Occasional Paper Series   **Number 27**

The 2002-04 Annan Plan in Cyprus: An Attempted UN-Mediated Constitutional Transition

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Overview

        This chapter focuses on the 2002-2004 Annan Plan for Cyprus[1] and, more specifically, on the period leading to its fifth and final version. Although problematic in many of its provisions, the Annan Plan attempted to secure agreement on a reunited federal Cyprus within the European Union[2] and has been described as a major turning point in the recent history of the Cyprus problem.[3] The Plan's five successive iterations were widely debated, leading to a lengthy document submitted for popular ratification in each of the Greek Cypriot and Turkish Cypriot communities in April 2004. According to the UN Secretary General, most of its 9,000 pages were drafted by hundreds of Greek Cypriots and Turkish Cypriots whose extraordinary efforts produced one of the most comprehensive peace plans in the history of the United Nations.[4] Despite the UN's efforts to present a balanced document, the Plan was eventually rejected by the overwhelming majority (76 per cent) of Greek Cypriots, although it was endorsed by 65 per cent of Turkish Cypriots.[5] Regardless of the outcome, the Annan Plan for Cyprus is an interesting case of an attempted peace settlement/constitutional transition not just because of its substantive provisions, but also as we argue below its process; it is also relevant for the current peace talks in Cyprus and for other divided polities where international mediators seek to resolve protracted stalemates through comprehensive constitutional formulas.

        The chapter argues the Annan Plan had predictable adoptability problems with its provisions on power-sharing, sovereignty, security and human rights failing to include timely and credible incentives that would secure the support of elected political elites and undecided voters. The process was also handicapped by the design and timing of the referendums. Specifically, in what many impartial observers now see as a major diplomatic blunder, involving both the UN and the European Union, the referendums were held only after the accession of Cyprus (effectively the Greek-Cypriot controlled part) to the European Union had already been guaranteed. This removed the incentive of EU accession for the Greek Cypriots.

        More broadly, the fate of the Plan raises a set of wider empirical and conceptual issues for the study of constitutional transitions particularly concerning how to ratify externally mediated peace agreements. Although the provision for twin Cypriot referendums seemed democratic, at the end it failed to legitimise the UN-endorsed constitutional transition. As this chapter demonstrates, the fear of an 'imposed settlement' has been central to the narratives of the two communities, particularly Greek Cypriots. The 1960 Constitution was forced on the communities, especially the Greek Cypriots.

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[1] The Plan is widely known as the Annan Plan, because of the personal involvement of the UN Secretary General, Kofi Annan in its making and promoting to the Cypriot public. Technically, the correct name of the plan is *The Comprehensive Settlement of the Cyprus Problem, 31 March 2004*. Although the plan is commonly attributed to Kofi Annan, Didier Pfirter, a Swiss diplomat then attached to the United Nations, is considered to be one of its main authors.

[2] The Annan Plan was introduced at the time of EU accession negotiations with Cyprus and another nine candidate states, leading to the largest enlargement ever in terms of people and number of countries. See Nathalie Tocci, *The EU and Conflict Resolution. Promoting Peace in the Backyard* (Routledge 2007); Thomas Diez, Albert Mathias, and Stetter Stephan, *The European Union and Border Conflicts: The Power of Integration and Association* (Cambridge University Press 2008).

[3] See, for instance, Chrysostomos Pericleous, *The Cyprus Referendum: A Divided Island and the Challenge of the Annan Plan* (IB Tauris 2009); Hubert Faustmann, 'The Cyprus Question still Unsolved: Security Concerns and the Failure of the Annan Plan' (2004) 6 Südosteuropa Mitteilungen 44. Ahmet Sözen and Kudret Özersay, 'The Annan Plan: State Succession or Continuity' (2007) 43 (1) Middle Eastern Studies 125.

[4] United Nations Secretary-General, 'Secretary-General's Video Message to the Cypriot People' (*United Nations*, 21 April 2004) <www.un.org/sg/en/content/sg/statement/2004-04-21/secretary-generals-video-message-people-cyprus> accessed 7 October 2014.

[5] For survey-based interpretations of public attitudes following the Annan plan see Alexandros Lordos, Erol Kaymak, and Natalie Tocci, *A People's Peace in Cyprus: Testing Public Opinion on the Options for Comprehensive Settlement* (Centre for European Policy Studies 2009).

According to one account, it resulted from deliberate blackmail against their leader, Archbishop Makarios.[6] The precedent of 1960 made any sort of 'robust' UN intervention less likely to succeed among Greek Cypriots. Compounding matters, in an exercise of 'extreme' international arbitration, the UN decided to proceed to the twin referendums without securing the support of elected representatives, including that of the Greek Cypriot leader and President of Cyprus, Tassos Papadopoulos. The referendum process undermined the role of elected leaders in Cyprus, thereby contradicting a key premise in the design of consociational arrangements.[7]

The chapter begins by sketching the background of the Cyprus problem. It addresses the period of constitutional negotiations around the Annan Plan and then discusses the unintended outcomes. It concludes by pointing to the broader lessons to be learned.

Background to the Cyprus Conflict

Cyprus gained its independence from the United Kingdom in 1960 following decades of Greek Cypriot opposition to colonial rule including the 1955-1959 EOKA struggle for national liberation.[8] As the Greek Cypriot and Turkish Cypriot communities harboured conflicting views on the future of the island, resistance against British rule eventually produced intercommunal violence. The majority Greek Cypriots (80 per cent) historically aspired for union (*enosis*) with Greece while the Turkish Cypriot community (18 per cent) totally rejected this, aiming instead for the island's partition (*taksim*).[9]

To avoid broader conflict among NATO allies, the governments of the United Kingdom, Greece and Turkey reached a compromise in 1959 on an independent Cyprus, with caveats. The new arrangement included significant constitutional, security and other guarantees for the Turkish Cypriot community, reflecting the strength of Turkey in relation to Greece rather than Turkish Cypriots in relation to Greek Cypriots. It also envisaged separate electoral rolls for the two communities; Greek Cypriots were to elect the President of the Republic and Turkish Cypriots the Vice-President, although the two offices were arguably comparable in powers. Under the 1960 Treaty of Guarantee, the United Kingdom and the two 'motherlands' (Greece and Turkey) gained the right to intervene in Cyprus through unilateral action but with the sole aim of re-establishing a balanced state of affairs.[10] In addition, under the 1960 Treaty of Establishment, the United Kingdom was allowed to retain two 'sovereign' bases incorporating nearly 100 square miles of the island.

Inevitably, the 1960 Constitution contributed to a suspicion of outside imposition among Greek Cypriots that was to resonate in 2004. The power-sharing arrangements between Greek and Turkish Cypriots established in 1960 lasted for only three years. The 1960 Constitution aimed at addressing the difficulties associated with majoritarianism in the Cypriot context by installing a consociational system as a safeguard for the two communities. However, the Greek Cypriot side felt

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[6] Historian Alan James argues British intelligence services blackmailed Makarios to accept the 1960 Constitution after showing him photos of his personal life. See Alan James, *Keeping the Peace in the Cyprus Crisis of 1963-64* (Palgrave 2002) 20.

[7] Lijphart defines consociational democracy as 'government by elite cartel designed to turn a democracy with a fragmented political culture into a stable democracy'. It is 'based on the assumption that the elites understand the perils of political fragmentation' and requires that elites are committed 'to the maintenance of the system'. Arend Lijphart. 'Consociational Democracy' (1969) 21 (2) World Politics 207, 216.

[8] EOKA (National Organization of Cypriot Fighters) fought against British rule between 1955 and 1959.

[9] For a comparison of the evolution of violence to other British colonies, see Chares Demetriou, 'Political Radicalization and Political Violence in Palestine, Ireland and Cyprus' (2012) 36 (3) Social Science History 391.

[10] Stephen George Xydis, *Cyprus: Reluctant Republic* (Volume 11 of Near and Middle East Monographs, Mouton 1973); Zaim Necatigil, *The Cyprus Question and the Turkish Position in International Law* (Oxford University Press 1989); Tozun Bahcheli, *Greek-Turkish Relations since 1955* (Westview Press 1990).

these constraints against majority rule constituted 'a betrayal of their… rights'.[11] Lack of political commitment to the new state, combined with ambiguous constitutional language on how to manage unfinished matters (e.g. , regarding the establishment of separate municipalities) led to conflict and constitutional collapse.[12]

The new republic's presidential system, moreover, increased polarisation and tensions. The presidential-style consociationalism of the Zürich-London Agreements contradicted many of the recommendations of consociational theorists.[13] The presidency was dual in nature, but it presented each of the two communities as political monoliths, preventing the sort of internal diversity that might have been possible in a parliamentary executive coalition and that might have opened up political alignments cutting across the two communities. The dual presidency delayed the emergence of political parties in both communities and resulted in every political clash taking place along communal lines.[14]

Compounding the problem, in the 1960s Cyprus lacked neutral and effective security mechanisms while the two 'motherlands', Greece and Turkey, played a negative role in exacerbating divisions. In 1963, President Makarios attempted to change the constitution in a majoritarian direction, putting forward a 13-point proposal for its amendment. Turkey and Turkish Cypriot leaders opposed the changes and fighting broke out between the two communities, ending Turkish Cypriot participation in the Cyprus government. In early 1964, the United Nations sent a peacekeeping force to the island, starting one of the longest operations in the organisation's history. In 1967, another clash between the two communities caused a new near-war crisis between Greece and Turkey. Throughout this period, the motherlands played major roles in instigating extremism in their respective communities either directly or via paramilitaries.[15]

On July 20, 1974, Turkey sent troops to Cyprus in response to a coup five days earlier by the Greek Junta against Makarios, and which Turkey saw as designed to unite Cyprus with Greece. Turkey's invasion (or intervention/peace operation as it is commonly described by Ankara and by Turkish Cypriots) led to the *de facto* division of Cyprus into two areas; a Turkish army-controlled area in the north and the internationally recognised government-controlled area in the south. The Republic of Cyprus lost control of about 37 per cent of its territory and nearly 60 per cent of its coastline. It also lost a number of large villages with predominantly Greek Cypriot populations, as well as the town of Morphou and the Greek sector of Famagusta (Varosha); the latter, at that point the most economically vibrant urban area in Cyprus, has remained an abandoned 'ghost city' since 1974.

Approximately a third of the Greek Cypriot population of Cyprus (about 160,000 civilians) were forced by the Turkish military to flee their ancestral homes, while a similar proportion but smaller number of Turkish Cypriots (about 45,000) residing in the south opted (and in some cases were

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[11] Oliver Richmond, 'Ethno-nationalism, Sovereignty and Negotiating Positions in the Cyprus Conflict: Obstacles to a Settlement' (1999) 35 (3) Middle Eastern Studies 42, 50.

[12] Diana Weston Markides, *Cyprus 1957-1963: from Colonial Conflict to Constitutional Crisis: the Key Role of the Municipal Issue* (University of Minnesota 2001).

[13] Arend Lijphart, *Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies 1945-1990* (Oxford University Press 1994); See also Juan J Linz, 'The Perils of Presidentialism' (1990) 1 (1) Journal of Democracy 51; Scott Mainwaring and Matthew S Shugart, 'Juan Linz, Presidentialism, and Democracy: A Critical Appraisal' (1997) 29 (4) Comparative Politics 449; John McGarry, 'Is Presidentialism Necessarily Non-collegial?' (2013) 12 (1) Ethnopolitics 93.

[14] For a detailed analysis of this period see Christoforos Fokaides, 'Reconciling Nation and State: Glafkos Clerides and Political Transformation in Cyprus' (PhD dissertation, University of Kent 2014).

[15] See Drousiotis Makarios. *The First Partition, Cyprus 1963-1964* (Alfadi 2008).

forced) to abandon their homes and leave for the northern part of the island.[16] The tragedy of July 20, 1974, is the equivalent for Greek Cypriots of Nakba Day for Palestinians, a day which commemorates that community's losses during the 1948 Palestine War (the War of Independence from the Israeli perspective).[17] For decades, Greek Cypriots have pointed to their displacement, missing persons and suffering following the invasion, emphasising the illegality of the Turkish army-controlled areas in the north.[18]

While Turkish Cypriots acquired a disproportional amount of territory in 1974, their legal jurisdiction over this territory has not been recognised by any state other than Turkey. Since 1964, when Turkish Cypriots were expelled from the government and forced into enclaves (in the Turkish Cypriot narrative) or abandoned their posts in the pursuit of *taksim* (in the Greek Cypriot narrative), Greek Cypriots have maintained control of the internationally recognised Republic of Cyprus. The republic's foreign policy has reflected longstanding Greek Cypriot positions on the injustice of 1974 and has aimed at preventing the *de jure* recognition of the new realities.[19] Perhaps understandably, the events of 1974 have caused Greek Cypriots to become fixated on justice and rights discourses while Turkish Cypriots have relied on the events of 1963-4 to justify the 'new realities' on the ground. As in comparable situations elsewhere, 'absolutist demands' on each side have made it difficult to reach a mutually beneficial settlement.

In addition to power-sharing, citizenship and security questions, negotiations on the Cyprus problem have focused historically on the right of return for displaced persons to their properties on the one hand and the property rights of current users on the other. Greek Cypriots have demanded a right of return, citing international human rights law, European Court of Human Rights (ECtHR) decisions on the Greek Cypriot displaced and the need for a settlement to be perceived as just.[20] Turkish Cypriots, in contrast, have insisted on preserving their demographic presence in northern Cyprus, arguing that realities on the ground, security concerns and the principle of 'bizonality' dictate that any right of return should be strictly limited.[21] Another thorny issue is the status of the populations transferred from Turkey to the northern part of the island after 1974, alternately described as settlers or immigrants in the rival accounts of the Cypriot conflict.

Greek and Turkish Cypriots also disagree on how to address the issue of sovereignty. Since 1974, the two sides have developed rival visions (still a central problem in negotiations), with Greek Cypriots defending the continuity of the Republic of Cyprus and insisting any federation must evolve from the Cypriot unitary state, while Turkish Cypriots aim for a federation comprised of two founding

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[16] Nicholas Sambanis, 'The United Nations Operation in Cyprus: A New Look at the Peacekeeping-Peacemaking Relationship' (1999) 6 (1) International Peacekeeping 79; Neophytos Loizides and Marcos A Antoniades, 'Negotiating the Right of Return' (2009) 46 (5) Journal of Peace Research 611.

[17] Neophytos Loizides, *Designing Peace Processes: Institutional Innovations in Cyprus and Divided Societies* (University of Pennsylvania Press 2016).

[18] For an analysis of the Greek Cypriot narratives and their politicization, see Rebecca Bryant, *The Past in Pieces: Belonging in the New Cyprus* (University of Pennsylvania Press 2010); see also Iosif Kovras, *Truth Recovery and Transitional Justice: Deferring Human Rights Issues* (Routledge 2014).

[19] James Ker-Lindsay, *The Foreign Policy of Counter Secession: Preventing the Recognition of Contested States* (Oxford University Press 2012).

[20] United Nations Document S/2003/398. 'Report of the Secretary-General on His Mission of Good Offices in Cyprus' (*United Nations*, 1 April 2003), 6.

[21] ibid; since 2010, the Turkish Cypriot side has relied on the Demopoulos case at the ECtHR to support the rights of new owners including settlers. For the Court, rehousing potentially large numbers of men, women and children even with the aim of vindicating the rights of past victims cannot be imposed as an unconditional obligation on a government. *Demopoulos and others v Turkey* App nos 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, 21819/04 (ECtHR, 1 March 2010).

(constituent) states. In political science terms, this is the difference between what Stepan et al. call a 'holding together' federation and a 'coming together' federation.[22] The Greek Cypriots fear that a 'coming together' federation would break up easily, as its two constituent parts would retain their sovereignty; indeed, many Greek Cypriots believe the Turkish Cypriot aim in negotiations is not to establish a joint Cyprus but to partition it, after a temporary union, but this time securing the recognition that has eluded them hitherto. During negotiations on the Annan Plan, the UN described the 'breakdown of the new state of affairs followed by secession of a sovereign Turkish Cypriot state and the consequent partition of Cyprus' as 'the Greek Cypriot nightmare'. [23] In contrast, the Turkish Cypriot nightmare is that a 'holding together' settlement would subject them to Greek Cypriot majority rule as in the pre-1974 period, with little hope of escape via secession. Not surprisingly, the UN considered sovereignty 'as perhaps the most contentious conceptual issue' during the Annan Plan negotiations.[24]

In 'High-Level' agreements in 1977 and 1979, the Greek Cypriot and Turkish Cypriot leaders accepted that Cyprus should be federalised (although they did not agree on the nature, institutional design or meaning of federalism).[25] At the same time, pro-settlement Cypriots combined a federalist vision with the prospect of Europeanisation for the whole island.[26] In 1990, the Republic of Cyprus applied for membership in the European Union; three years later, the Commission confirmed its eligibility for membership, despite objections from Turkey and the Turkish Cypriot leadership.[27]

On December 13, 1997, at the Luxembourg European Council, the EU member states decided Cyprus could begin the formal process of negotiating the conditions of its membership but rejected Turkey's application.[28] Two years later, Greece lifted its veto of Turkey's EU candidacy at the European Council Meeting in Helsinki in December 1999, following the rapid improvement of relations with Turkey after the August 1999 earthquakes. The positive climate between Greece and Turkey, as well as the prospect of European enlargement in the eastern Mediterranean, were seen as potential catalysts for a political settlement in Cyprus.[29]

EU accession meant immediate benefits for both communities on the island, and progress towards it encouraged a re-alignment of political cleavages. On the Turkish Cypriot side, the peace process was opposed by right-wingers (veteran Turkish Cypriot leader, Rauf Denktaş, and the National Unity Party - UBP), who nonetheless found themselves under increasing pressure for sacrificing their community's place in Europe. Even though the left was historically a minority,

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[22] Alfred Stepan, Juan Linz, and Yogendra Yagav, *Crafting State-Nations: India and Other Multinational Democracies* (Johns Hopkins University Press 2011) 25-26.

[23] ibid 16.

[24] UN Document S/2003/398 (n 20) 16.

[25] Tozun Bahcheli and Nicholas X. Rizopoulos, 'The Cyprus Impasse: What Next?' (1996) 13 (4) World Policy Journal 27; John McGarry, 'Consociational Theory, Self-Determination Disputes and Territorial Pluralism: The Case of Cyprus' in Karlo Basta, John McGarry and Richard Simeon (eds), *Territorial Pluralism: Managing Difference in Multinational States* (University of British Columbia Press 2015).

[26] Joseph Joseph, *Cyprus: Ethnic Conflict and International Politics: from Independence to the Threshold of the European Union* (St. Martin's Press 1997).

[27] For a discussion of the main milestones leading to EU accession, see James Ker-Lindsay, 'The Role of the EU as Conflict Manager in Cyprus' in Richard Whitman and Stefan Wolff (eds), *European Union as a Global Conflict Manager* (Routledge 2012).

[28] Doga Ulas Eralp and Nimet Beriker, 'Assessing the Conflict Resolution Potential of the EU: The Cyprus Conflict and Accession Negotiations' (2005) 36 (2) Security Dialogue 175.

[29] Bahar Rumelili, 'Transforming Conflicts on EU Borders: The Case of Greek-Turkish Relations' (2007) 45 (1) Journal of Common Market Studies 105; James Ker-Lindsay, *Crisis and Conciliation: A Year of Rapprochement Between Greece and Turkey* (IB Tauris 2007); Ziya Öniş and Şuhnaz Yilmaz, 'Greek-Turkish Rapprochement: Rhetoric or Reality?' (2008) 123 (1) Political Science Quarterly 123.

Mehmet Ali Talat's Republican Turkish Party (CTP) led a successful pro-unification campaign and protested against Denktaş's policies in large pro-EU rallies in 2002-2003. In December 2003, the CTP became the main coalition party in the north with the Democratic Party (DP) as the junior partner; the latter, although associated with Denktaş's legacy, significantly moderated its position. Greek Cypriot political parties were similarly divided. The centre-right Democratic Rally (DISY), despite its conservative heritage and links to the Greek ethno-nationalist tradition particularly the *enosis* movement, supported the peace process under the leadership of Nicos Anastasiades. Former President Clerides (1993-2003), founder of DISY, was committed to Europeanisation and campaigned successfully among right-wing voters for a 'federal Cyprus within a federal Europe'.[30] While DISY represented about a third of Greek Cypriot voters in the late 1990s, the remaining voters were divided equally between the historically pro-settlement Progressive Party of Working People (AKEL) and two smaller parties, the Democratic Party (DIKO) and the Movement for Social Democracy (EDEK). DIKO and EDEK were hardline on the Cyprus question, yet in the period preceding EU accession, both moderated their positions. Perhaps surprisingly, given what transpired in 2004, the first version of the Annan Plan was endorsed in 2002 as a basis for negotiations by all Greek Cypriot parties. The DIKO leader, Tassos Papadopoulos, President of Cyprus from 2003 to 2008, eventually came to lead the 'no' campaign, while his main ally in government—the pro-settlement AKEL—rejected the Plan in a last-minute decision.[31]

The Period of Constitutional Engagement: The Promise of the Annan Plan

In November 2002, the UN Secretary General's Special Adviser on Cyprus, Alvaro de Soto, presented the first of five versions of a comprehensive plan for the resolution of the Cyprus problem. The plan was introduced only days after the victory of Recep Tayyip Erdoğan's Justice and Development Party (AKP) in elections in Turkey. The AKP initiated constructive diplomatic initiatives over Cyprus,[32] while Turkish-Cypriot civil society organisations mobilised to support a federal settlement within the next enlargement round of the European Union. In late 2003, Talat's pro-settlement CTP won the Turkish Cypriot parliamentary elections and entered a governing coalition with the Democratic Party. The main obstacle to a settlement on the Turkish Cypriot side remained the President of the TRNC, Rauf Denktaş, who, under the Turkish Cypriot's semi-presidential system, was their main negotiator. However, even Denktaş was pressured into lifting restrictions on travel across the so-called Green Line separating the two communities in April 2003. On the Greek Cypriot side, the picture was murkier. Pro-settlement elements in Greek Cypriot civil society failed to mobilize effectively in the 2002-04 period in part because their leaders had already taken moderate positions, possibly to prevent any obstacles to Cyprus's EU accession process, which was occurring alongside the peace process. Ominously, however, Greek Cypriot voters refused to renew the mandate of their moderate leader, Glafkos Clerides, in presidential elections in February of 2002, electing instead a hardliner, Tassos Papadopoulos, who had accused Clerides of selling out Greek Cypriot interests. By early 2004, the sides adopted an approach to mediation that was unusual in divided societies, and particularly surprising given the entrenched view in the Greek Cypriot community that Cyprus had been treated as a pawn by outsiders. They offered the UN Secretary General the role of arbiter: he was authorized to 'fill in any gaps' in the negotiations that had not been agreed to by the respective negotiating teams and to submit the Plan directly to the public in parallel referendums without the prior consent of the two leaders.

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[30] See Fokaides (n 14).

[31] Nicos Trimikliniotis, 'A Communist's Post-Modern Power Dilemma: One Step Back, Two Steps Forward, 'Soft No' and Hard Choices' (2006) 18 (1) The Cyprus Review 1.

[32] Morton Abramowitz and Henri Barkey, 'Turkey's Transformers' (2009) 88 (6) Foreign Affairs 118.

The resulting Annan Plan was based on the premise that both communities would (and must) gain from the settlement. It was anticipated that Turkish Cypriots would gain autonomy under a decentralised and bizonal federal system, as well as power-sharing within federal institutions. Greek Cypriots were to gain territory, which would be transferred from the Turkish Cypriot region to the Greek Cypriot region. Greek Cypriot displaced persons would also be able to return to their properties in the newly acquired territory, as well as at least some properties in the territory that would remain under Turkish Cypriot administration, although not necessarily to the same extent in both cases. The reunited island was also to enjoy EU membership.[33]

Insert map of Territorial Adjustment, Attachment 2a to The Annan Plan for Cyprus, March 2004

In the negotiations, the Greek Cypriot leadership emphasised the need for the settlement to be perceived as just by victims of displacement and it demanded maximum territorial concessions and restitution of property. In contrast, Turkish Cypriots argued that current realities on the ground had to be respected, and that only a minimum number of Turkish Cypriots could be resettled. As shown in the UN map, the proposed territorial adjustments included the Greek Cypriot part of Famagusta (Varosha), the town of Morphou/Guzelyurt and a number of villages across the buffer zone (plus a Maronite enclave in Kormakitis). The UN sought to keep the number of Turkish Cypriots who would have to be resettled as low as possible, mainly resettling villages where the 2004 Turkish Cypriot population was relatively low compared to the pre-1974 Greek Cypriot population. This was the main reason, according to the drafters of the Plan, for a wiggly line instead of a straight one across the new territorial border.[34]

If the Annan Plan had been approved by Greek Cypriots, the reunited island would have had a Senate with a 50-50 composition (24 Turkish Cypriot and 24 Greek Cypriot Senators) reflecting the principle of the 'political equality' of the two communities. The Chamber of Deputies was also to have 48 members, based on population, but with no less than a quarter of the seats allocated to each of the two constituent states. According to all versions of the Plan, ordinary decisions in the Senate would have required a majority of the Senators to agree, including at least a quarter of the representatives from each community. On issues of vital interest, such as the election of the Presidential Council (an executive body similar to that in Switzerland), there was to be a provision for a 'special majority' of at least two fifths of the Senators from each side, plus approval by the Chamber of Deputies.[35]

The procedure for electing the Presidential Council differed significantly from the provisions for ministerial appointment in the 1960 Constitution, where the communally elected Greek Cypriot President and Turkish Cypriot Vice-President were each responsible for appointing their respective

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[33] Claire Palley, *An International Relations Debacle: the UN Secretary-General's Mission of Good Offices in Cyprus 1999-2004* (Hart Publishing 2005); Ahmet Sözen and Kudret Özersay, 'The Annan Plan: State Succession or Continuity' (2007) 43 (1) Middle Eastern Studies 125; Harry Anastasiou, *The Broken Olive Branch: Nationalism, Ethnic Conflict and the Quest for Peace in Cyprus,* Vol 1 The Impasse of Ethnonationalism (Syracuse University Press 2008).

[34] For instance, the map attached to the third plan affected about 47,000 people, of whom 11,000 were to be rehoused within their current city, Famagusta, with another 12,000 from Morphou/Guzelyurt going to another city as a community, leaving about 24,000 people from other affected locations to be relocated; see an interview in *Kibris TV* with one of the architects of the Plan and legal advisors to the UN mission in Cyprus, Didier Pfirter interviewed by *Editor in Chief of the KIBRIS Media Group* Suleyman Erguclu, (unknown location 20 March 2003) available at http://www.erguclu.eu/mulakatlar/030320%20Didier%20Pfirter%20(turkce).htm accessed 28 December 2017.

[35] UN Document S/2003/398 (n 20) 19; United Nations Peacemaker, 'The Comprehensive Settlement of the Cyprus Problem, 31 March' (*United Nations,* 31 March 2004) < https://peacemaker.un.org/node/2961> accessed 19 January 2005.

communities' share of the Council of Ministers. In the Annan Plan, the Presidential Council was to be elected on a 'single list by special majority in the Senate and approved by majority in the Chamber of Deputies for a five-year term'.[36] This provision was designed to facilitate a moderate Council, in line with the centripetalist thinking of Donald Horowitz,[37] but it introduced a potentially serious problem, namely that there might be no federal government and no formal constitutional way to elect one. It is possible to guarantee that one list will win a majority in the Senate in a two-list run-off, but impossible to guarantee that any list will win two-fifths support from the representatives of two groups. Apparently, the negotiators sought to address this issue through an understanding that there would be a Belgian-style requirement for the previous government to stay in power if party negotiations failed to establish a new coalition. This would not have solved the problem of how to form the first government and could have led to long periods of unelected administrations as in the Belgian case. The Presidential Council was to be comprised of four members from the Greek Cypriot Constituent State and two members from the Turkish Cypriot Constituent State, and could not make decisions without at least one affirmative vote from each side. It was to elect two of its members 'not hailing from the same constituent state' to a rotating presidency/vice-presidency, with the member from the larger (Greek Cypriot) constituent state holding the position of president for two-thirds of each term.[38]

The Plan envisaged a Supreme Court comprising an equal number of Cypriot judges from the two communities and an unspecified number of foreign judges appointed by the UN. This was similar to the Supreme Court established by the 1960 Constitution, where an external judge held the 'swing vote', and to provisions in the 1995 Dayton Accords in Bosnia-Herzegovina, but it went against the grain of preferring domestic judges for domestic courts. The Court would have powers to settle disagreements over the new constitution, including the resolution of disputes within the federal level of government and between the federal and constituent state levels.

The issue of displaced persons was a central part of the plan. Turkish Cypriots viewed property rights within the confines of 'bizonality', interpreted to mean a markedly restricted right of restitution for Greek Cypriot properties in the future Turkish Cypriot constituent state.[39] During the negotiations, the UN mediators argued that international norms since WWII favoured a settlement based on respect for individual rights but also took into consideration that the main contentious events in Cyprus had occurred 30 to 40 years previously; since then, roughly half of Turkish Cypriots and a third of Greek Cypriots had rebuilt their lives.[40] In general terms, the Plan offered displaced Greek Cypriots hailing from the future Turkish Cypriot state restitution of about a third of their property, with compensation for the rest. To further reduce Turkish Cypriot apprehensions about the resettlement of Greek Cypriots under Turkish Cypriot administration, the Plan de-linked political rights from residency.

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[36] UN Peacemaker (n 35) 10.

[37] For example, see Donald Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (University of California Press 1991); Donald Horowitz, *Ethnic Groups in Conflict* (University of California Press 2004); for a critique of Horowitz's ideas in the context of Cyprus, see John McGarry and Neophytos Loizides, 'Power-Sharing in a Re-United Cyprus: Centripetal Coalitions vs. Proportional Sequential Coalitions'(2015) 13 (4) International Journal of Constitutional Law 847.

[38] United Nations Peacemaker (n 35), art 5(2)(d).

[39] Ayla Gürel and Kudret Özersay, *The Politics of Property in Cyprus: Conflicting Appeals to 'Bizonality' and 'Human Rights' by the Two Cypriot Communities* (PRIO Report 3, International Peace Research Institute, Oslo (PRIO) 2006) <http://northcyprusfreepress.com/wp-content/uploads/2012/08/prio-cyprus-property-report.pdf> accessed 20 October 2013.

[40] UN Document S/2003/398 (n 20) 20-23.

Unusually for federations,[41] the upper chamber (the Senate) was to be elected not by voters in the two regions but by voters in the two communities, voting separately. In addition, the franchise for the lower federal chamber (Chamber of Deputies) was to be based on 'internal constituent state citizenship', a status regulated by each of the constituent states. Voting for constituent state and local institutions was to be based on 'permanent residency', a status that was also, presumably, to be regulated by each of the constituent states, but subject to the European acquis with respect to nationals of other EU states.[42]

The Plan was arguably most problematic, from the perspective of Greek Cypriots, with respect to Turkey. The Treaty of Guarantee, which allowed three guarantors (Turkey, Greece and the UK) unilateral intervention rights in Cyprus, was to be retained, *mutatis mutandis*, in the first article of the new settlement. This was the treaty that Turkey had used to legitimize its invasion/intervention in Cyprus in 1974. The Plan also permitted the stationing of 3,000 Turkish (and Greek) troops in Cyprus for 14 years or until Turkey entered the European Union, whichever came first, and envisaged a potentially permanent stationing of 650 Turkish troops and 950 Greek troops after that.[43] On the issue of the repatriation of the Turkish settlers who had been introduced to Cyprus after 1974, the plan was ambiguous.[44]

Greek Cypriots were also concerned about the Plan's power-sharing provisions. As a large majority, many of them resented the Plan's underlying principle of the 'political equality' of two communities. Typically, Greek Cypriots instead favoured an emphasis on individual equality with 'minority' rights that fell far short of what Turkish Cypriots would accept. Another Greek Cypriot concern was that Turkish Cypriots would use the settlement to secure secession, but this time with recognition. This fear was focused on parts of the Plan that implied the Turkish Cypriots had retained sovereignty, and could act independently in negotiating treaties, both markers, according to Greek Cypriot nationalists, of confederations rather than federations. This concern was exacerbated by a nationalist argument that the continuity of the Republic of Cyprus was not assured, because it was not explicitly recognized.[45] From this perspective, the Greek Cypriots were in danger of losing their state, including succession rights within the European Union, at the same time as the Turkish Cypriots gained recognition. This was the background to Tassos Papadopoulos's famous comment during a TV broadcast aired during the referendum campaign: 'I received an internationally recognised state and I cannot deliver a "community" without a right of speech internationally and seeking a guardian,

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[41] The Belgian Senate had some Senators directly elected from communal lists until 2014. All are now indirectly elected by the community and regional legislatures.

[42] UN Peacemaker (n 35) art 3(3), 3(5). 3(7), 13.

[43] UN Peacemaker (n 35) art 8(1)(b).

[44] On the issue of settlers, the ambiguity was partly due to the multiple routes towards naturalization or residency options provided for the settlers by the Plan. According to Pfirter 'anybody who is married to a Cypriot will automatically get citizenship. A further 45,000 people will get citizenship in a certain order of priority, and we expect that anyone who has grown up in Cyprus are the first priority category in that. Or those who stayed here for a long time should be covered by that number. Another roughly 15,000 people, it will be 10% of the Turkish Cypriot population, will get permanent residency and they will be able to obtain citizenship after some more years, depending on how long they have already stayed in Cyprus. Students and academic staff will be allowed to stay in Cyprus in unlimited numbers', Pfirter (n 34).

[45] The Annan Plan did not specify the issue of continuity vs succession in an attempt to avoid antagonizing the positions of the two sides. Instead it adopted the principle of 'virgin birth' for the United Republic of Cyprus, which suggested the United Cyprus Republic, like Jesus, had no father and was born although he pre-existed. The virgin birth approach aimed at reconciling the views of the two sides that the new state was not the continuation of the Republic of Cyprus as in the Greek Cypriot view, or two separate states as in the Turkish Cypriot view.

and all this with empty, deceiving expectations, with the unfounded illusion that Turkey will honour its commitments.'[46]

Equally important to the Plan's substance was its timing in relation to accession to the European Union. As majorities on both sides entertained strong hopes of joining the EU, accession seemed to offer the catalyst for reunification. However, in arguable contrast to other parts of Europe in line for accession at the time, the incentives of EU accession failed to have a productive effect. This was for the simple reason that *de jure* accession of the Republic of Cyprus (and *de facto* accession of the territory controlled by the Greek Cypriots) had already been secured at the European Council in Copenhagen in December 2002, before the election of Papadopoulos and before the referendums; therefore, Greek Cypriots had no EU-related incentive to vote 'yes.'

This demonstrates the criticality of the timing of EU incentives. The EU could have made a settlement of the Cyprus problem a precondition for the island's accession. Although this option was widely debated, Greece and the Greek Cypriot side argued convincingly that such a precondition would give the Turkish side (including Turkey, which had invaded the island) a veto over Cyprus's accession, forcing the Greek Cypriot community to pay the costs of possible Turkish intransigence. More importantly, Greece threatened to veto the entire EU Eastern enlargement if 'unfair preconditions' were introduced for Cyprus's accession. Following this logic, in the Presidency Conclusions of December 1999, the European Council welcomed the launching of talks aiming at a comprehensive settlement of the Cyprus problem and expressed strong support for the UN Secretary-General's efforts to bring the process to a successful conclusion. More specifically, the European Council underlined that 'a political settlement will facilitate the accession of Cyprus to the European Union. However, it noted that if no settlement has been reached by the completion of accession negotiations, the Council's decision on accession will be made without the above being a precondition'.[47]

Outcome of the Process

The Annan Plan was rejected during the twin April 2004 referendums by a landslide majority of Greek Cypriots (76 per cent), while a substantial majority of Turkish Cypriots (65 per cent) approved it. Reunification did not take place, but in the following month, Cyprus formally joined the EU as agreed at the European Council summit in Copenhagen in 2002. Since then, all of Cyprus has been in the EU, *de jure*, but the *acquis communautaire* (European body of law) does not apply to areas of the island outside the control of the Republic of Cyprus. Turkish Cypriots who have retained citizenship in the Republic of Cyprus are entitled to travel, study and work in EU countries, but the northern part of the island cannot initiate or receive direct flights, operate internationally recognised universities or trade directly with the rest of Europe.

The outcome of the Annan Plan referendums has shaped the foreseeable future of Cyprus mediations. Following its overwhelming rejection, Greek Cypriots have been determined to change

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[46] Tassos Papadopoulos, 'Address to Cyprots by President Papadopoulos' (translated full text, *Cyprus New Agency,* 8 April 2004) < http://www.hri.org/news/cyprus/cna/2004/04-04-08.cna.html#01> accessed 7 October 2014.

[47] Helsinki European Council, 'Presidency Conclusions 10 and 11 December 1999' (*Helsinki European Council* 10-11 December 1999) <www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/ACFA4C.htm> accessed 3 November 2014. In 2003 the first author recommended that Greek Cypriots should unilaterally endorse the Annan Plan III as part of the accession package deal, building federal institutions in advance and leaving the door open for the Turkish Cypriots to join at a later time. This option could have potentially resolved the dilemma facing EU and UN mediators at the time see Neophytos Loizides 'After The Hague: Which Way to Turn in the Cyprus Negotiations' Cyprus Action (12 March 2003) < https://works.bepress.com/neophytos_loizides/29/> accessed 28 December 2017.

key aspects while Turkish Cypriots, particularly those on the left, have emphasised continuity. Turkish Cypriot right-wingers opposed the Plan and were glad it failed, particularly as Greek Cypriots took the blame. Following the referendums, Turkish Cypriots argued for further economic and political integration of the northern part of the island with the EU, but Greek Cypriots accommodated this demand only partly, linking any further progress to equal concessions from Turkey and the Turkish Cypriots, including the return of the town of Varosha. Meanwhile, the EU decided to slow down Turkey's accession talks in December 2006, citing the country's reluctance to open its ports and extend trade privileges to the Republic of Cyprus.

In February 2008, the election of Demetris Christofias from the traditionally pro-settlement AKEL as President of the Republic of Cyprus brought new hope for a settlement. Christofias, however, failed to make the necessary ground-breaking decisions, despite some initial progress in the peace talks. For example, an alternative cross-voting (centripetal) arrangement to elect the presidency of a united Cyprus was agreed upon by Talat (elected as Turkish Cypriot leader in April 2005) and Christofias in 2010, a plan pioneered by Costa Carras and the Friends of Cyprus as early as the 1970s.[48] The 2010 compromise envisaged a direct election, unlike the indirect election of the Annan Plan. It proposed that the united Cyprus would be governed by a two-person collegial presidency, comprising a Greek Cypriot and Turkish Cypriot. Greek Cypriots and Turkish Cypriots were each to be given two votes, one for each position. Greek Cypriot votes cast for the Turkish Cypriot position were then to be "weighted" to constitute exactly the same proportion of votes cast for the Greek Cypriot position by Turkish Cypriots. As Turkish Cypriots are approximately 20 percent of the electorate, the effect of this would have been to give each community's voters an approximately 20 per cent say in the election of the other community's candidate. For two thirds of each term, the Greek Cypriot member of the presidency would serve as President and the Turkish Cypriot as Vice-President, with the two reversing positions for the remaining third.

Yet convincing hardliners to endorse a centripetal electoral formula that clearly threatens their political influence has proven impossible. Nationalist Turkish Cypriot political parties, such as the National Unity Party (UBP) and Democratic Party (DP), unsurprisingly, refused to endorse an electoral system that, in their view, was negotiated by moderate parties to keep moderate parties in power. The same logic has applied to a lesser degree to Greek Cypriot parties, other than AKEL. In the Turkish Cypriot community, opposition to this formula solidified right-wing opposition, leading to the election of hardliner Derviş Eroğlu as President of TRNC in April 2010 and the discarding of the moderates-privileging electoral system.

Following Eroğlu's election, progress in mediations slowed to non-existent, in spite of the election of Nicos Anastasiades, who had supported the Annan Plan, as President of the Republic of Cyprus in March 2013. New challenges emerged in the island as a result of the March 2013 bailout plan following the Eurozone debt crisis and disputes over natural gas. It was not until the election of the moderate Mustafa Akinci as Turkish Cypriot leader in March of 2015 that negotiations were substantively renewed. Akinci, a veteran peacemaker started his political career as the mayor of the Turkish Cypriot sector of divided Nicosia, and worked closely with his Greek Cypriot counterpart Lellos Demetriades to address the city's impending environmental disaster in the absence of a common sewer system. His election in 2015 and that of Anastasiades two years earlier demonstrated

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[48] Cross-voting or weighted-voting has a long history in the island and is undeniably one of the most innovative ideas produced in bicommunal workshops in recent decades. Costa Carras and the London-based Friends of Cyprus association have both lobbied for such arrangements since the late 1970s. References to cross-voting were also included in the Greek Cypriot proposals of 1989 and even been proposed before 1974 by Glafcos Clerides. Neophytos Loizides, and Eser Keskiner, 'The Aftermath of the Annan Plan Referendums: Cross-Voting Moderation for Cyprus' (2004) 5 (2-3) Southeast European Politics 158.

a remarkable fact. The Cypriot public came to question partition by electing two prominent pro-unification figures in the hope of addressing the island's long stalemate. What has been encouraging about Akıncı is how he was elected having campaigned openly in favour of returning the deserted suburb of Varosha to its Greek Cypriot inhabitants and likewise how Anastasiades made a resounding comeback to politics despite his support for the Annan Plan in 2004.

But the efforts for a peace settlement in the past two years may have been hindered, ironically, by relying excessively on the Cypriot sides themselves to address complex constitutional issues. Unlike the Annan Plan, recent mediations have gone to the other extreme by restricting the role of the UN in proposing ideas or compromise packages for the consideration of the two sides, a common practice for decades in the Cyprus peace talks and mediations elsewhere. Even so, one should not underestimate the unique challenges leaders and mediators in Cyprus face. Breaking the Cypriot settlement will be the equivalent for the Eastern Mediterranean to the German reunification for Europe but in a more difficult setting of an ethnically divided society and a worsening regional environment.

Lessons Learned

Study of the Annan Plan and its aftermath is important not only for the current and any future peace process in Cyprus but also for the lessons it provides for mediation in other divided polities. An important innovation in conflict resolution associated with the Annan Plan was that both sides gave the UN permission to arbitrate on non-agreed matters before the April 2004 referendums. Putting a settlement to the people that had not been endorsed by leaders beforehand raised serious concerns about future implementation, not to mention the prospects for a positive vote. As noted elsewhere in this volume, referendums are always risky; introducing them without the explicit support and consent of elected leaders is not advisable.

Timing is equally critical. Turkish Cypriots approved the Plan in the referendum, suggesting Greek Cypriots may have done likewise had the UN pressed for an earlier vote, before the Republic of Cyprus (Greek Cypriots) secured EU accession in 2002 and lost their incentive. Winning public support for a yes vote among Greek Cypriots proved extremely difficult by 2004. Greek Cypriots voters had essentially 'nothing to lose' in their accession process. Indeed, they were arguably handed an incentive to vote 'no', as once within the EU and armed with a veto over Turkey's accession, as well as the *de facto* extension of the *acquis* to the Turkish Cypriot region, they would be in a much stronger position to negotiate a deal. This suggests that if the EU is to play a positive role in future mediations in Ukraine or Georgia, it should consider tying accession, or closer relations, to the achievement of a political settlement.

The Cypriot experience also demonstrates the limits of using the carrot of EU accession to secure one-sided concessions. Rather than softening their position after 2004, as Greek Cypriots anticipated, Turkish Cypriots elected a hardliner, Eroğlu, in 2010. They did so partly because of their disillusionment with Talat's failure to deliver a settlement, but also out of annoyance at the EU, which they felt had become pro-Greek Cypriot. Turkey's AKP government has shown little flexibility following Greek Cypriot threats to veto Turkey's accession, an inclination strengthened by its realisation that powerful EU states do not want to admit a large Muslim country. Especially following Turkey's July 2016 coup and the subsequent anti-democratic backlash, even the strongest supporters of the country's accession seem to have lost hope. While the Greek Cypriot 'no' vote may not have worked as Greek Cypriots intended, the latter faced near bankruptcy following the post-2008 sovereignty debt crisis. Although this crisis is not directly linked to the absence of a settlement, Greek Cypriots are unlikely to support a future settlement unless it includes a clear prospect for economic recovery. For its part, Greece has experienced almost a decade of financial and political meltdown

with negative financial and political effects in Cyprus, including the election in the parliament of the far-right Elam, an extension of Greece's Golden Dawn.[49]

Inevitably, the EU's failures in Southern Europe have weakened its image and influence among applicant countries. Moreover, in addition to its new financial solvency, Turkey has developed a much more independent (for many observers, hostile) foreign policy in recent years, frequently in direct opposition to the US and the EU. Any foreign policy advantages Greek Cypriots have gained in the past decade have not been due to EU accession but to the mistakes and antagonistic behaviour of Erdoğan's government, particularly towards Netanyahu's Israel and al-Sisi's Egypt, both of which have recognised Cyprus's EEZ over Ankara's strong objections. Additionally, Turkey's economic achievements in the first decade of AKP rule have been undermined since 2005. In the past couple of years, the country has experienced an economic slowdown and unprecedented political instability that is threatening its immediate future. It would facilitate a return to normalization if Turkey could cooperate more closely with the EU, and this would benefit the EU also, not least in the management of the migration/refugee crisis that has accompanied the devastating civil war in Syria. A Cyprus settlement would facilitate a closer relationship between Turkey and the European Union; in the long-term this may provide for renewed accession negotiations, add large fiscal benefits for Turkey within the EU, and potentially eliminate visa requirements for Turkish citizens travelling or working in Europe.

As noted here, revisiting past experiences is essential if the Cyprus problem is to be resolved. Accordingly, external mediators are no longer considering an imposed settlement (as in 1960) or an arbitrated settlement (as in 2004) but one that will require the prior and mutual assent of both leaderships and then the approval of both communities in simultaneous referendums. These steps have been endorsed by the leaders themselves, in the Anastasiades-Eroğlu Joint Declaration of February 11, 2014. It would also be helpful if, prior to a referendum, political parties with majority support in each community gave their explicit and formal support for the settlement agreement, and if Ankara and Athens similarly committed to accepting the plan and facilitating its implementation. These steps would replicate the 'triple lock' requirement that was used in the Northern Ireland negotiations that produced the Belfast Agreement in 1998: it was stipulated that an agreement would have to accepted by the parties to the negotiations, Northern Ireland's voters in a referendum, and by the Westminster parliament.

Besides these procedural steps, it is important that a future peace settlement differs in its substantial provisions from the Annan Plan. Following the anti-Annan Plan campaign of President Papadopoulos and his coalition partners, the Plan's key parameters continue to be seen as politically 'toxic' by Greek Cypriots. A failed future referendum on a settlement similar to the Annan Plan would simply prolong the stalemate, or perhaps break it in a way that would not be positive. One challenge for future mediators is to prove there are innovative win-win solutions beyond the Annan Plan, drawing on successful negotiations in divided societies.[50]

Opinion polls could minimise the risk of failure in a future peace referendum. Indeed, the use of polls could improve the prospects for a settlement by targeting specific constituencies to win their

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[49] Antonis Ellinas, 'The Rise of Golden Dawn: The New Face of the Far Right in Greece'(2013) 18 (4) South European Society and Politics 543; Iosif Kovras and Neophytos Loizides 'The Greek Debt Crisis and Southern Europe: Majoritarian Pitfalls?' (2014) 47 (1) Comparative Politics 1; Nikolaos Zahariadis, 'Powering over Puzzling? Downsizing the Public Sector during the Greek Sovereign Debt Crisis' (2016) 18 (5) Journal of Comparative Policy Analysis: Research and Practice 464. See also most recent comparison of the politics in the two 'motherlands' in Ioannis Grigoriadis *Democratic Transition and the Rise of Populist Majoritarianism*: Constitutional Reform in Greece and Turkey (Palgrave, 2018)

[50] For a discussion of relevant lessons from other divided societies, see Loizides, *Designing Peace Processes* (n 17).

support. Critics argue that negotiations for the Annan Plan took place behind closed doors. While it is difficult to see how leaders could negotiate in public, polling public preferences and engaging a wider network of political and civic actors would be helpful. For example, comprehensive data including all displaced persons and property owners would be useful in resolving the property chapter in a voluntary manner. Having available data would bring certainty to all sides as to the benefits and obligations of a settlement and also allow mediators to know the extent to which monetary compensation (and how much) will be sufficient to entice the voluntary transfer of disputed properties. Given this is a time-consuming exercise, it could take place during stalemates or lulls in the talks to incentivize and facilitate the next round of negotiations.

The future peace process in Cyprus could also benefit from cross-learning from other divided places. Admittedly, the drafters of the Annan Plan drew on a significant number of comparable cases, including Belgium, Bosnia Herzegovina, El Salvador and Switzerland.[51] And since 2004, new attempts to resolve conflicts have taken place across the world, all with relevant lessons for Cyprus. Accommodation mechanisms shown to be successful elsewhere are more likely to be endorsed by leaders; they will also minimise the fears of both Cypriot communities about the functionality of the settlement and its possible breakdown.

As an example of such cross-learning, we have elsewhere presented and defended an important innovation in consociational theory and practice from Northern Ireland: the proportional sequential (PS) coalition.[52] As argued earlier, the Annan Plan's provisions for a federal executive might have led to no government, creating a 'new' Cyprus problem. More importantly, the Annan plan constitutional formula and the compromise of Christofias and Talat in 2010 had predictable adoptability problems; they created no incentives for rejectionist parties to get on board and, in fact, exacerbated the opposition of these parties by directly threatening their interests. By way of contrast, PS coalitions are automatically determined by election results and allocate portfolios on a proportionate and liberal basis amongst a divided place's main political parties. They provide for the broad inclusion of left and right-wing parties from each community in a way that opens up possibilities for cross-cutting alignments on programmatic issues. A PS coalition would increase incentives for right wing parties in each community to reach, support, and operate a settlement.[53] Greek Cypriot fears that power-sharing executives are dysfunctional could be addressed by agreed deadlock-breaking mechanisms.

Finally, mediations in Cyprus aimed at power-sharing should be seen from the perspective of a 'frozen' rather than an on-going conflict. In frozen conflicts, it is wondered if the dispute will ever be solved through some form of consociational federation, with sceptics arguing that agreement on partition is easier to achieve. But an examination of the Greek Cypriot political discourse suggests a negotiated partition is not politically imaginable. The Greek Cypriot cleavage has traditionally been between federalists and unitarist hardliners. The latter led the campaign for the rejection of the Annan Plan in 2004 and won by arguing the settlement would lead to a constitutional breakdown and partition. Politically, it would be a surprise even for smaller Greek Cypriot political parties to support a negotiated partition as an option. However, if the next round of mediations fails, a tacit form of partition along current boundaries may become more likely through the silent continuation of the status quo. This would be a lose-lose situation, with Greek Cypriots gaining no territorial concessions and Turkish Cypriots continuing to face international legal constraints. A third option is the gradual

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[51] Alvaro De Soto and Graciana del Castillo, 'Obstacles to Peacebuilding' (1994) 94 (Spring) Foreign Policy 69.

[52] McGarry and Loizides, 'Power-Sharing in a Re-United Cyprus' (n 37).

[53] For example, Turkish Cypriot parties could win three cabinet seats (out of nine) but at the same time, decisions would require at least one Turkish Cypriot vote or two depending on the nature of an issue. Ideally, there could be informal rules encouraging the consent of all cabinet members, thus ensuring a wider consensus.

settlement of the Cyprus problem in several smaller steps, each step representing a new set of agreements over a longer period of time. This approach has been advocated by Cypriot academics[54] and has been initially endorsed by Turkish Cypriot leader Mustafa Akinci not as a substitute to a comprehensive settlement but as a parallel process for ending the Cypriot partition.

In hot conflicts where there is violence, mediators are likely to seek quick solutions that prioritise the prevention of loss of life over legitimacy issues.   In contrast, in frozen conflicts such as Cyprus, with over four decades of almost no violence, citizens are more likely to expect a democratically debated and approved peace settlement. They are also likely to want clarity on the obligations and benefits of such an arrangement. An important feature of the Annan Plan was the practice of constructive ambiguity, the postponement of solutions to certain issues, and the avoidance of direct conflict with the perceived interests and declarations of either side. Mediators are often tempted to leave such gaps in peace agreements to expedite a negotiated yet incomplete peace process, yet in Cyprus, they formed a rallying point in the 2004 'no' campaign. Judging from the experience of the Annan Plan, a future Cypriot peace settlement will require more precision in its legal, human rights and security provisions, not to mention its explication of the benefits and obligations for each side. But with prospects looking less promising in 2018 as we go to press, clearly, a Cypriot constitutional transition to a reunified republic remains an uphill task.

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[54] For a nuanced analysis of the piecemeal approach to the settlement of the Cyprus problem, its merits and potential risks, see Constantinos Adamides, Nicos Peristianis, Sertaç Sonan and Yücel Vural, 'Report on the Usefulness of the Piecemeal Model in the Case of Cyprus' (Politeia / Choice / Friedrich-Ebert-Stiftung 2014); see also discussion of the piecemeal approach at University of Kent, 'Turkey and Cyprus Regional Peace and Stability Conference, Ankara, Turkey, 28 February 2015' (*University of Kent,* 26 February 2015) <http://blogs.kent.ac.uk/polir-news/2015/02/26/turkey-and-cyprus-regional-peace-stability-conference-ankara-turkey-28-february-2015/>.

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