in his determination to reach the top does not gamble by impatiently accepting bad footholds and poor grips.”

That is the proper answer to later versions of the Annan Plan and to any other hurried attempts to short-cut the difficult climbing involved in scaling the mountain of the Cyprus dispute.

2. Hammarskjöld, in his speech to the General Assembly accepting office, made equally important further points about the task of dealing with international problems. It

“is a work of reconciliation and realistic construction. This work must be based on respect for the law by which human civilization has been built. It likewise requires a strict observance of the rules and principles laid down in the Charter ... Above all other convictions stands the truth that the greatest prayer of man does not ask for victory but for peace.”

3. As indicated, my policy paper adopts Hammarskjöld's message, implying that Cypriots must stand up for reconciliation, peace and human rights. They must not succumb to a sense of futility. They need to recognize that, with UN involvement since December 1963, there has been slow, sometimes unbearably slow, progress on two of the three core sets of elements of the Cyprus problem. The first core set of issues is the appropriate framework for exercising power in and over Cyprus. The second is stopping the use of force. The third is to alleviate the sufferings of 45% of the population, with 40% of both communities having been made displaced persons and another 5% having suffered as relations of killed or missing persons. On the first issue, it has since 1977 become indisputable that government of Cyprus is for Cypriots - not for "motherlands" - and that democratic federalism, even if some details remain unagreed, is the way forward. On the second issue, force, whether external or internal, has in principle and in fact (apart from Turkey's continuing occupation) been excluded, even if security issues cannot be fully resolved until Turkey agrees. But the third core issue remains effectively unaddressed, because of radically differing attitudes to rights of return home of displaced persons, rights to property of dispossessed owners and areas of territorial jurisdiction for each federated state.
4. The article conveys the message that Cypriots must persevere in climbing the mountain, making use of the UN's supportive mechanisms. All UN staff and the Secretary-General are prohibited (by Charter Article 100) from accepting instructions from any government, and, even if, as in all human institutions, there are sometimes operational slip-ups, the UN's supportive involvement, although not bringing Cyprus to heaven, has saved it from hell - and will continue to do so. As Hammarskjöld also pointed out, the world is not as one would wish it to be and it must be faced as it is. Thus compromises will finally have to be made. That necessity does not however dispense with the duty to respect civilized principles and human rights, protecting all, and not merely some (say only one-fifth) of those who have suffered by making an expedient bargain.
5. Perhaps because he was so fully in charge of the Organisation, Hammarskjöld, when describing the way to pursue a settlement, failed to mention two important aspects touched on in my paper. Mountaineering requires continuing and united teamwork and an absence of recrimination which should not occur while Cyprus gets pulled out of various mountainside crevasses into which she from time to time falls. In particular, many persons from both communities still

need saving. They must, with patience and determination, be rescued and reinstated to live in a just society, a federalized independent Cyprus, freely negotiated by caring leaders and endorsed in two community referendums. That is why negotiations must continue until a just settlement is reached.

6. To climb up to the summit, a settlement entails reliance on the UN's ropes and ladders (even if a few critics may think the right word is sometimes “snakes” rather than “ropes”). Hammarskjöld effectively created the UN's “good offices” functions. He was adamant that they were limited in scope, not extending to mediation and arbitration. He would not, as UN Secretary-General, have permitted the UN's deviation between February and April 2004 into the role of arbitrator, causing the emphatic rejection of UN proposals and putting willingness to trust UN assistance at risk. But he would have supported the UN facilitating negotiations by presenting “bridging” ideas and suggestions for helpful procedures. Such support would, however, certainly not have extended to the UN or States criticizing the struggling mountaineers for preferring their own safety equipment and the integrity of their principles. It is to be hoped that today's Secretariat and the States, which at that time wrongfully directed it, have learnt from the 2004 debacle that the Cyprus mountain will only be ascended by reliance on the free will and determination of those seeking to scale it. Impatiently scooping up and parachuting participants (the negotiating leaders of the two communities) down at the top is likely to drop them into a volcanic crater which could result in their drowning, or smothering in ash, or in their incineration if there is an eruption.



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