6-1-2009

The Negotiation Culture of Lengthy Peace Processes: Cyprus as an Example of Spoiling That Prevents a Final Solution

A. Marco Turk

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I. INTRODUCTION

In the first of two earlier articles for this law review considering the Cyprus Problem and the potential for peaceful reunification of the historically divided island, this author argued for utilization of connecting and communicating skills by members of the Cypriot civil society to achieve what was referred to as the *Seven Keys to Peacebuilding*. This approach, known as the Track III or community-based approach, is *bottom-up*, as opposed to the *top-down* process of traditional *elite diplomacy* customarily applied to resolve international disputes. So far, the community-based approach has not been endorsed and the virtual stalemate between the opposing elements of traditional elite diplomacy regarding Cyprus reunification continues to exist. [1]

The second article suggests that the dynamics of the Cyprus conflict must be changed if there is to be hope for success concerning any future UN-brokered peace solution that might be proposed. This would require a new peace environment that advances the best interests of all parties. Even though it is too late to avert the conflict, the question posed was whether it is too late to intervene with a creative new approach. The article concluded

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1. A. Marco Turk, *Cyprus Reunification Is Long Overdue: The Time Is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of This Ethnic Conflict*, 28 LOY. L.A. INT'L & COMP. L. REV. 205 (2006).

that the answer would be determined by whether the bottom-up approach works, because the success of any solution rests with the people who will have to live with it. In the case of the Cyprus peace process, the indicators continued to infer that the virtual stalemate between the opposing elements of traditional elite diplomacy regarding reunification might result in the current de facto partition of the island becoming de jure.[2]

This third and final Article in the series (1) examines the current view of the problem, (2) considers Cyprus as an example of traditional spoiling in the negotiation culture of lengthy peace processes, (3) explores the absence of civil society representation at the bargaining table as a negative impact on the potential for settlement, (4) evaluates suggestions for an approach to management of the pre-negotiation process to effectively facilitate the positive outcome of subsequent negotiations, and (5) concludes that the best hope for reunification of the island of Cyprus rests at the grassroots level in the hands of the people on both sides, who need to change the game through conflict transformation from the bottom-up.

Cyprus is a small island in the eastern Mediterranean whose population consists of a Greek heritage majority and a minority of Turkish descent, which was controlled by the British for a period approaching 100 years.[3] Historically, Greek Cypriots have leaned toward a union with Greece while Turkish Cypriots sought partition.[4] The landmark dates in the separation of an island that "is too small for continued division"[5] are:

- 1955 - Negotiations between Britain, Greece and Turkey fail.[6]
- 1959 - Settlement finally is reached.[7]
- 1960 - Cyprus officially receives its independence.[8]

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2. A. Marco Turk, *Rethinking the Cyprus Problem: Are Frame-Breaking Changes Still Possible Through Application of Intractable Conflict Intervention Approaches to This "Hurting Stalemate?"* 29 LOY. L.A. INT'L & COMP. L. REV. 463 (2007) [hereinafter *Rethinking the Cyprus Problem*].

3. STEVEN D. STRAUSS, THE COMPLETE IDIOT'S GUIDE TO WORLD CONFLICTS 219 (2002).

4. *Id.* at 219-20.

5. *Id.* at 220.

6. *Id.*

7. *Id.*

8. GREECE, TURKEY, CYPRUS: TRIANGLE OF CONFLICT – AND OPPORTUNITY 1 (Richard Buckley ed., 1998) [hereinafter TRIANGLE OF CONFLICT – AND OPPORTUNITY].

- 1963 - Notwithstanding Greek Cypriot guarantees intended to protect Turkish Cypriots, significant fighting erupts between the two communities.[9]
- 1964 - United Nations sends peacekeeping troops to bolster British soldiers at the "Green Line" (or "Buffer Zone") established to separate the two communities in conflict.[10]
- 1974 – Greek Cypriot army officer orchestrated coup supported by the military government of Greece fails but Turkey sends troops to Cyprus claiming that they were needed to protect Turkish Cypriots, resulting in Turkey's eventual control of approximately one-third of the island, effectively partitioning it and displacing 200,000 Greek Cypriots under a UN cease-fire that permitted Turkey to keep its troops in the areas then under its control.[11]
- 1983 – The Turkish-held area becomes known as the "Turkish Federated State of Cyprus," and later as the "Turkish Republic of Northern Cyprus" (TRNC in 1991).[12]
- 1990s (late) – Approximately more than 50% of the TRNC population consists of "settlers" (immigrants) from Turkey in addition to the 35,000 Turkish soldiers.[13]
- 2001 – The UN Security Council renews its 36-year mission on the island as the home for 2,400 peacekeepers patrolling the Green Line, accompanied by Turkey's warning of the possibility of its annexing the Turkish Cypriot north.[14]
- 2001 – For the first time since 1974, the two leaders (Turkish Cypriot Rauf Denktash and Greek Cypriot Glafkos Clerides) meet for dinner in the south, "an unheard of, landmark event," signaling what after 25

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9.   STRAUSS, *supra* note 3, at 220.
10. *Id.* at 221.
11. *Id.* at 220-21.
12. *Id.* at 221.
13. *Id.*
14. *Id.*

years could be significant progress toward a possible solution to the deadlock.[15]

- 2003 – The Green Line checkpoint is opened so that Cypriots may go back-and-forth between the two communities.[16]

- 2004 – Turkish Cypriots vote 65% (64.9%) to approve the Annan Plan and reunification; Greek Cypriots vote 76% (75.8%) against it.[17]

- 2010 – As of the date of final submission of this article there has been no "mutually acceptable resolution" achieved, nor has any "new platform" been "created [for] improved conditions for mutual understanding."

Greece, Turkey and Cyprus create a "triangle of conflict" as well as opportunity.[18] There has been a troubled history of this relationship, but the problem created by the Cyprus division caused an escalation in the tension that frustrated all attempts by the international community to achieve a settlement.[19] How the problem can be resolved remains a mystery.[20] Greece and the Republic of Cyprus have a mutual defense agreement, as do Turkey and the self-proclaimed Turkish Republic of Northern Cyprus (TRNC).[21] Each side of the dispute remains resistant to movement and the status quo appears to be interminable, unless war or a cooperative change in approach occurs.[22]

Since 1963, discussions concerning the Cyprus Problem have centered on extensive political analysis of the division and the

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15. *Id.* at 221-22. Potential impetus for the meeting appears to have been European Union (EU) membership for Cyprus on the horizon, possible damage to Turkey's own EU membership hopes if a divided island were admitted to the EU while Turkey was "an occupying power," and the desire of Denktash to reach a settlement before he would retire from office in 2003 at the age of 83. Following the dinner, an enthusiastic Turkish Foreign Minister, Ismail Cem, proclaimed that, "[a] mutually acceptable resolution should be achieved before the end of 2002. We have a new platform which has created improved conditions for mutual understanding."

16. HARRY ANASTASIOU, THE BROKEN OLIVE BRANCH : NATIONALISM, ETHNIC CONFLICT, AND THE QUEST FOR PEACE IN CYPRUS. V.2 NATIONALISM VERSUS EUROPEANIZATION 72 (2008), http://digilib.syr.edu/u?/su-press,307.

17. *Id.* at 139.

18. *See generally* TRIANGLE OF CONFLICT – AND OPPORTUNITY, *supra* note 8 (arguing that all three countries would suffer greatly from an escalation of conflict and benefit enormously from reconciliation).

19. *Id.* at Introduction.

20. *Id.*

21. *Id.*

22. *Id.*

consistent efforts to categorize each failed opportunity as being at "a critical stage" in the negotiation process.[23] For approximately 25 years the UN has unsuccessfully attempted to achieve settlement of this increasingly intractable conflict, but nothing seems to have worked.[24] The only apparent result is a regular "digging in of the heels" from both sides as their respective positions become more hardened with the passage of time. This has resulted in a period "where groups and the public have no enthusiasm for a solution."[25] So long as the leaders of both sides (now Turkish Cypriot Mehmet Ali Talat and Greek Cypriot Demetris Christofias) deal with the same issues of the past ("dead junk") as the way to a solution "rather than bring people together," nothing will change.[26]

II. Current View of the Problem

In response to my suggestion for a "bottom-up" approach rather than a continuation of the traditional political elite "top-down" approach, it has been said that the objectives of Christofias and Talat are reflective of the interests and underlying needs of the majority of the people on both sides of the Green Line that divides the two communities.[27] Further, if "ordinary" Greek and Turkish Cypriots were to meet and begin negotiating a settlement, they would start where the two leaders are currently toiling.[28] This is based on the belief that the two leaders and their respective community establishments possess "the political experience and realism to see they cannot get from negotiations what they would ideally like, given the present balance of military and diplomatic forces at their disposal," as was the case with their predecessors.[29] And these two leaders believe that they can achieve an agreement that would be preferable to the present circumstances as well as supported by "clear majorities in their communities."[30]

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23. *See, e.g.,* Niyazi Kizilyurek, *Cyprus Silently Begins Year 2009*, CYPRUS OBSERVER, Jan. 9, 2009, http://www.observercyprus.com/observer/NewsDetails.aspx?id=3382#.

24. *See* Zenon Stavrinides, *The Underlying Assumptions, Structure and Prospects of the Negotiating Process for a Cyprus Settlement, in* PROCEEDINGS OF THE SIXTH INTERNATIONAL CONGRESS OF CYPRESS STUDIES 69 (Ulker Vanci Osam, ed., 2008).

25. Kizilyurk, *supra* note 23.

26. *Id.*

27. *See* E-mail from Dr. Zenon Stravrinides, School of Politics and International Studies, University of Leeds (Sept. 22, 2008) (on file with author).

28. *Id.*

29. *Id.*

30. *Id.*

The two communities must resolve many issues on which they still stand far apart. Not the least of these are:[31]

- Creation of a power-sharing formula that each can accept and with which each will be comfortable and secure.
- Removal of those settlers (immigrants) from Turkey who have increasingly populated the island since 1974.
- Freedom of movement, settlement, and property ownership throughout the island by both communities.
- Compensation for property losses resulting from division of the island.
- Right of return to property owned on the other side.
- Searching and accounting for missing persons.
- Recognition of pre-partition injustices committed by each community against the other.
- Security concerns harbored by each community concerning the other (e.g., Greek Cypriots unease over the continued presence of Turkish troops and Turkish Cypriot fears of once again becoming the minority on a reunified island).
- Whether to use the most recent version of the Annan Plan as the basis to restart negotiations or find some other basis (Greek Cypriots wanting nothing to do with the plan at all, and Turkish Cypriots preferring to start from that document).

Each community has its own perception of the problem, its origin, and how to properly and justly settle it.[32] Perhaps this difference in outlook has its roots in the 825-year history of the island's occupation or semi-occupation (excepting only the years 1960-1974) by non-Cypriots.[33] Beginning in 1963, fulfillment of the basic needs of each community has been "spoiled" by internal and external forces.[34] On one side, there are the Greek Cypriots convinced of the superiority of the cause they espouse; on the other, there are the Turkish Cypriots who harbor fears of once

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31. While the reunification debate could encompass other issues, these are the ones that appear with regularity when discussions occur concerning possible solutions to the Cyprus Problem.

32. *See* Stavrinides, *supra* note 24.

33. *See* A. Marco Turk, *Is Cypriot Unification Possible?*, NEW STATESMAN, Aug. 19, 2008, *available at* http://www.newstatesman.com/europe/2008/08/cyprus-conflict-cypriots.

34. *Id.*

again being dominated by the other community and a return of the unacceptable status quo that favored the Greek Cypriots in 1963.[35] Making an accommodation even more difficult are issues such as increasing construction on Greek Cypriot land in the Turkish Cypriot community for use by non-Greek Cypriots, repatriation to Turkey of the approximately 250,000 Turkish settlers/immigrants on the island, the claim by Turkey that Cyprus is an imperative consideration regarding Turkey's security, and the Turkish Cypriot indication that it would be a good idea to break up the island and begin again.[36]

The large majority of Greek Cypriots believe that they were wronged by the arrival of Turkish troops in 1974 and their continued presence on the northern portion of the island that Turkish Cypriots still control.[37] Greek Cypriots want the troops removed and the island returned, to the extent possible, to its geographical and political status before it was altered in 1974.[38] In addition, they want guarantees that this will not occur again.[39] On the other hand, Turkish Cypriots believe that the problem was created far earlier than 1974.[40] According to them, it was the result of the 1963-1964 intercommunal disruption that reduced the Turkish Cypriots to minority status in the course of Greek Cypriot efforts to unite with Greece.[41] Turkish Cypriots will not agree to return to their earlier minority status, nor will they accept withdrawal of Turkish troops in the absence of a negotiated *bizonal bicommunal federation* supported internationally.[42] Such an arrangement that would have established two separate states under the umbrella of a federal government capable of representing the island internationally was approved by Turkish Cypriots, but rejected by Greek Cypriots at the April 24, 2004, referenda voting.[43] While Greek Cypriots have not been successful in obtaining international or third-party support for removal of the Turkish troops, neither have the Turkish Cypriots been able to

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35. *Id.*
36. *Id.*
37. *See* Stavrinides, *supra* note 24.
38. *Id.*
39. *Id.*
40. *Id.*
41. *Id.* at 69.
42. *Id.* at 69-70.
43. *Id.* at 70.

succeed in getting any country other than Turkey to recognize and deal with them under the current circumstances.[44]

The structure of the negotiations that took place between 1975 and 2004 can be examined in terms of various "underlying assumptions."[45] These include:[46]

- Each side desires to obtain that to which it feels it has a right.
- No concern is exhibited for what is mutually beneficial.
- A *zero-sum*[47] bargaining approach is taken.
- Neither community is willing to relinquish certain advantages obtained by them as a result of the division.

Greek Cypriots must decide between insisting on "the Greekness of the Republic of Cyprus," a stable and strong economy with its high standard of living, and the "empty rhetoric" of "'struggle' and 'justice,'"[48] or a bizonal, bicommunal federal republic that will require equally sharing with Turkish Cypriots the new republic's powers and responsibilities along with its economic benefits that now include EU membership.[49] The latter will require not just creating a new relationship across the Green Line, but also reaching out across the Mediterranean to Turkey,[50] where there is a perceived threat posed by a potentially hostile Cyprus.[51] This perception was exacerbated in the late 1990s when Greek Cypriots purchased ground-to-air missiles from Russia, which caused Turkey to respond with threats to destroy the missile sites and emphasize integration of the TRNC with mainland Turkey.[52] This would be accomplished by increasing the number of Turkish settlers, who had been moving to the island since 1974, in spite of UN condemnation of such a policy.[53]

Turkish Cypriots are beyond where they were in the early days of the negotiations following the division. They are

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44. *Id.*
45. *Id.* at 77.
46. *Id.* at 77-78.
47. *Id.* at 78. Basically, all for one side and none for the other.
48. *Id.* at 97.
49. *Id.*
50. *Id.*
51. TRIANGLE OF CONFLICT – AND OPPORTUNITY, *supra* note 8, at 10.
52. *Id.* at 6-7.
53. *Id.* at Introduction.

"politically and economically stronger" now than during earlier efforts to solve the problem.[54] Perhaps they are waiting for some recognition from Islamic countries and links with EU members in order to improve their bargaining position.[55] The bottom line is that each side will need to decide what its best alternative to a negotiated agreement (BATNA) will be. Unless both sides decide concurrently that "on balance" a negotiated agreement will be better than their respective default positions, once again there will be no settlement.[56]

So where does all this leave the problem that has divided Cyprus since the Turkish troops arrived in 1974, which has been discussed with almost daily regularity beyond that date, and now has languished without any definitive proposals from September 2008, when the two current leaders commenced direct talks intended to reach a final settlement? In this year, 2010, we are looking back 36 years to 1974 and 47 years to 1963. "A lot of time has gone by, which writes its own history . . . ."[57]

The international community has lost interest in the Cyprus Problem, leaving only "the boring, tasteless and shallow reverberating voices of some politicians: 'We shall never sell out, we shall never yield.'"[58] The same politicians who proclaim that "[i]n the new year, we shall celebrate."[59] Notwithstanding these proclamations, there are those Greek Cypriots who feel that their "timid, foolish and spineless policies over the past years (despite the objections of some of us) have probably led to a total loss."[60]

> Most people in Cyprus have never delved into or made an in-depth analysis of our problem. They limit themselves to sloganeering. They do not even care to get to know the substance of what they approve and what they reject. They simply aim at perfection, as if they were perfect themselves down the historical course.

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54. Stavrinides, *supra* note 24, at 97.

55. *Id.* at 98.

56. *Id.*

57. Nicos A. Rolandis, *After So Many "Nos", Shall we Whisper "Yes, We Can"?*, CYPRUS   MAIL,   Jan. 11,   2009,   http://www.cyprus-mail.com/news/main.php?id=43451&archive=1. Rolandis is a former foreign minister of the Republic of Cyprus.

58. *Id.*

59. *Id.*

60. *Id.*

> They consider themselves as victims of injustice. As if they
> – and their side – have never wronged anyone. They
> continuously seek what they consider as better and they forsake
> what is good or mediocre or tolerable. They chase chimaera. No
> wonder we have reached an almost deadlocked position. No
> wonder that our options become more and more limited with
> the lapse of time. No wonder that even moderate and patient
> Christofias at times wonders whether the reunification of
> Cyprus is feasible.
> ... When I resigned from the post of Minister of Foreign
> Affairs in September 1983, I warned that because of our
> mentality and approach we would simply be left at the end of
> the day "with a number of resolutions and the military
> occupation of our country".
> This is exactly what will happen if Christofias and Talat
> fail to deliver.[61]

The question that demands an answer is why, after all these
years and so many efforts internally and internationally is the
problem still apparently irresolvable and intractable, leaving the
parties without a negotiated agreement?

III. THE NEGOTIATION CULTURE OF LENGTHY PEACE PROCESSES: CYPRUS AS AN EXAMPLE OF TRADITIONAL SPOILING

It has been suggested that the history of unsuccessful
negotiation of ethno-national conflicts demonstrates the need to
analyze how pre-negotiation efforts can assist in achieving success
in formal negotiations that follow.[62] In the case of the Cyprus
negotiations, there is indication that the pre-negotiation process

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61. *Id.* Demetris Christofias is the newly elected president of the Republic of Cyprus (Greek Cypriot) who has been negotiating with the Turkish Cypriot leader Mehmet Ali Talat since September 2008. He succeeded former president Tassos Papadopoulos in 2008. Republic of Cyprus, Presidency of the Republic of Cyprus: Curriculum Vitae, *available at* http://www.presidency.gov.cy/presidency/presidency.nsf/prc01_en/prc01_en?opendocumen t (last visited May 18, 2009). Nicos A. Rolandis served in the following Republic of Cyprus positions: Minister of Foreign Affairs (1978-1983), Minister of Commerce, Industry & Tourism (1998-2003), Member of the House of Representatives (1991-1996), President of the Liberal Party (1986-1998), and Vice-President of Liberal International (1994-1998). Cyprus-American Business Association, American Chamber of Commerce in Cyprus, Biography on Nicos A. Rolandis. CyABA.com.cy, *available at* http://www.cyaba.com.cy/main/default.aspx?tabID=1&itemID=177&mid=223 (last visited May 18, 2009).
62. Amira Schiff, *Prenegotiation and its Limits in Ethno-National Conflicts: A Systematic Analysis of Process and Outcomes in the Cyprus Negotiations,* 13 INT'L NEG. 387, 388 (2008).

from 2003 to 2004 was deficient because its sole purpose was to enable the two respective leaders to "reap specific benefits" and was not "based on the parties' perceived need to reach an agreement."[63] They engaged in a pre-negotiation "game-theory" process that was cooperative but was followed by "negotiations that would no longer be open-ended."[64] The Annan Plan did not provide the BATNA for either leader and thus "neither party had any interest in making any binding threats toward the other during the negotiations."[65] Thus, the exercise became "a cooperative game without binding threats" that translated to a "strictly non-cooperative game."[66] Failing to reach agreement provided "disagreement payoffs," which encouraged use of conflict strategies designed to maximize those payoffs.[67] The parties expressed a lack of flexibility, highlighted the lack of seriousness of the other negotiator, and emphasized the advantages of non-agreement over an agreement concerning the proposed plan. Thus, both Denktash and Papadopoulos contributed to the negotiation failure.[68]

Each leader operated from the standpoint of "his perception of internal and external threats to his status."[69] For example, Denktash was more concerned about pressure exerted on him by Turkey than that coming from the international community.[70] In the case of the Cyprus negotiations, it seems that both leaders felt secure in resorting to their initial positions in opposing the plan when they exhorted their respective constituencies to reject it at the polls in voting on the referendum in each community.[71] It is interesting to note that the two leaders came to the bargaining table as a result of pressure from outside third parties while believing that no agreement would be the best alternative to the Annan Plan.[72]

"The pre-negotiation stage is designed to be a transition phase that allows the parties to shift from adversarial perceptions

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63. *Id.* at 407.
64. *Id.*
65. *Id.*
66. *Id.*
67. *Id.*
68. *Id.*
69. *Id.* at 407-408.
70. *Id.* at 408.
71. *Id.*
72. *Id.*

and behaviors to collaborative perceptions and behaviors."[73] The Cyprus pre-negotiation process regarding adoption of the Annan Plan was intended to begin the problem solving process uniting the opposing parties "against the problem."[74] Each was supposed to consider the interests and underlying needs of the other along with those of their own. Instead, the result was simply a means of managing the current circumstances.[75] Had the leaders been willing to change their beliefs and expectations, they might have been successful in considering "options entailing negotiations and compromise."[76] They may have succeeded in electing "the option of conflict resolution through negotiation as an alternative to the unilateral track"[77] that ultimately resulted in failure of efforts to resolve the decades-old divisive dispute.

In analyzing how the two leaders could have been successful, it is necessary to consider what factors would have contributed to de-escalation of the conflict.[78] This would have required changes in their respective political positions, perceptions of the conflict, reasons for negotiating, and readiness to negotiate and implement any agreement reached.[79] While there is no guarantee of success for even those pre-negotiations that proceed as planned,[80] eventual positive results of the actual negotiations will depend on the foundation established and pursued during the pre-negotiation process.[81] This foundation is based on the following:

- Jointly exploring the risks of reaching agreement.
- Assessing the costs of reaching agreement.
- Looking for alternatives to the problem.
- Setting an agenda for negotiations.
- Commitment to reciprocity in concessions.
- Seeking domestic support from both communities.
- Working toward perceptual changes from zero-sum to win-win.

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73. *Id.*
74. *Id.*
75. *Id.*
76. *Id.* at 389.
77. *Id.*
78. *See id.*
79. *See id.*
80. *Id.*
81. *Id.* at 389-90.

- Careful and restrained intervention by outside third parties.[82]

The UN, EU, US, and to some extent Greece and Turkey, intervened as third parties and, along with Denktash and Papadopoulos, contributed in various ways to the failure of the process.[83] US Secretary of State Hillary Rodham Clinton has announced that the Obama administration does "not plan to impose anything . . . [but] would like to support as far as we can the negotiations and we consider the best result to be a solution based on a two-zone and two-community federation."[84]

Although the pre-negotiation process approach is helpful in working toward a positive platform to support a potentially satisfactory negotiation outcome, it nevertheless relies primarily on the intentions and actions of the principal negotiators and the involved outside third party interveners. This is "one of the most complicated political cases, which the 20th century left us with."[85] As the Cyprus case demonstrates, there must be an additional element to provide the impetus to "close the deal" when necessary and create the most favorable climate for successful implementation following the reaching of an agreement. The grassroots communities of civil society on both sides of the division provide that additional critical element.[86]

IV. ABSENCE OF CIVIL SOCIETY REPRESENTATION AT THE BARGAINING TABLE HAS A NEGATIVE IMPACT ON THE POTENTIAL FOR SETTLEMENT

There appears to have been "no serious attempt" made to "empirically establish the relationship between the pre-negotiation stage and final negotiation results."[87] In the case of the Cyprus Problem, the numerous failures over the years regarding the negotiations can only be classified as *pre in nature*. This has left members of both communities as "apathetic and cynical," causing

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82. *Id.* at 391-92.
83. *Id.* at 393-406.
84. *See U.S. Does Not Plan to Impose Solution to Cyprus Issue*, FOCUS INFORMATION AGENCY, Apr. 23, 2009, http://www.focus-fen.net (last visited May 5, 2009) (on file with author).
85. *See* Maria Spassova, *Five Years After Rejecting the Annan's Plan, Cyprus is Still Searching for Solutions*, GR REPORTER, Apr. 23, 2009, http://www.grreporter.info/en/node/680.
86. *See Rethinking the Cyprus Problem, supra* note 2, at 501.
87. *See* Schiff, *supra* note 62, at 389.

them to "vote the way their preferred parties indicate in any new referendum."[88] This is indicative of the need to bring the grassroots civil society into the process, something that has not been done to date.

In an effort "to reiterate that this *status quo* in Cyprus was unacceptable and that both sides sought a bizonal, bicommunal federation, and . . . to establish a new procedure to prepare the ground for substantive negotiations for a Cyprus settlement," Papadopoulos and Talat, the current Turkish Cypriot leader, met with UN Under Secretary General Ibrahim Gambari on July 8, 2006, in the divided island's capital city of Nicosia.[89] Without reference to the Annan Plan, the two leaders agreed to create four technical committees that would "discuss matters of day-to-day concern" and several working groups that would discuss basic issues dealing with the Cyprus Problem.[90] During the following months the discussions in the working groups and technical meetings concentrated on the political structure of the proposed new state and the efforts by Greek Cypriots to obtain agreement from Turkish Cypriots to cease building and development on Greek-owned properties in the North, without any consideration for such a moratorium.[91] The Turkish Cypriots refused. Thus, while Greek Cypriots may have thought they preserved much by voting against the referendum, actually they lost at least three major areas on the island to development and building activities of Turkish Cypriots, "circumstances which helped unleash what Greek Cypriot media call 'a building orgasm.'"[92]

It was never Talat's intention to permit the Gambari Agreement to replace the Annan Plan.[93] On the other hand, Papadopoulos, notwithstanding charges that his "do-nothing policy" and his "poor diplomatic record" dealing with the Cyprus Problem resulted in "the cementing of the *de facto* partition of the island," sought to ignore the Plan.[94] Papadopoulos intended the Gamabari Agreement to be the vehicle for preparation of the talks so that the Annan Plan would not come to the table again.[95] So

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88. *See* Stavrinides, *supra* note 24.
89. *Id.* at 93-94.
90. *Id.* at 94.
91. *Id.*
92. *Id.*
93. *Id.* at 95.
94. *Id.*
95. *Id.* at 96.

while Papadopoulos was attempting to obtain Talat's consent to abide by the Gambari Agreement and authorize Turkish Cypriot officials to immediately start work, Talat was expressing his interest in having officials initiate preliminary work as the preparation for subsequent substantive negotiations that would involve the two leaders on a schedule that could achieve final settlement by the end of the year (2008).[96] Papadopoulos resisted any imposition of a time limit and insisted that negotiations between the two leaders could not start before the technical committees and working groups had completed their work in framing the issues that were the cause of the division.[97]

Today the Turkish Cypriots are stronger economically and politically than they have been during earlier efforts to reunify the island.[98] The irony is that while Papadopoulos was banking on "Cyprus in the EU and Turkey knocking at the door,"[99] Talat and the Turkish leadership could be contemplating a scenario whereby possible recognition of the TRNC by even a handful of Islamic governments with resulting links to EU states regarding direct trade and transport would cause the Greek Cypriots to capitulate to a settlement that would greatly reduce the amount of land to be returned to them.[100] Once again, it is a question of weighing the respective determination of each side as to what are their best alternatives to a negotiated agreement.

Clearly apparent in this conflict over a divided island that could be reunited under terms and conditions that will improve the quality of life for all residents and stabilize this important area that is the crossroads from the Middle East to Europe, is the exclusion of civil society from the bargaining table. Perhaps these repeated failures will lead to the design of a pre-negotiation process that will affect positively the formal negotiations that follow. It only serves to perpetuate the failures of the past if we argue that:[101]

- The pre-negotiation process and subsequent formal negotiations are and should remain the province of the political elite from the top down, because they "reflect

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96. *Id.*
97. *Id.*
98. *Id.* at 97.
99. *Id.*
100. *Id.* at 98.
101. *See* Stavrinides, *supra* note 24.

the wishes and needs" of most members of the respective communities.

- The community members would start negotiating where the two leaders have left off.
- "[T]he two leaders and the establishments in their communities have the political experience and realism to see they cannot get from negotiations what they would ideally like."
- A majority of the people on both sides "are apathetic and cynical by now" and "they will vote the way their preferred parties indicate in any new referendum."

V. SUGGESTIONS FOR AN APPROACH TO MANAGEMENT OF THE PRE-NEGOTIATION PROCESS TO EFFECTIVELY FACILITATE THE POSITIVE OUTCOME OF SUBSEQUENT NEGOTIATIONS

After a history of colonialism followed by havoc and internal fighting inflamed by hatred resulting in civil war, arrival of foreign troops, displacement of thousands of people, loss of lives, destruction of entire families, and loss of land, it is time to search for a different approach to resolution of this conflict. It is time for a new look that can reach the attitudes and prejudices encompassed in the mutually utilized term, "The Other."[102] This means the exploration and consideration of attitudes, hatreds, prejudices, and demonizing that are reachable only at that level of civil society that permits resort to the commonality of the humanity of those locked in conflict.

The potential of the pre-negotiation process was not fully achieved for several reasons.[103] Among these were the failure to jointly explore the risks of agreement, understand the high cost of non-agreement, express belief in reciprocity, establish support from their respective communities, communicate the respective differences between the leaders defining the problems and necessary solutions, and create a genuine approach to reconciliation setting the stage for perceptual changes.[104] Additionally, strong manipulation by the outside third parties such

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102. *See generally* YIANNIS PAPADAKIS, ECHOES FROM THE DEAD ZONE: ACROSS THE CYPRUS DIVIDE (2005) (exploring the attitudes and prejudices that run deep in the Greek Cypriot world and seeking to discover "The Other" – the much maligned Turks).

103. *See* Schiff, *supra* note 62, at 400-06.

104. *Id.* at 401-04.

as the UN, EU, US, Greece and Turkey, failed to accomplish entirely the critical functions of effective pre-negotiation. [105]

As predicted, the efforts of the political elite have failed. [106] Javier Perez de Cuellar served as the Secretary-General of the UN from 1982-1991. [107] He is of the firm belief that the Cyprus Problem is not "easily susceptible to a reasonable solution." [108]

> It should be a matter of finding the right formulas that would afford the Turkish Cypriot minority—about 14 percent of the population—a satisfactory degree of cultural and political autonomy and a proportionate share of the island's territory while preserving the integrity of a federated Cypriot state government, in which both the Greek and Turkish Cypriots would participate. Finding the formula and gaining its acceptance by the two deeply mistrustful ethnic communities, however, has proven until now impossible. After my own sustained effort of more than 12 years, I would characterize the Cyprus problem as a maze in which each promising pathway leads back to the starting point. [109]

The two current leaders, Christofias and Talat, have been meeting since September 2008 and, although not successful, there appears to have been some expression of optimism from each as to a possible final settlement by autumn 2009. [110] Christofias has been accused of abandoning the Annan Plan "and renegotiating the entire settlement from scratch, [making] it . . . obvious that he would enter [into] an interminable and unproductive procedure that would not lead to a deal even in 10 years." [111] Christofias has charged that the Turkish Cypriots are really looking for a confederation rather than a federation by attempting to weaken the proposed federal government's role and functions. [112] Not to be

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105. *Id.* at 404-06.

106. JAVIER PÉREZ DE CUÉLLAR, PILGRIMAGE FOR PEACE: A SECRETARY-GENERAL'S MEMOIR 25 (1997) ("[S]omething more than perfection was required to bring agreement between the Greek and Turkish communities . . . .").

107. *Id.* at ix.

108. *See id.* at 215.

109. *Id.*

110. Stefanos Evripidou, *Christofias More Optimistic After Talks than Before*, CYPRUS MAIL, Feb. 13, 2009, http://www.cyprus-mail.com/news/main.php?id=44010&cat_id=1.

111. Loucas Charalambous, *President's Handling of Talks Hardly Inspires Confidence*, CYPRUS   MAIL,   Jan. 18,   2009,   http://www.cyprus-mail.com/news/main.php?id=43585&cat_id=1.

112. Mu Xuequan, *Rival Cypriot Communities Accuse Each Other for Lack of Progress   on   Reunification   Talks*,   CHINA   VIEW,   Jan.   14,   2009, http://news.xinhuanet.com/english/2009-01/14/content_10653309.htm.

outdone, the Turkish Cypriots claim that Greek Cypriots are defaming the Turkish Cypriots position in the negotiations. [113]

Since the Greek Cypriots rejected "the only comprehensive settlement plan prepared by the UN in the last [41] years" [114] despite prior acceptance by Turkish Cypriots, other avenues need to be explored to move the conflict to a level where it can be resolved, if still possible. Otherwise, the extensive history of spoiling will likely repeat itself once again. "For several decades, the UN has continuously worked to persuade the *two communities* to find a viable solution to the Cyprus issue," [115] but the so-called peace process continues just as it has for several decades, without any positive results. One yet to be tried approach may be the only alternative remaining with potential for providing a solution: Facilitation of civil society discourse through grassroots efforts by citizens on either side of the Green Line.

To accomplish this, it is necessary to look to the human condition and not the political realities. Cypriots need to feel they are "Cypriots first, and then Greeks or Turks." [116] In doing so, they must rise above:

> [T]he hard years [they] went through in the 1960s, when a negligible number of citizens only believed in their country and her national symbols. . . Years during which Greeks and Turks considered Cyprus as a "transit station" to union with Greece (Enosis) for the Greeks and to partition . . . or total Turkish occupation for the Turks. [117]

During those years "beautiful people" lived in Cyprus, "fully dedicated to their motherland! A motherland in which they never believed – they employed all possible methods to exterminate her . . . [which] they eventually achieved." [118] The "mentality of many people," however, "remains unaltered since then . . . . [T]he more [they] suffer the less [they] learn in [their] country." [119] In the words of former Cyprus Minister of Foreign Affairs Nicos Rolandis:

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113. *Id.*
114. *See* Charalambous, *supra* note 111.
115. *See* Xuequan, *supra* note 112 (emphasis added).
116. *See* Nicos A. Rolandis, *The Beautiful People, Enosis, Partition . . . and Our Bloody Mess,* · CYPRUS MAIL, Feb. 15, 2009, http://www.cyprus-mail.com/news/main.php?id=44065&archive=1 [hereinafter *The Beautiful People*].
117. *Id.*
118. *Id.*
119. *Id.*

Each community has built its own cause through its own separate angle. It firmly believes that justice and principles are on its own side. And each one has erected its own ideological castle along the following lines:

Greek Cypriot Case: [They] fought in 1955-59 for union with Greece, a venerable and sacred right. In 1960 they were compelled to veer to independence, which however was not just and balanced. So, they endeavoured to make the necessary corrections in 1963, keeping alive, in parallel, their irrepressible desire for union with Greece. In the meantime the Turkish Cypriots kept undermining the Cyprus Republic and they revolted in 1963. Later on, the treacherous junta came to power in Greece. It destabilised Makarios[120] and together with EOKA B[121] carried out the coup in 1974. Turkey invaded and brought havoc to Cyprus, to this day occupying 37 per cent of the territory of the Republic. There are currently around 1,500 Greek Cypriot missing persons. The various Plans of the United Nations cannot be accepted because they do not safeguard in a just way the rights of the Greek Cypriots. The Turkish Cypriots and Turkey are to blame for whatever goes wrong in Cyprus.

Turkish Cypriot Case: [The] Greek Cypriots fought in 1955-59 for union with Greece, ignoring the rights of the Turkish Cypriots. Eventually the Republic of Cyprus was established, which the Greek Cypriots incessantly undermined. In 1963, Makarios tried to destroy the constitutional order. In the 1960s the Turkish Cypriots were forced to live in enclaves and the Greek Cypriots were aiming at their annihilation. In 1974 the Greek Cypriots and the Greek Junta tried to achieve union with Greece through the coup d'etat. Turkey intervened to save the Turkish Cypriots but still many of them perished and 500 are [sic] missing. Because of the above, the Turkish Cypriots believe that the two communities must live apart under a very loose federation. The Greek Cypriots and Greece are to blame for whatever goes wrong in Cyprus.[122]

Meanwhile, the international players removed themselves from the conflict between both communities. On the one hand, the Greek Cypriot Republic of Cyprus was recognized formally. On the other, the international players endorsed "pragmatic

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120. Archbishop Makarios III, head of the Greek Orthodox church in Cyprus and the first president of the new republic that was created in 1960 upon achieving independence from Great Britain.

121. Paramilitary organization dedicated to achieving *enosis*.

122. *Id.* (emphasis added).

positions" that "are not palatable to many Cypriots."[123] The current peace talks in Cyprus take place under an "unstable atmosphere."[124] It appears that the following are the subject of negotiation:

> [T]he Greek Cypriot position of electing the President and the Vice President on a single list by the whole electorate is [not] correct and sustainable. In such a case the Greek Cypriots will determine who the Turkish Cypriot President/ Vice President will be, because they constitute the majority of the electorate. Such a Greek Cypriot privilege did not exist even in the 1960 constitution.
>
> The Turkish Cypriot side cannot insist that Turkey should have the right to a military intervention in Cyprus, which is a member of the European Union and to which Turkey aspires to accede. Besides, such a "right" is prohibited by the United Nations Charter and by European laws and regulations. Under such an arrangement shall we not legalise the aggression of one state against another?
>
> As far as the question of property rights are concerned . . . neither the absolute positions of Talat nor those of Christofias will lead anywhere. There are many resolutions of the United Nations which propose a methodology on this issue. But most importantly we have the 1977 Makarios–Denktas Agreement, which provides that matters of principle, like "the right to property are open for discussion, taking into consideration the fundamental basis of a bicommunal federal system and certain practical difficulties which may arise for the Turkish Cypriot Community". This Agreement, if there is good faith, may constitute the golden mean.[125]

Failure to achieve a settlement most likely will result in partition.[126] The present "relatively tranquil status quo" is not something capable of indefinite preservation.[127] There is even talk of a "Taiwanisation" process[128] that will accelerate and consolidate

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123. *Id.*
124. *Id.*
125. *Id.*
126. *See* International Crisis Group, *Cyprus: Reversing the Drift to Partition* 1, EUROPE REPORT NO. 190, Jan. 10, 2008, http://www.crisisgroup.org/home/index.cfm?id=5945&1=1 (last visited June 9, 2009).
127. *Id.*
128. *Id.* at 25-26. Turkish Cypriots could begin to see their part of the island as their homeland and will be committed to express loyalty to it. This will emphasize the importance of a separate Turkish Cypriot culture rather than including Turkish Cypriots solely as part of the Greek Cypriot Republic of Cyprus, not unlike the movement for a

partition. [129] Greek Cypriots, Turkish Cypriots, and Turkey all will suffer if this comes to pass. [130] Renewal of stressful relations between the EU and NATO, long years of EU and Turkey friction, increased division between Christians and Muslims, and the possibility of new military tensions arising on the southeastern edge of the EU will also be the price paid for failure to reunify the island. [131]

According to the ancient Greek playwright Aeschylus, listening "to one of two sides, [one] learns only half the truth." [132] Christofias and Talat must therefore "listen carefully to each other and seek justice after taking into account the arguments, the mistakes, the omissions and the sins of all Cypriots. Otherwise, Cyprus will remain divided into two parts, which does not serve the interests of either the Greek or the Turkish Cypriots." [133] Both sides will benefit by another effort at reunification that will take place sooner than later. [134] Because of the length of time already lost, the Greek Cypriots should move quickly. [135] With every passing year the argument becomes stronger for those who question whether forcing "two people who have lived apart for so long to cohabit closely is really a viable option." [136] This view only becomes stronger as reunification continues to be delayed. [137] As it is, the prediction that Greek Cypriot rejection of the Annan Plan in 2004 would make any following effort much less favorable to them seems likely to be the reality. [138] Recent polling disclosed that five years after the divided referendum results, most of the Turkish Cypriot community would now reject the Annan Plan if given a chance to vote again. [139]

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separate Taiwanese culture separate from China.

129. *See id.*

130. *See id.*

131. *See* Hugh Pope, *Cyprus: "Things are Looking Up"*, INTERNATIONAL CRISIS GROUP, Sep. 17, 2008, http://www.crisisgroup.org/home/index.cfm?id=5731&1=1 (last visited June 9, 2009).

132. *The Beautiful People, supra* note 116.

133. *Id.*

134. JAMES KER-LINDSAY, EU ACCESSION AND UN PEACEMAKING IN CYPRUS 136 (2005).

135. *See id.*

136. *Id.*

137. *Id.*

138. *Id.*

139. *See Today Most of Turkish Cypriots Would Reject Annan Plan: Poll*, FOCUS INFORMATION AGENCY, Mar. 5, 2009, http://www.focus-fen.net (last visited March 5,

In order to accomplish what Rolandis has urged (to consider "the arguments, the mistakes, the omissions and the sins of all Cypriots"[140]), it is necessary that Cypriot civil society on both sides of the Green Line be able to express their interests and underlying needs at the bargaining table.[141] Active community participation will help ensure the success of the negotiation process and subsequent efforts to implement any agreement.[142] But even this is not enough. The people on the ground on either side must first *listen to* and fully *hear* each other in order to put themselves in the shoes of the other and understand what the other is feeling from the other's point of view. This is the process of *humanization* that reverses the negative effect of *demonization* and enables parties in conflict to empathize with each other without blaming or judging.

Demonization is a process by which "we define our enemies" through accusations of evil.[143] "The ultimate purpose of every accusation of evil is . . . to create the *self*-permission, win the approval of outsiders, and establish the moral logic required to justify committing evil oneself."[144] The principal elements to demonization include:[145]

- The other side intended to cause us harm.
- All ideas or statements made by the other side are either wrong or submitted for dishonest purposes.
- Everything negative is the fault of the other side.
- The other side wants to destroy our values and us so we need to destroy them first.
- Benefits to the other side will harm us, and harm to them will benefit us.
- Criticism of us or praise for the other side is an act of disloyalty and treason.

2009) (on file with author). Results among 1,387 residents of Northern Cyprus: 53.8% against, 27.9% favorable, 3.15% don't know, and 15.1% undecided.

140. *The Beautiful People, supra* note 116.

141. *See generally* Anthony Wanis-St. John & Darren Kew, *Civil Society and Peace Negotiations: Confronting Exclusion*, 13 INT'L NEG. 11 (2008) (finding, upon survey of a wide variety of different peace processes, a strong correlation between active civil society participation in peace negotiations and the durability of peace during the peace building phase).

142. *Id.* at 33.

143. *See* KENNETH CLOKE, CONFLICT REVOLUTION: MEDIATING EVIL, WAR, INJUSTICE AND TERRORISM: HOW MEDIATORS CAN HELP SAVE THE PLANET 181 (2008).

144. *Id.* at 179.

145. *Id.* at 182-83.

- Without exception, all on the other side are enemies.
- If you are not with us you are against us.
- We have nothing in common with the other side and it is dangerous to consider them human.
- It is impossible to conduct dialogue with the other side or negotiate or cooperate with them to resolve the conflicts we have with them.
- The evil represented by the other side gives us permission to act with hostility toward them, just as they feel and act toward us.

Dismantling the wall erected by demonization presents a difficult challenge.[146] This is especially true concerning the Cyprus Problem that has existed for so long in a perpetual and self-energizing manner. It is possible, however, to "deconstruct and transform" the elements of demonization through the use of mediation.[147] An important part of this is the "need to recognize the ways that attribution of evil are subtly reflected in the language and syntax we use to describe our conflicts, enemies, issues, and selves."[148] It will be necessary to create a balance "between looking back to 'neutralize history' and looking forward to build a new society."[149] The current thinking is that both looking back and looking forward are necessary.[150] Without intensely looking at the atrocities of the past there is not much hope of achieving "a new, transformed society."[151] There will be more future problems if there is a failure to examine past crimes.[152] How this is accomplished will depend on local demand and local culture, although it is "not the same as forgetting the past [but instead] it is the 'ability to separate the past from the present – to see the past as the past.'"[153] This process must be comfortable in terms of local demand and culture, aiming "for as much closure as possible on the horrors of the past."[154] An important consideration is that the structural changes the two leaders are attempting may not succeed

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146. *Id.* at 183.
147. *Id.*
148. *Id.*
149. STEPHEN RYAN, THE TRANSFORMATION OF VIOLENT INTERCOMMUNAL CONFLICT 159 (2007).
150. *Id.*
151. *Id.*
152. *Id.*
153. *Id.*
154. *Id.*

in achieving transformative change if these efforts fail to "modify the hearts and minds of the individuals caught up in the violence" and address the specific needs of the very people living in the communities under siege.[155] And the customary consideration of truth and then reconciliation would best be reversed because it is only after reconciliation has been commenced that the truth can surface.[156]

Because one side's attempt to do justice on their own terms in the aftermath of conflict will be viewed by the other side as a way of continuing or resuming the war by "judicial means," the preferable approach is to use power politics and search for an accommodation that is mutually acceptable, ignore the past, and move on to build a peaceful future.[157] If the parties are to work to avoid repeating the past, however, an agreement must be reached regarding the nature of the wrongs committed and how the future will be different.[158] A rational consensus needs to be built concerning a description of the past so that a reasonable agreement can be reached regarding the "terrible things" that were done.[159] "The possibility of building consensus about contested history, about who was the real victim and who was the real oppressor, holds out the possibility of agreement about what a just burying of the past would be."[160] Since prosecution of human rights violations could jeopardize peace in the aftermath of civil conflict, prudence dictates that the political process permit constraints on the retributive portion of the effort.[161] Indeed, even the victims have a stake in the future where their rights will be considered.[162]

Ironically, the negotiation process can worsen a conflict.[163] While pre-negotiation is essential to prepare the grassroots for the formal negotiations, an effective confidence-building approach is a

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155. *Id.* at 160.
156. Nigel Biggar, *Conclusion, in* BURYING THE PAST: MAKING PEACE AND DOING JUSTICE AFTER CIVIL CONFLICT 309 (Nigel Biggar ed., 2003).
157. *Id.* at 310.
158. *Id.*
159. *See id.* at 310-12.
160. *Id.* at 312.
161. *Id.* at 313.
162. *Id.*
163. JAY ROTHMAN, RESOLVING IDENTITY-BASED CONFLICT IN NATIONS, ORGANIZATIONS, AND COMMUNITIES 87 (1997).

necessity.[164] As was emphasized by U.S. secretary of state James Baker in referring to the 1991 Middle East Peace Conference:

> [Y]ou have failed to deal adequately with the human dimension of the conflict . . . . Support for a negotiating process will not be sustained unless the human dimension is addressed by all parties. A way must be found to send signals of peace and reconciliation that affect the people of the region.[165]

To accomplish this, the antagonism, resonance, invention, and action (ARIA) approach, advanced by Jay Rothman,[166] was designed and applied in the historical conflict between the Israelis and the Palestinians.[167] The process in brief:

- *Antagonism* is dealt with by asking the parties to express their respective views of the problem, state how they view the other side in terms of the issue, describe what limited resources are at stake, and summarize their respective positions on the outcomes they would like to achieve in future negotiations.[168]
- *Resonance* is the surfacing of the human dimension existing underneath the antagonistic positions of each through providing the groundwork for understanding, expressing interactive introspection, and meshing the respective needs of the parties.[169]
- *Invention* consists of brainstorming various possible approaches to a solution through the establishment of a statement of principles to be used related to five functional areas of mutual concern: security, economics, education, municipal services and governance, and cultural expression.[170]
- *Action* deals with the consideration of the results of the work product of the mixed teams that suggest definite confidence-building initiatives to deal with the

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164. *Id.*
165. *Id.* at 87-88.
166. *Id.* at 88. Jay Rothman was the director of the Jerusalem Peace Initiative from 1992-1994. Sponsored by the Leonard Davis Institute for International Relations at the Hebrew University of Jerusalem, the Jerusalem Peace Initiative conducted conflict resolution, dialogue, and training workshops between Israelis and Palestinians for various student, community, and political groups.
167. *Id.*
168. *Id.* at 88-91.
169. *Id.* at 91-96.
170. *Id.* at 97-102.

> five policy proposals set forth under *Invention,*
> directed to project planning, institution building, and
> negotiation. [171]

In order to successfully accomplish the application of the
ARIA approach, it is necessary that the parties in conflict be
willing to transform their fighting and antagonism into
"constructive engagement and resonance." [172] This can be achieved
through the concept of a "Just Peace." [173] Just Peace is "a process
whereby peace and justice are reached together by two or more
parties recognizing each others' identities, each renouncing some
central demands, and each accepting to abide by common rules
jointly developed." [174] The concept of a Just Peace is language-
oriented [175] and anticipates:

- Negotiators jointly building "a new common
  language" that redefines certain elements of their
  identity. [176]
- Employment of a "bottom-up" approach that proposes
  "an accommodation process whereby negotiators seek
  to agree to a fair and lasting peace by crafting it in a
  manner deemed just by *all relevant protagonists.*" [177]

Peace so achieved is just because:

- It is the result of an evolving recognition by the
  negotiators that there is a "series of conventions." [178]
- It is expressed in a shared language that is sensitively
  respectful of all parties. [179]
- It "does not reflect a blinkered vision of law." [180]

According to this approach, four generally accepted principles
are required to negotiate a peace that will be perceived as just and
legitimate:

- Thin recognition.
- Thick recognition.

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171. *Id.* at 102-08.
172. *Id.* at 167.
173. *See* Pierre Allan & Alexis Keller, *The Concept of a Just Peace, or Achieving Peace
Through Recognition, Renouncement, and Rule, in* WHAT IS A JUST PEACE? 195 (Pierre
Allan & Alexis Keller eds. 2006).
174. *Id.*
175. *Id.* at 196.
176. *Id.*
177. *Id.* (emphasis added).
178. *Id.*
179. *Id.*
180. *Id.*

- Renouncement.
- Common rule. [181]

Adjustment to the prevailing circumstances is necessary. The four principles or conventions are not a list of requirements, but rather a process for both the preconditions to a Just Peace and the steps that will make it possible. [182]

- As the first convention, *Thin Recognition* refers to the fact that each party accepts the other as a human being. [183]
- As the second convention, *Thick Recognition* refers to the fact that each party understands the fundamental features of the other party's identity. [184]
- As the third convention, *Renouncement* refers to the fact that concessions and compromise are required to create a Just Peace. [185]
- As the fourth convention, *Rule* refers to the fact that a Just Peace must not be entirely subjective, but rather out in the open within the view of the public with explicit, legitimate, and objective rules for settlement, acceptable behavior, and yardsticks so that all may approve of any proposed solution. [186]

The concept of a Just Peace requires that each party understand and accept the fundamental identity of the other party, especially those differences in features that it requires to maintain its "self," so that there can be a "reaching out" of a universal formula lumping all parties together. [187] The central feature of our world is that there are many identities that demand recognition, and they all need to be respected and honored. [188]

John Paul Lederach coined the term *conflict transformation* in the 1980s. [189] This was an outgrowth of his belief that conflict is normal between humans:

For me, *conflict transformation* is accurate because I am

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181. *Id.* at 197.
182. *Id.*
183. *Id.*
184. *Id.* at 199.
185. *Id.* at 201.
186. *Id.* at 203-04.
187. *Id.* at 214.
188. *Id.* at 215.
189. JOHN PAUL LEDERACH, THE LITTLE BOOK OF CONFLICT TRANSFORMATION 3 (2003).

engaged in constructive change efforts that include, and go beyond, the resolution of specific problems. It is scientifically sound language because it is based on two verifiable realities: conflict is normal in human relationships, and conflict is a motor of change. *Transformation* provides a clear and important vision because it brings into focus the horizon toward which we journey—the building of healthy relationships and communities, locally and globally. This goal requires real change in our current ways of relating. [190]

The term may "require a fundamental change in our way of thinking." [191] Thus, if we are to examine the Cyprus Problem in terms of management or resolution, we are looking at change per se. Perhaps that is what has been the difficulty with "resolution" of the *problem* on both sides of the Green Line. Since nothing else has worked over the 45-year period during which this difficult situation has presented itself to the international community, a new approach is necessary. The parties must *transform* the conflict, rather than continue to trudge in the morass of efforts to manage or resolve. Irrespective of whether their feeling is that a continued elite top-down approach is appropriate, or that a bottom-up change should be encouraged, the emphasis needs to shift dramatically from the two leaders who are working the floor as if the dispute were theirs alone. The shift must involve members on the ground in both communities so that they can learn and practice the interactive human approach emphasized by a transformation of their conflict.

Further, a "multilevel network model of peacebuilding helps us understand ongoing peacebuilding projects in deeply divided societies." [192]

> It calls attention to the interference of putative homeland elites and the often dueling agendas of national-level and local-level minority activists. It highlights persistent problems in other models and practices of peacebuilding. These include oversimplification of social relations and the bases of conflict, shortcomings in the methods used to support the sustainability of refugee returns, and assistance to civil society based more on Western concepts than on an understanding of local

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190. *Id.* at 4-5.
191. *Id.* at 5.
192. *See* PAULA M. PICKERING, PEACEBUILDING IN THE BALKANS: THE VIEW FROM THE GROUND FLOOR 187 (2007).

> mechanisms with strong bases in recovering societies. Most important, attention to the views of grassroots forces on peacebuilding has helped reveal why the roots of postconflict institutions in traumatized societies remain dangerously shallow. Dismissing the enduring informal mechanisms that ordinary people use to help address the everyday aspects of reconstruction in favor of top-down formal institutions may well be a serious impediment to peacebuilding efforts in the region. The importance of listening to and observing ordinary people struggling to cope in postwar societies cannot be overstated.[193]

Although the preceding was written with respect to peacebuilding efforts in the Balkans, it similarly serves as a reflection of the 45-year history of attempts to bring peace to and reunify the island of Cyprus.

The much-celebrated Talat-Christofias talks appear to be deadlocked even though there are attempts to camouflage that fact, "hoping, against all hope, that some miracle can still come their way."[194] Instead, acrimony and anger have replaced the cordiality that existed when the current talks began.[195] For instance, Talat was accused of being the "uncompromising partitionist leader" that Denktash personified.[196] Also, Talat "accused Christofias of negotiating in bad faith, making international agreements presuming that the existing Greek Cypriot Republic will live forever."[197]

When the newly elected Greek Cypriot president, Christofias, and the Turkish Cypriot leader, Talat, started their talks a year ago, the atmosphere indicated that this was "the last real chance of peace and reconciliation in Cyprus."[198] Christofias has, however, effectively rejected the key provisions of the Annan Plan regarding the property issues.[199] Furthermore, "the support is minimal at the [Greek Cypriot] grass roots for a genuinely equal power sharing with the Turkish Cypriots in a new State on the island."[200] Most

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193. *Id.* at 187-88.
194. Ozay Mehmet, *Guest Comment: The End of the Cyprus Problem*, FinancialMirror.com,   Feb.   19,   2009, http://www.financialmirror.com/Columnist/COMMENT/262.
195. *Id.*
196. *Id.*
197. *Id.*
198. *Id.*
199. *Id.*
200. *Id.*

Greek Cypriots "do not want to give up the existing Greek Cypriot Republic of Cyprus, now an EU member for any new State in partnership with the Turkish Cypriots." [201]

Most recently, the 35-year ban by Britain's Civilian Aviation Authority concerning direct flights between UK airports and Northern Cyprus was challenged in the Administrative Court (a division of the UK High Court). [202] A decision in favor of the airline challenger would effectively end the isolation of the Turkish Cypriot community. [203] The challenge was traceable to former UK Prime Minister Tony Blair's comments in May 2004. When visiting Turkey, he commented on the isolation and inconvenience created by the ban on direct flights to and from the northern part of the island: "I think it is important . . . that we end the isolation of Northern Cyprus . . . . That means lifting the embargoes in respect to trade, and in respect to air travel." [204] In July 2009, however, the challenge was defeated in the UK court and the request for review of the current ban was dismissed. [205]

As of October 17, 2004, new construction was booming in the northern part of the island and Greek Cypriot land sales there were "worth more than two billion dollars." [206] However, the top court of the EU recently rendered a turning point decision that allows Greek Cypriot courts to assert jurisdiction over these issues favoring Greek Cypriot claims to ownership of their land in the North. [207]

Exacerbating the problem are a couple key facts. First, the EU may punish Turkey for refusing to open its ports to Greek Cypriot shipping and refusing to acknowledge the legitimacy of the

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201. *Id.*
202. *See* Max de Trense, *Challenge to Ban on Direct Flights to Northern Cyprus Will Be Heard in High Court*, SYS-CON Media, Inc., Apr. 17, 2009, http://www.sys-con.com/node/924037.
203. *Id.*
204. *Id.* at 2.
205. *See UK Court Says No to Direct Flights to the North*, CYPRUS MAIL, July 29, 2009, http://www.cyprus-mail.com/news/main.php?id=47057&cat_id=1.
206. *See* Philippos Savvides, *Written Evidence Submitted by Dr. Philippos Savvides, Research Fellow, Hellenic Foundation for European and Foreign Policy (ELIAMEP)*, Oct. 17, 2004, *available at* http://www.publications.parliament.uk/pa/cm200405/cmselect/cmfaff/113/4101901.htm (follow "Written evidence submitted by Dr. Philippos Savvides" hyperlink).
207. *See* Helena Smith, *Scent of Victory Among Lemon Trees as Displaced Cypriots Win Claim on Ancestral Land: Displaced Greek Cypriots Celebrate Landmark Court Ruling on Property Rights*, GUARDIAN.CO.UK, May 1, 2009, http://www.guardian.co.uk/world/2009/may/01/cyprus-displaced-european-union-greece.

Greek Cypriot government.[208] Second, Turkish Cypriots are becoming "Turkified" because an increasing number of people emigrated from Turkey since 1994, placing more of the North under Turkey's dominance.[209] The present course and progression of the talks may eventually remove any incentive for either side to negotiate. If that occurs, "the Christofias-Talat talks will simply vanish. No one will walk away from the talks having accomplished anything. Instead, any peacemaking attempts will melt away like spring snow. And with that, the last hope for a united Cyprus will also disappear."[210]

That prophesy seems all too likely given the fact that Talat's authority has been "shaken" following the right-wing National Unity Party victories over his Republican Turkish Party in the April 2009, Northern Cyprus parliamentary elections.[211] This could result in the center-left Talat being replaced, or at least joined, by another Turkish Cypriot in the negotiations, notwithstanding statements by both the Turkish president and prime minister that Talat is "the only negotiator" for them."[212] Supporters of reunification can only hope that Talat's role as negotiator will continue to be supported by the large number of voters in the North who seek an agreement that provides E.U. membership.[213] Adding to this uncertainty is the difficult issue of "return or compensation of properties in the North owned by Greek Cypriots displaced to the south."[214] The concern is that the managing coalition of the Greek Cypriot republic's government is in danger of falling apart because of criticism from Nikolas Papadopoulos, deputy chairman of the Democratic Party and son of the late president Tassos Papadopoulos, over the policies of Christofias (who was Talat's political ally before the 1974 division) regarding the Cyprus problem and his alleged concessions to Talat.[215]

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208. *Id.*

209. *Id.*

210. *Id.*

211. *See* Spassova, *supra note* 85.

212. *Id.*

213. *See* Sven G. Simonsen, *Cyprus: Are Old Friends Offering New Hope For Unity?*, CHRISTIAN SCIENCE MONITOR, May 6, 2009, http://www.csmonitor.com/2009/0507/p06s01-woeu.html.

214. *Id.*

215. *Id.*; *See also Will the Governing Coalition in Cyprus Collapse?*, GR REPORTER, Apr. 13, 2009, http://www.grreporter.info/en/node/645.

VI. CONCLUSION

The last best hope for reunification of the island of Cyprus rests in the hands of the people at the grassroots level on both sides. They need to change the game through conflict transformation from the bottom-up. This is their BATNA given the current state of the stalled negotiation process. The goals that must be pursued are personal, relational, structural, and cultural.[216] The grassroots communities need to develop their respective capacities to cultivate personal practices that will:

- Present divisive issues as a window of opportunity.[217]
- Integrate the various time frames, present as well as future.[218]
- Change the energies of conflict from an "either/or" emphasis to one of "both/and frame of reference."[219]
- Convert complexity from an enemy to a collaborator.[220]
- Understand and respect the role of identity.[221]

Such an endeavor is something new to the efforts to deal with the conflict because it requires a decided shift from an adversarial to a collaborative game. While this endeavor provides much hope for success, it also faces a rough road to travel due to the historical and traditional rut that has consumed efforts to solve the Cyprus Problem. Many reasons contribute to the extreme difficulty of the conflict, including the simple fact that Turkish Cypriots live on 37 percent of the island, but constitute only one-fifth of the island's population.[222] They fear that a mandated property return under an Annan Plan type of settlement would seal their minority social status through a smaller area allocated to their community, and degrade economic opportunities because of their inability to provide compensation to Greek Cypriot owners for the land that would not be returned.[223]

Adding to this difficulty is deep division over the system of

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216. *See* Lederach, *supra* note 189, at 27.
217. *Id.* at 48.
218. *Id.* at 49-50.
219. *Id.* at 51-53
220. *Id.* at 53-54.
221. *Id.* at 55-60.
222. *See* Simonsen, *supra* note 213.
223. *Id.* Returning Greek Cypriot owned land would further reduce their territory, while retaining the land would not be possible because of Turkish Cypriot financial inability to compensate the Greek Cypriot owners.

government following reunification. Turkish Cypriot insistence on minority rights is pitted against Greek Cypriot emphasis on individual rights, and the dilemma posed by "citizenship rights for tens of thousands of settlers from Turkey." [224] Greek Cypriots seek a future that resembles the past, "a Greek-Cypriot-dominated virtually unitary Cyprus," and the Turkish Cypriots want one that "resembles, as far as possible, the *de facto* two-state present." [225] This impasse is a result of the development of a dual personality for the island known as "Dementia Cypria." [226]

The ineffective manner of interaction that has been the model for more than 45 years is all too easy to carry on. The challenge that faces those who truly desire a reunification is the bravery required to change course through education, training, and adoption of the ARIA approach and to seek a Just Peace. Emphasis needs to be redirected away from the island's factual history, and instead to memories that deal effectively with the past through present feelings in the everyday lives [227] of ordinary Cypriots on both sides of the Green Line as they struggle with the issues that continue to divide them. People on both sides need to understand that the history of the conflict cannot be undone. [228] They must focus instead on sharing their memories, because those are psychological expressions emanating from within themselves. [229] Given the current atmosphere on the island in both communities, the dwindling support from international outsiders, and the security issue present for both Greek and Turkish Cypriots because of the continued presence of Turkish troops in the North supporting a TRNC government for which Turkey pays "at least a third," [230] the future admittedly does not look bright.

For 35 years the respective leaders of the Greek and Turkish Cypriot communities have consistently advocated separate sets of "political and ethical beliefs and desires – rational and irrational" that are "fundamentally incompatible." [231] So how can the current

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224. *Id.*
225. *See* Zenon Stavrinides, *Dementia Cypria: On the Social Psychological Environment of the Intercommunal Negotiations*, 21 CYPRUS REV. 175, 175-86 (2009) [hereinafter *Dementia Cypria*].
226. *Id.*
227. *See* RACHEL MACNAIR, THE PSYCHOLOGY OF PEACE 123-25 (2003).
228. *Id.*
229. *Id.*
230. *See* Simonsen, *supra* note 213.
231. *See Dementia Cypria*, *supra* note 225.

leaders who carry the baggage of their respective predecessors suddenly change course and ask their followers to throw off their historical shackles in order to join together for peace? How "can the two leaders ever acknowledge (the true history) to their own people and tell them that *they do not deserve* to get all they are demanding, as the other side also has just grievances and must secure their rights and protection?"[232] Even assuming those possibilities, how could these leaders "retain their authority with their respective communities if they sought sanity in a world of collective *dementia*?"[233] Political survival teaches otherwise.

It. is approaching two years since Christofias and Talat commenced their direct interaction to solve the Cyprus problem that remains the only armed conflict in the EU.[234] The conflict could remain an obstacle to Turkey's EU accession and cooperation between NATO and the EU if Turkey cannot perform the role of "regional peacemaker/peacekeeper" while it acts as "a conduit for communications" with the expanded Middle East and joins its growing economy with that of Europe.[235]

There is a problem regarding how to ensure that each community will be a full federal participant.[236] Apparently the process has come down to who will blink first.[237] While some commentators feel that the process so far has been "unfruitful," others insist that much has been accomplished.[238] Some suggest that the real decision makers are Christofias and Turkish Prime Minister Recep Tayyip Erdogan (*not* Talat), which makes a solution more difficult because Turkey has more to lose than gain from conceding on key points.[239]

The situation is exacerbated further by the struggle between the Islamists and the secularists in Turkey, and the fact that Talat must face re-election in 2010.[240] Talat's chances for re-election presents a serious dilemma for the Greek Cypriots who are waiting for the other side to concede. Delaying action until after the

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232. *Id.*
233. *Id.*
234. *See* Stefanos Evripidou, *The Talks: One Year On*, CYPRUS MAIL, Aug. 30, 2009, http://www.cyprus-mail.com/news/main.php?id=47548&_id=1 (last visited Sept. 20, 2009).
235. *Id.*
236. *Id.*
237. *Id.*
238. *Id.*
239. *Id.*
240. *Id.*

Turkish Cypriot 2010 elections might result in Talat failing to be re-elected and a hard-liner succeeding him. On the other hand, it is hard to see how Talat can win in the absence of a solution. [241]

Even assuming that a solution can be achieved, what will be the result of the referenda that must follow any such agreement between the negotiators for the two sides? The polls show that what Turkish Cypriots may decide is no longer predictable because they are much less positive than they were at the time of the 2004 referenda. [242] The elephant in the room is "the global economic crisis." [243] In the event of a negative economic impact on Cyprus in 2010 that "coincides with substantial movement in the talks," potential prosperity for the island might be just the thing necessary to surmount the historical obstacles that so far have prevented a solution. [244]

The UN has estimated that "9 out of 10 people on both sides still have no contact with persons from the other community." [245] The critical element of reunification will be the degree of willingness and determination of Cypriots to reject the ineffective rote motions of so-called "technical committees and working groups," and instead commit to becoming educated in the process of humanization. [246] Greek and Turkish Cypriots alike must possess the strength to rise up and take destiny into their own hands while simultaneously dealing with difficult economic conditions in both communities. [247] These are extraordinary times for ordinary people who truly have the opportunity to take charge of their future. The question is whether they will seize the moment before it is too

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241. *Id.* The election in fact took place following final submission of this article. Talat lost to Dervis Eroglu, the prime minister, who won barely enough votes to avoid a runoff with Talat. Subject to confirmation by the official electoral commission, the vote was 50.38% for Eroglu and 42.85% for Talat. One BBC analyst, Tabitha Morgan, indicated that Eroglu's solution "would involve separate Greek and Turkish Cypriot states, linked by loose confederal ties." This is something "totally unacceptable to the majority of Greek Cypriots," so the chances of a negotiated settlement "suddenly look significantly worse." According to another analyst, the disappointment of Turkish Cypriots resulted in an attempt "to punish Mr. Talat" for failing in his efforts to reunite the island. *See, Nationalist Dervis Eroglu wins Northern Cyprus Election*, BBC NEWS, April 18, 2010, http://news.bbc.co.uk/2/hi/europe/8627826stm (last visited April 18, 2010).

242. *Id.*
243. *Id.*
244. *Id.*
245. *Id.*
246. *Id.*
247. *Id.*

late.[248]

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248. *See* Simon Bahceli, *Peace is Too Important to be Left to Politicians,* CYPRUS
MAIL, April 2009, http://www.cyprus-mail.com/news/main.php?id=46669&_id=1 (last
visited July 7, 2009). Perhaps this question may be answered by ENGAGE, a fresh
bicommunal grassroots attempt to encourage involvement of civil society on both sides in
the efforts to achieve reunification and peace "despite and against the wishes of
incumbent political leadership." This would enable civil society to "effectively bypass
obstacles politicians found hard to get around." However, even this possibility could be
doomed to fail if the estimate proves accurate that in addition to "steadily leaving" the
island or moving to the Greek Cypriot south, Turkish Cypriots already may be
outnumbered when compared to the immigrant population from Turkey. *See* Hugh Pope,
Waiting for Miracles on Cyprus, CURRENT HISTORY (International Crisis Group), March
15, 2010, http://www.crisisgroup.org/home/index.cfm?id=6582&1=1 (last visited March 19,
2010).