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## Cyprus in Europe: Seizing the Momentum of Nice

Patrick R. Hugg

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# Cyprus in Europe: Seizing the Momentum of Nice

Patrick R. Hugg<sup>\*</sup>

## ABSTRACT

*In December 2000 the European Council Summit in Nice fulfilled the promise for European Union enlargement made at the Helsinki Summit the year before. The leaders of the EU Member States reaffirmed their commitment to the accession of the applicant countries, making possible the broad re-unification of the continent under democratic rule of law and free market economies. This Article focuses specifically on the accession of the island of Cyprus, Europe's remaining divided state, poised strategically between East and West. The island's armed stand-off presents the clearest example of legal conflict between two ethnic communities in a discrete geographical territory, magnifying the multilayered cultural and religious divisions of the region. The Article traces the centuries of conflict on the island, then explores the dramatic breakthroughs of the 1999 Helsinki Summit and the recent rapprochement of Cyprus' patron states of Greece and Turkey, culminating with the advance of the 2000 Nice Summit. The Article argues that EU leaders should seize this opportunity to use EU enlargement to lead the two communities into a functional plan for a bicomunal structure and process of cooperation that can build toward an evolving, long-term resolution of this ancient conflict.*

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<sup>\*</sup> John J. McAulay Professor of Law, Loyola University New Orleans School of Law. The Author wishes to thank Professor Herbert Hausmaninger of the University of Vienna Law School for his insightful comments on this Article, David Minvielle, attorney-at-law, for research and substantive contributions, and research assistants Elise Smith and Marc Roark for research and editing assistance.

## I. INTRODUCTION

The European Union's principal task in the first decades of the 21st century is to spread peace, stability, security, and prosperity to the entire European continent. The chief mechanism for achieving this end is the enlargement of the Union.<sup>1</sup>

The recently concluded European Council Summit at Nice foreshadows "an imposing new shape rising on the global stage,"<sup>2</sup> as European leaders fulfilled their promise to advance the Union's eastward enlargement.<sup>3</sup> The European Council officially "reaffirm[ed] the historic significance of the European Union enlargement and the political priority which it attaches to the success of that process."<sup>4</sup> More than four days of marathon talks produced a pre-dawn deal on institutional reforms "paving the way for the European Union to almost double in size in the next decade."<sup>5</sup> Thus, the legal and logistical path was cleared for the Central and Eastern European countries, and other applicants such as Cyprus, Malta, and Turkey, to join in the broad European Union of a single economic market and democratic standards of government.<sup>6</sup> "This surely is cause for celebration. Whatever its

1. CHARLES GRANT, *EU 2010, AN OPTIMISTIC VISION OF THE FUTURE* 7 (2000). In his newest work, this British author sets forth a sanguine perspective for the first ten years of the new millennium in Europe. *Id.* See also Horst Gunter Krenzler, *The Geostrategic and International Political Implications of EU Enlargement*, 2 EUR. U. INST., RSC 1 (1998) available at <http://www.ieu.it/ERPA/mainfiles/..RSC/WP-Texts/krenzler2.html> (last visited Feb. 15, 2001) (stating that "the historic mission of the European Union is to contribute to stability and peace through integration. . .").

2. "Peer past the verbal sludge and fudge, bad blood and bruised egos, and you can now see—thanks to four days of argument among the European Union's 15 leaders—an imposing new shape rising on the global stage." *A Treat From Nice*, ECONOMIST, Dec. 16, 2000, at 18.

3. Presidency Conclusions at the Nice European Council Meeting, Dec. 7-9, 2000, at 1-2 [hereinafter Presidency Conclusions]. The European Council endorsed the principle of differentiation based on each country's own progress toward accession, as placing the EU, "in accordance with the objective set by the European Council in Helsinki, in a position to welcome those new Member States which are ready as from the end of 2002. . ." See also Barry James, *EU Leaders Eke Out a Face-Saving Treaty*, INT'L HERALD TRIB., Dec. 12, 2000, at 1 (quoting Jacques Chirac as saying "we will keep our word.").

4. Presidency Conclusions, *supra* note 3, at 1.

5. *Agreement Reached at Crucial EU Enlargement Summit*, AGENCE FRANCE PRESSE, Dec. 11, 2000. ("News of the accord [at the milestone summit] came at 4:30 a.m. as the talks went into a fifth tough day. . .").

6. *A Treat From Nice*, *supra* note 2, at 18. The European Council "welcom[ed] the stepping up of accession negotiations . . . [and] believes that the time has now come to

imperfections, the Nice summit was a success.”<sup>7</sup>

The Summit at Nice may, as French President Jacques Chirac expressed it, “go down as a great summit,” though more for what it allowed to proceed forward than for its specific reforms or new initiatives.<sup>8</sup> Chirac acknowledged that the advance of qualified majority voting into only twenty-nine more treaty articles was disappointing, but insisted that the Treaty will “remain in the history books as a great summit because of the extent and complexity of issues settled.”<sup>9</sup> French Foreign Minister, Hubert Védrine, lauded the treaty for its pragmatism: “[T]he Nice agreement redistributes voting powers, restricts vetoes, reforms the European Commission and allows closer co-operation between countries that want to move faster than the rest.”<sup>10</sup> Even though these institutional reforms were fewer than many wanted, the larger significance of “the longest and most difficult summit conference in the history of the European Union”<sup>11</sup> lay in the agreement on measures clearing the last obstacles to enlargement.<sup>12</sup> The European Union now optimistically predicts the welcoming of the newest

lend fresh impetus to the process.” Presidency Conclusions, *supra* note 3, at 1. On the Summit’s second day, the leaders revised the text of the conclusions to include special support for the accessions, expressing hope that the applicants would be members in time to participate in the June 2004 Parliamentary elections. Peter Norman, *EU to Speed Entry of Ex-Soviet Bloc Countries*, FIN. TIMES, Dec. 9, 2000, at 1.

7. *A Treat From Nice*, *supra* note 2, at 18.

8. James, *supra* note 3, at 1.

9. Peter Norman et al., *Nice Treaty Comes Under Attack*, FIN. TIMES, Dec. 12, 2000 at 1 (The national vetoes remained in “key areas of national interest, such as taxation, social security, immigration and asylum regulations.”); John Vincour, *Europe Without Direction*, HERALD TRIB., Dec. 12, 2000, at 1 (stating that the treaty “rejiggers details of [EU] organization but fails one more time to bring the EU a sense of unified power or direction.”). The Treaty was widely criticized for its lack of reforms. *See, e.g.*, Suzanne Daley, *European Union Reform: After 5 Days, a Yawn*, N.Y. TIMES, Dec. 12, 2000, at A8 (criticizing the conference and Treaty).

10. *Divorce After All These Years? Not Quite but . . .*, ECONOMIST, Jan. 27, 2001 at 49. Védrine continued: “[B]y definition, a compromise, but one that is democratic and positive.” *Id.*

11. Roy Denman, *So Much for Nice, Now Hope Belgium Will Get Change Rolling*, INT’L HERALD TRIB., Dec. 14, 2000, at 12; *see also* Peter Conradi & Eben Black, *Leah Reveals Bitter Feuding at Nice Summit*, SUNDAY TIMES, Dec. 17, 2000, at 4 (stating that “[a] leaked account of the last session in the early hours of Monday morning . . . gave a dramatic insight into the bitterness behind the scenes at the longest such meeting in the EU’s history.”).

12. *Chirac Presents Results of French EU Stewardship to Parliament*, AGENCE FRANCE PRESSE, Dec. 12, 2000 (stating that the “marathon summit” in the French Riviera city was the highlight of France’s presidency of the EU, and it “cleared the way for the [EU]’s historic eastward expansion . . . and finally heal the wounds of the long Cold War.”). *See also* Peter Norman et al., *European Parliament May Reject Belcaguered Nice Deal*, FIN. TIMES, Dec. 12, 2000, at 1. “[T]he treaty was widely welcomed in the capitals of candidate members in eastern Europe for removing the last legal obstacles to enlargement.” *Id.*

applicants by 2004.<sup>13</sup> British Prime Minister Tony Blair characterized it as “an important turning point for Europe.”<sup>14</sup>

The acceleration of eastward accession in the face of many potential political obstacles must be considered momentous.<sup>15</sup> The enlargement of the European Union from its present fifteen Member States to twenty-five and beyond “is a development of truly historic proportions:”<sup>16</sup> quantitatively by increasing its land mass enormously and qualitatively by putting “a seal on the reunification of the two sides of Europe” and radically changing the political map of the previous half century.<sup>17</sup> When the massive enlargement is combined with the common currency, an expanding common foreign policy, and the new rapid reaction defense force, the “imposing new shape on the global stage” becomes more apparent.<sup>18</sup>

Leaders of the Central and Eastern European applicants welcomed the Summit’s conclusions as a sign that enlargement will be implemented.<sup>19</sup> The Bulgarian Prime Minister proclaimed that the summit “nullified the historic Yalta conference which split Europe” into east and west after World War II.<sup>20</sup> Guy Verhofstadt, the Belgium prime minister and negotiator at the Summit, hailed the decisions as signaling that enlargement could proceed “in a serious manner.”<sup>21</sup>

Bringing the applicant countries into concrete contemplation, the Member States at the summit allocated the proposed voting authority of the applicants “in a powerfully symbolic step.”<sup>22</sup> Poland was allocated twenty-seven votes in the qualified majority voting arrangement, Romania fourteen, Czech Republic twelve, Hungary twelve, Bulgaria ten, Slovakia seven, Lithuania seven, Latvia four, Slovenia four, Estonia

13. *So That’s All Agreed, Then*, *ECONOMIST*, Dec. 16, 2000, at 23.

14. *Agreement Reached at Crucial EU Enlargement Summit*, *supra* note 5.

15. Commentators overworked the adjectives, see, for example, “historic,” “milestone,” and “great” *supra* notes 1-7 and accompanying text, but few will question the Summit’s watershed character if enlargement succeeds across the continent.

16. Krenzler, *supra* note 1, at 1.

17. *Id.* See also Roger Cohen, *More a Loop Than a Knot*, *N.Y. TIMES*, Sept. 30, 2000 at A1, A3 (stating that the fall of long-time Serbian dictator Slobodan Milosevic escalates hopes for the long-awaited “Europe whole and free,” but this view overlooks the continuing, acute division in Cyprus).

18. *A Treat From Nice*, *supra* note 2, at 18.

19. Stefan Wagstyl, *Future Members Welcome Outcome*, *FIN. TIMES*, Dec. 12, 2000, at 2 (stating that the chief Czech negotiator for accession explained that “it is most important that the road to enlargement is now clear.”). The Polish Prime Minister termed the outcome “exceptionally positive.” Daley, *supra* note 9, at A8.

20. *Nice Brings Bulgaria in From the Cold says Prime Minister*, *AGENCE FRANCE PRESSE*, Dec. 12, 2000. Prime Minister Ivan Kostov was enthusiastic: “[w]ith yesterday’s decision, Bulgaria has joined the European political arena,” thus unifying the east and west for the first time since World War II. *Id.*

21. Peter Norman, *Belgian PM’s Altruism “Heroic,”* *FIN. TIMES*, Dec. 12, 2000, at 2.

22. *The Strained European Union*, *N.Y. TIMES*, Dec. 18, 2000, at A26.

four, Cyprus four, and Malta three, based generally on population.<sup>23</sup> The balance of the vote allocations was striking in that, for example, newcomer Romania will enjoy more votes than founding Member State Netherlands, which has four times the economy.<sup>24</sup>

Thus, the Nice Summit concretely advanced the aspirations articulated the previous year in Helsinki. Because those promises made at Helsinki were in some ways even more dramatic and historic for the accession of Cyprus, the Nice continuation may be considered doubly significant. The Helsinki European Council meeting in December 1999, was, at the time, celebrated more enthusiastically as "a truly "historic" summit"<sup>25</sup> because some of its agreements constituted unexpected, paradigm-shifting<sup>26</sup> advances in European integration, laying a foundation for significant progress in important areas of transnational cooperation<sup>27</sup> and most notably breaking the long-standing impasse over Turkish and Cypriot accession to Europe.<sup>28</sup> In a momentous step toward fulfilling long-held aspirations for a military dimension, the European leaders agreed to establish "a new European defense structure,"<sup>29</sup>

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23. The strenuous negotiating and arguing over the voting power of the applicant countries surely makes the prospects of enlargement more concrete. *The Nice Summit*, ECONOMIST, Dec. 16, 2000, at 25-26.

24. *The Strained European Union*, supra note 22, at A26. (Furthermore, Poland will enjoy voting parity with long-time member Spain). *Id.* As would be expected, important work is yet to be done for enlargement, including resolving sensitive issues of worker movement from the Eastern countries and reform of the wasteful Common Agricultural Policy. *A Treat From Nice*, supra, note 2, at 18.

25. Peter Norman & Christopher Brown-Humes, *Presidency Congratulated for Truly "Historic" Summit*, FIN. TIMES, Dec. 13, 1999, at 4 (stating that "for once, the word 'historic,' used in successive post-summit briefings, was merited. Decisions taken in Helsinki will change the EU profoundly."). "Grappling with issues of this magnitude, Helsinki was in many ways a proper, grown-up summit, at which the EU thought hard about its place in the world. It did and said some sensible things. . . . If the EU goes on like this, it risks counting for something in the world." *The European Union Decides It Might One Day Talk Turkey*, ECONOMIST, Dec. 16, 1999, at 26.

26. *See Bringing Turkey Into Europe*, N.Y. TIMES, Dec. 13, 1999, at A32. Helsinki's decision on Turkish acceptance "is one of those developments that mark a historic step beyond restrictive old rivalries and power alignments." *Id.*

27. *See infra* 28-29 references to the Common European Policy on Security and Defense. *See also* Presidency Conclusion at the Helsinki European Council Dec. 10-11, 1999, II, Millennium Declaration, Annex I.

28. Kerin Hope, *Greece: Dramatic Shift in Relations Between Old Enemies*, FIN. TIMES, Dec. 21, 1999, at 1. ("It would be hard to imagine a more dramatic shift taking place in relations between the old enemies Greece and Turkey . . . with Greece's chances of building a normal relationship with Turkey . . . improved by the successful decoupling of Cyprus from . . . bilateral issues," [and] "[t]he EU's declaration at Helsinki making it possible for Cyprus to achieve accession without a political settlement" and "Turkey's EU candidacy approved at last.").

29. Craig R. Whitney, *Military Posture of Europe to Turn More Independent*, N.Y. TIMES, Dec. 13, 1999, at A1. The new European defense structure would include a military committee of national defense chiefs to advise European leaders, and would include the same sixty thousand troops earmarked for use with NATO when appropriate. *Id.* French Defense Minister Alain Richard observed: "Now the European Union is stepping up to its

including a military force of sixty thousand, capable of operating independently of NATO to act in emergencies such as the one presented in Kosovo in 1998.<sup>30</sup> Further, the group formally advanced the accession process of the second wave of six additional candidate countries, joining the six already negotiating.<sup>31</sup> In the most dramatic breakthrough, the leaders found common ground on the thorny issues surrounding the accessions of Turkey and Cyprus, agreeing at last to accept Turkey as a candidate for future membership,<sup>32</sup> thus breaking the impasse over Cyprus' accession as well.<sup>33</sup> The decision was immediately proclaimed an "historic step"<sup>34</sup> into a "new chapter of history."<sup>35</sup> "[A]fter 36 years of temporizing," the leaders finally managed to negotiate the difficult and complicated issues between Greece and Turkey, thus presenting the opportunity for Cyprus to again move toward entry into the European Union.<sup>36</sup>

In fact, sensational political maneuvering presaged the deal for Turkey and Cyprus: First, French President Jacques Chirac, moved by a Greek change of position and statement of commitment to Europe, intervened to overcome Dutch resistance to the accession of a divided Cyprus, and an agreement followed; then Javier Solana, the EU's High Representative for Foreign Policy, was dispatched to Ankara late in the evening on Chirac's presidential jet to persuade Turkey's Prime Minister

responsibilities and over the next few years will become a genuine actor on the scene, one that didn't exist before." *Id.*

30. During the Kosovo operations, "it became clear that Europe was lagging in the ability to assemble or transport sizable peacekeeping forces quickly, and was in danger of falling far behind advanced American military technology. . . ." Craig R. Whitney, *Military Posture of Europe to Turn More Independent*, N.Y. TIMES, Dec. 13, 1999, at A1.

31. Edmund L. Andrews, *Growing Pains for an Expanding EU*, INT'L HERALD TRIB., Dec. 21, 1999, at 18. The accessions would yield the "highest and most diversified free-trade zone in the world," including first wave Poland, Hungary, Czech Republic, Slovenia, Cyprus, and Estonia, and then ultimately on an indeterminate, flexible timetable including Bulgaria, Romania, Latvia, Lithuania, Slovakia, and Malta. *Id.*

32. Barry James, *Conditional EU Bid to Turkey*, INT'L HERALD TRIB., Dec. 11-12, 1999, at 1. "The European Union accepted Turkey as a candidate for membership on Friday [Dec. 10, 1999], but imposed tough conditions and set no date for entry talks to begin." *Id.* The decision on Turkey was by far "the trickiest," made conditional on progress over longstanding conflicts, such as cooperation over Cyprus. Dick Leonard, *Finnish Presidency Ends in Success*, EUROPE, Feb. 2000, at 4. For extensive examination of the Turkish exclusion from accession negotiations, see Patrick R. Hugg, *The Republic of Turkey in Europe: Reconsidering the Luxembourg Exclusion*, 23 FORDHAM INT'L L.J. 606 (2000).

33. See Presidency Conclusions, *supra* note 27 and accompanying text.

34. *Turkey and Europe*, INT'L HERALD TRIB., Dec. 14, 1999, at 8.

35. European Commission President, Romano Prodi, proclaimed that the Summit decisions to admit Turkey and the other new Central and Eastern European candidates represented a "new chapter in history." Barry James, *EU Opens a "New Chapter" of Broad Expansion*, INT'L HERALD TRIB., Dec. 13, 1999, at 1.

36. *The European Union Decides It Might One Day Talk Turkey*, ECONOMIST, Dec. 18, 1999, at 25. The EU leaders were at last "ready to do the sensible thing and accept Turkey as a candidate for membership." *Id.*

Bulent Ecevit to accept the offer.<sup>37</sup> In the end, agreement was achieved and was immediately heralded as a change in policy with "profound consequences for stability and prosperity in the region . . . [that] could transform the character of the EU."<sup>38</sup>

This Article will examine this intersection of events in the context of Cyprus' process toward accession as a new member of the European Union and its significance as a member, especially in light of its strategic location between East and West.<sup>39</sup> The Article will argue that the present developments, political and otherwise, attempting to bridge the age-old antagonisms between Turkey, Greece, and Cyprus, are deceptively significant, presenting an unusual moment of opportunity for breaking the present impasse and promoting a climate of collaboration in the region. The Article rejects as unworkable the present EU strategy that the island may accede with its present division, and it proposes a more realistic model for functional cooperation on the island. Past, unproductive strictures of international law and EU policy should adapt to the reality of the two communities on Cyprus to enable them to break through the status quo and to begin building toward a broader, longer term resolution of this historical dilemma. The political and legal actors must embrace constructive, flexible approaches to this impasse, borrowing and further adapting new forms of shared sovereignty and balanced political power currently advancing EU and other regional cooperative regimes.<sup>40</sup>

This conflict will not wither away under the stale pressures already brought to bear. As long as this stand-off dominates the political and

37. Quentin Peel, *Little is left to chance in Turkey's bid for Europe*, FIN. TIMES, Dec. 13, 1999, at 16. See also Peter Norman et al., *Solana Tries to Clear Turkey's Path to EU Candidacy*, FIN. TIMES, Dec. 11/12, 1999, at 1. U.S. President Bill Clinton simultaneously telephoned Ecevit, urging acceptance of the offer. *Id.*

38. *Europe Opens Its Doors*, FIN. TIMES, Dec. 13, 1999, at 18.

39. The only major island in the eastern Mediterranean, Cyprus has been prized for centuries. See, e.g., Thomas Ehrlich, *Cyprus, the "Warlike Isle: Origins and Elements of the Current Crisis*, 18 STAN. L. REV. 1021, 1021 (1966) (stating that Cyprus has been the source of on-going conflict for centuries). Cyprus possesses enormous significance as a bridge to the Middle East, both practical and symbolic, and as a Member State of the EU, would advance European security interests and peacemaking initiatives in the region. See JOSEPH S. JOSEPH, *CYPRUS: ETHNIC CONFLICT AND INTERNATIONAL POLITICS* (2d ed. 1997) 123 (stating that Cyprus would contribute to a united Europe because of its strategic location). The eastern Mediterranean "is a flashpoint in world politics and thus an ever-present concern. . . ." A.J.R. GROOM, *Cyprus, Greece and Turkey, A Treadmill for Diplomacy*, in *CYPRUS IN TRANSITION 1960-1985* 127 (John T.A. Koumoulides ed., 1986).

40. Borrowing successful experiences from other legal system can be fruitful. See Alan Watson, *Aspects of Reception of Law*, 44 AM. J. COMP. L. 335, 345 (1996) (giving the example of the use of Roman law). Comparativists should work in today's multicultural world to reduce "prejudice and stereotyped notions of other cultures and legal systems . . . to use the comparative mirror to promote community rather than disunity." Nora V. Demleitner, *Combating Legal Ethnocentrism: Comparative Law Sets Boundaries*, 31 ARIZ. ST. L.J. 737, 737-39. The divisions of Cyprus could only be lessened by embracing new models.



legal discourse of the region, eastern enlargement of the European Union will be distorted. Leaders should understand that Cyprus is not just any other accession applicant.<sup>41</sup> “The future of Europe is intimately joined to the future of Islam”<sup>42</sup> because of the millions of Muslims living in Europe and the effect of present and potential Islamic-oriented governments on the periphery of Europe.<sup>43</sup> Cyprus, with its intense legal conflict magnified by geography and current events, can be seen as the paradigmatic intersection between East and West, offering a critical and opportune venue for exploration of new models of political problem solving and collaboration.<sup>44</sup>

## II. CENTURIES OF CONFLICT

In recorded history, the island of Cyprus has never enjoyed a peaceful, stable sovereign state.<sup>45</sup> In many ways, the island has been a victim of its geography.<sup>46</sup> Poised opportunely at the intersection of three continents, the only significant island along the eastern Mediterranean

41. This is true not only in opportunity it offers to the European Union, but also in difficulty of harmonizing a divided state into the European Union. Cyprus’ “application for EC membership from a divided state is unique.” JOHN REDMOND, *THE NEXT MEDITERRANEAN ENLARGEMENT OF THE EUROPEAN COMMUNITY: TURKEY, CYPRUS AND MALTA* 62 (1993).

42. LARRY SIEDENTOP, *DEMOCRACY IN EUROPE* 207 (2000).

43. The Palestinian Intifada in 2000-01 illustrates the increasing Islamic influence in world affairs. Roula Khalaf, *Islam Renews Its Relevance*, *FIN. TIMES*, Dec. 21, 2000, at 13.

44. Armin Von Bogdandy, *A Bird’s Eye View on the Science of European Law: Structures, Debates, and Development Prospects of Basic Research on the Law of the European Union in a German Perspective*, 6 *EUR. L.J.* 208, 209 (2000). If,

it is the primary function of legal scholarship as a practical discipline to attend to an important social ‘infrastructure’ by establishing and maintaining law’s coherence and proposing practical solutions for legal conflicts, few legal conflicts so merit attention as the anachronistic military stand-off dividing two separate polities on the geographical territory of EU-applicant Cyprus.

*Id.*

45. Ehrlich, *supra* note 39, at 1021. Exhaustive historical accounts have been written by respected scholars, most notably the classic four volume set: SIR GEORGE HILL, *A HISTORY OF CYPRUS* (1949), and the more recent work H.D. PURCELL, *CYPRUS* (1968). This Article’s brief historical sketch recounts only the significant events and themes relevant to the island’s long-standing conflicts underlying today’s political impasse.

46. JOSEPH, *supra* note 39, at 15. “[Its] favourable position, within such easy reach of Syria, Turkey, and Egypt, has often been more of a curse than a boon - a problem that persists up to the present day.” CHRISTOPHER HITCHENS, *HOSTAGE TO HISTORY: CYPRUS FROM THE OTTOMANS TO KISSINGER* 29 (1997). See also *Europe Opens Its Doors*, *supra* note 38 and accompanying text.

trade routes,<sup>47</sup> “[i]ts strategic location, long exposed coastline, and small size always made it an attractive and easy target for outsiders.”<sup>48</sup>

Cyprus has always been a bloody battleground. It was conquered by Egypt, colonized by Greece, and annexed by Rome before the first century A.D., and for the next two thousand years a succession of absentee landlords ruled its shores. The strength and wisdom of their dominion varied, but not their basic purpose—hegemony over the Eastern Mediterranean by controlling its major island command post. From before the Byzantine era through successive occupations by Richard the Lionhearted, the Templars, Franks, Venetians, Turks, and British, Cyprus has been passed with abandon among ruling powers.<sup>49</sup>

That ruinous tradition of conflict continues today, as the armed standoff in Cyprus presents a divided island with the world’s only remaining divided capital city, Nicosia.<sup>50</sup> As intractable as the post-colonial conflicts in Palestine or Ireland, the conflict between the two sides of the island has resolutely resisted mediations and other interventions by world leaders.<sup>51</sup>

Much of the present-day conflict in Cyprus can be traced to the religious and ethnic divisions in the region, which are manifested so visibly in the Christian-Islamic conflict and have been exploited by conquering empires.<sup>52</sup> Cyprus has been inhabited by people of Greek descent since the late thirteenth century, B.C., when the Mycenaean

47. PURCELL, *supra* note 45, at 88.

48. JOSEPH, *supra* note 39, at 15. The island has an area of 3572 square miles. *Id.* It lies forty-four miles south of Turkey, sixty-four miles west of Syria, and 240 miles north of Egypt. *Id.* at 58.

49. Ehrlich, *supra* note 39, at 1021. “Few countries in the world have been subjected to the degree of violence that has plagued Cyprus throughout most of its known existence.” ANDREW BOROWIEC, *CYPRUS: A TROUBLED ISLAND* 11 (2000). The unusually rapid and continuous succession of invasions, atrocities, plagues, floods, earthquakes, re-invasions, and atrocities anew, century after century, are portrayed vividly in the classic texts of this island’s history. See *Von Bogdandy, supra* note 44, at 209.

50. *Letter From Nicosia: On Civilization’s Fault Line*, *ECONOMIST*, June 20, 1998, at 99.

51. One of the “impenetrable, hardy perennial” conflicts of the modern world. *A bit of respect please*, *ECONOMIST*, Aug. 8, 1998, at 17. For over thirty years, settlement proposals and negotiations have involved the UN, the Guarantor Powers, the United States, Canada, and the Soviet Union, leading to today’s stalemate. David Wippman, *International Law and Ethnic Conflict in Cyprus*, 31 *TEX. INT’L L.J.* 141, 165 (1996). See also REDMOND, *supra* note 41, at 62 (stating that “the division of Cyprus presents one of those intractable problems in which bitter historical memory has superseded the desire of its peoples for a harmonious future.”) (quoting R. McDonald, *The Problem of Cyprus*, in *ADELPHI PAPER* 234, BRASSEY’S FOR THE INTERNATIONAL INSTITUTE OF STRATEGIC AFFAIRS, LONDON 3 (1998-99)).

52. Over centuries, the mentality of classifying people by religion, with its intrinsic cultural reflection, led to wars centered on religion. PIERRE OBERLING, *THE ROAD TO BELLAPAI, THE TURKISH CYPRIOT EXODUS TO NORTHERN CYPRUS* 9 (1982). “The ethnic and intra-ethnic aspects of the [Cyprus] conflict have been manipulated by outsiders looking to advance their own interests.” FEN OSLER HAMPSON, *NURTURING PEACE, WHY PEACE SETTLEMENTS FAIL* 35 (1996).

Greeks invaded and colonized the island.<sup>53</sup> The troubled history of the island is, in large measure, the story of their descendants' struggle with subsequent invaders for control of the island. In fact, for eight centuries from 1192 until 1960, no ruler of the island spoke Greek, the language of the vast majority of the population.<sup>54</sup>

Religion has compounded the conflict. Christianity was introduced into Cyprus in the first century.<sup>55</sup> The Apostle Paul advanced the religion by converting the Roman Proconsul, and the religion slowly spread across the island and was declared the official religion of the entire Roman Empire in 333.<sup>56</sup> Following the east-west division of the Roman Empire in 395, Cyprus fell under the rule of Byzantium.<sup>57</sup> The next two centuries were marked by prosperity<sup>58</sup> and by the sixth century, A.D., Christianity reigned supreme.<sup>59</sup>

Beginning in the mid-seventh century, Cyprus suffered three centuries of Arab raids and occupations that were often accompanied by mass slaughter, enslavement, and exaction of tribute.<sup>60</sup> During this period, the island became "a no-man's land between two warring worlds."<sup>61</sup> In 689, the competing Christian and Moslem empires agreed to split revenues from the island,<sup>62</sup> but Emperor Justinian II, not content with that arrangement, largely depopulated the island by transporting many of its inhabitants, mostly Christian Greeks, to the shores of the Propontis—the modern Sea of Marmara—to deny the Moslems their share of the tribute.<sup>63</sup> In 743, Caliph Valid II carried off many Cypriots to Syria,<sup>64</sup> and in 806, Caliph Harun-ar-Rashid sold sixteen thousand captured Cypriots into slavery.<sup>65</sup> Such repeated incursions were typical during these three hundred years, and it is unclear who controlled the island and for how long.<sup>66</sup> What is clear is that

53. PURCELL, *supra* note 45, at 79. "Between 411 and 374 B.C. . . . Cyprus became a thriving cultural and economic center of the Hellenic world, eventually joining several expeditions of Alexander the Great and becoming part of the Ptolemaic empire." BOROWIEC, *supra* note 49, at 14.

54. HITCHENS, *supra* note 46, at 29.

55. PURCELL, *supra* note 45, at 104. The Early Roman Period began in 58 B.C. when the island was taken by the Romans. *Id.* at 100.

56. *Id.* at 104-06.

57. DOROS ALASTOS, *CYPRUS IN HISTORY* 116 (1955).

58. See PURCELL, *supra* note 45, at 109 (outlining the entrenchment of Christianity).

59. ALASTOS, *supra* note 57, at 121.

60. *Id.* at 124-29. A sixteenth century historian, Stephan de Lusignan, reported that Cyprus suffered no fewer than twenty-four Arab invasions. *Id.*

61. *Id.* at 129.

62. HILL, *supra* note 45, at 286-88.

63. *Id.*

64. ALASTOS, *supra* note 57, at 127.

65. HILL, *supra* note 45, at 293.

66. See PURCELL, *supra* note 45, at 111-14.

neither side was for long the complete master of the island; that both sides ruled at times concurrently; that both collected taxes, when they could; that the treaty of 689, . . . was constantly violated and yet constantly invoked by both; and that the people lived for three centuries in a grey twilight world of uncertainty and oppression with the threat of death, torture and hanging permanently over their heads. The end of the period found Cyprus an exhausted and ruined land with a population enormously reduced.<sup>67</sup>

Byzantine rule would eventually prevail in this struggle and become secure on the island in 965.<sup>68</sup> The age of the crusades followed, and in 1156, Cyprus was invaded by the Franks and Armenians who repeated the all-too-familiar pillaging and looting of previous centuries.<sup>69</sup> Byzantine rule during this period was also punctuated by local revolts.<sup>70</sup> The last, led by Isaac Ducas Comnenos in 1184, succeeded in freeing Cyprus from the Byzantine Emperor Andronicos' despotic rule.<sup>71</sup> Yet, Isaac's rule was similarly marked by tyranny.<sup>72</sup>

This oppression continued until Cyprus was conquered by Richard the Lion Heart in 1191 while en route to the Third Crusade.<sup>73</sup> Storms shipwrecked several ships of Richard's fleet on Cypriot shores, where the crews were captured and imprisoned by Isaac.<sup>74</sup> Richard feared that Isaac contemplated capturing and ransoming Richard's sister, Joanna, and his bride-to-be, Berengaria of Navarre, when their ship was also forced to Cyprus by a storm.<sup>75</sup> Richard invaded, conquered the island, and demanded half the wealth of its inhabitants in retribution.<sup>76</sup> After Richard left with his booty, the population again revolted, prompting Richard to sell the island to the Templar Knights.<sup>77</sup>

The Templars continued to oppress a resentful populace,<sup>78</sup> and in the face of a general uprising, they soon abandoned the island back to Richard.<sup>79</sup> Richard subsequently resold the island to the French

67. ALASTOS, *supra* note 57, at 132.

68. PETER W. EDBURY, *THE KINGDOM OF CYPRUS AND THE CRUSADES, 1191-1374 2* (1991).

69. ALASTOS, *supra* note 57, at 142-44 (including informative descriptions of the motivations for and destructive results of the Crusades, from religious fanaticism to the thirst for wealth and territory).

70. ALASTOS, *supra* note 57, at 138-39.

71. EDBURY, *supra* note 68, at 3.

72. ALASTOS, *supra* note 57, at 141.

73. *See generally* HILL, *supra* note 45, at 318-21 (describing Richard's conquest of Cyprus).

74. EDBURY, *supra* note 68, at 5-6.

75. *Id.* Richard and Berengaria were married on Cyprus, in the Chapel of St. George, and thus, a Queen of England was crowned in Cyprus. HILL, *supra* note 45, at 319.

76. ALASTOS, *supra* note 57, at 150.

77. *Id.*

78. *See* HILL, *supra* note 45, at 36-37. During the period of Latin domination—twelfth through sixteenth centuries—"the Cypriots had been reduced to a state of complete serfdom." PIERRE OBERLING, *THE ROAD TO BELLAPAIS 2* (1982).

79. *See* PURCELL, *supra* note 45, at 120.

crusader Guy de Lusignan,<sup>80</sup> who established a French-speaking feudal state maintaining the local population as slaves, serfs, and tenant farmers.<sup>81</sup> The Lusignan hold of the island was generally secure and “no tribute was being sent abroad for the first time in twelve hundred years.”<sup>82</sup>

The dynasty would decline as Italian influence in the region ascended. The Lusignans granted trading rights to the Genoese in 1218 and to the Venetians in 1306, accompanied by grants of limited autonomy over the traders’ settlements in Cypriot port cities.<sup>83</sup> Unfortunately, Genoa and Venice were bitter rivals, and in 1371 a dispute erupted into several days of violence during which the Venetians killed many Genoese.<sup>84</sup> When the Lusignan ruler refused to compensate the Genoese, they attacked and, after several months of savage fighting, pillaged Famagusta and Nicosia.<sup>85</sup>

Subsequently, the Genoese became the de facto power in Cyprus.<sup>86</sup> By this time, Cyprus was a weakened state and soon fell prey to another Egyptian invasion in 1426.<sup>87</sup> Lusignan King Janus was captured, as the Egyptians swept in to Nicosia, only to depart some days later in a path of death and destruction.<sup>88</sup> Alarmed leaders of the West—Genoa, Venice, Rome, and others—ransomed the humiliated king, who returned to Cyprus “broken in spirit and in health.”<sup>89</sup> “With the administration in a state of paralysis, the Greek peasantry of Cyprus, which for nearly 250 years had suffered all the indignities and exactions inherent in serfdom, thought the opportunity had arrived to shake off the yoke.”<sup>90</sup> Like previous revolts, however, the insurrection was savagely crushed by King Janus’ better armed and disciplined troops.<sup>91</sup> Janus’ successor, John II, married a devoutly Greek Orthodox woman and a member of the Imperial family in Constantinople.<sup>92</sup> John’s wife, Helena, obtained control of the affairs of state and was appointed Regent of the

80. From 1192 until 1489, he and his descendants ruled the island, commonly known as the Lusignan Period. ALASTOS, *supra* note 57, at 154-67.

81. *Id.* at 157-60.

82. PURCELL, *supra* note 45, at 120-21.

83. ALASTOS, *supra* note 57, at 163-70.

84. EDBURY, *supra* note 68, at 200.

85. HILL, *supra* note 45, at 390-400.

86. ALASTOS, *supra* note 57, at 202. They failed to expel the Cypriots from Kerynia, on the northern coast. HILL, *supra* note 45, at 406-07.

87. ALASTOS, *supra* note 57, at 202. The Egyptian attack is said to have been encouraged by the Genoese. HILL, *supra* note 45, at 475.

88. Janus was humiliated before the Sultan, forced to ride bareback on a lame ass, kiss the ground repeatedly, and otherwise humbled. See generally HILL, *supra* note 45, 480-87 (describing the capture of King Janus and the destruction that followed).

89. HILL, *supra* note 45, at 491.

90. ALASTOS, *supra* note 57, at 205.

91. *Id.* at 205-06.

92. *Id.*

Kingdom.<sup>93</sup> Helena began a concerted effort to Hellenise the administration of the government, injecting a long-awaited stimulus to Greek culture on Cyprus.<sup>94</sup> Through her efforts the Greek Cypriot dialect became an official language of the island.<sup>95</sup> Hopes arose that the Regent's relation with the Imperial family in Constantinople might lead to unification with Byzantium.<sup>96</sup>

Even as the Greek Cypriot spirit ascended, however, the future of Lusignan Cyprus remained threatened; foreigners still held major ports, the Egyptians were still overlords, and new threats appeared from Asia Minor.<sup>97</sup> Soon the illegitimate son of the King, known as James the Bastard, conspired with the Egyptian Sultan, attacked with an Egyptian convoy, and conquered the island.<sup>98</sup> The Venetians, concerned about the rising Ottoman power, supported James,<sup>99</sup> and he welcomed the protection of Venice over the island in 1474.<sup>100</sup> Upon James' death, Venetian Councillors dictated in the Queen's name.<sup>101</sup> In 1489, Venice formally annexed Cyprus and exercised eighty years of domination.<sup>102</sup>

The sixteenth century advances of the Ottomans, from Algeria to the Caucasus, made clear that "a major assault on Cyprus was only a matter of time."<sup>103</sup> The Turkish fleet arrived in 1570,<sup>104</sup> and the entire island was subjugated by the following year.<sup>105</sup>

The Turks held the island under their rule for three centuries, and during this time, many Turks settled on the island, sometimes numbering almost as many as the Greeks.<sup>106</sup> The Ottomans allowed the Greek Cypriot community a form of self-government, permitting the Greek Orthodox Church to regulate social and religious affairs, even while they denied Cypriots political rights.<sup>107</sup> As was their custom, the Ottomans administered the island under their *millet* system, which distinguished communities throughout the Ottoman empire on the basis of ethnicity and religion.<sup>108</sup> Although not physically separated, Greeks

93. HILL, *supra* note 45, at 528. This was a strong woman, whose court was known for intrigue and even assassination. *Id.* at 529.

94. ALASTOS, *supra* note 57, at 208.

95. The Greek Cypriot dialect became an official language along with French. *Id.*

96. *Id.* at 207-08. These hopes were crushed with the fall of the city to the Turks in 1453. *Id.*

97. *Id.* at 209.

98. *Id.* at 210-13.

99. PURCELL, *supra* note 45, at 145.

100. ALASTOS, *supra* note 57, at 215.

101. HILL, *supra* note 45, at 766.

102. *Id.* at 767.

103. PURCELL, *supra* note 45, at 149.

104. *Id.* at 163.

105. ALASTOS, *supra* note 57, at 163-70, 242.

106. ZAIM M. NECATIGIL, *THE CYPRUS QUESTION AND THE TURKISH POSITION IN INTERNATIONAL LAW* 2 (2d ed. 1996).

107. ALASTOS, *supra* note 57, at 263. This church role in self-government fostered cohesion of the ethnic Greek population. NECATIGIL, *supra* note 106, at 1.

108. JOSEPH, *supra* note 39, at 17.

and Turks were divided culturally and administratively, as taxes were collected with the assistance of religious institutions.<sup>109</sup> As a result of the *millet* system, the Greek community came to recognize the Greek Orthodox Church as the center of political and cultural life and the archbishop as its spiritual and secular leader.<sup>110</sup> That Ottoman system of divided governance sowed the seeds for the modern-day bi-communal system of governance in which Turkish and Greek Cypriots steadfastly maintain their separate national identities,<sup>111</sup> separate educational systems, separate languages, and distinct religious cultures, and in which the two sides jealously protect against cultural interchange.<sup>112</sup> Ottoman rule over Cyprus would last from 1571 until 1878, and the period was marked generally by "growing decay and impoverishment," but also by harsh rule, revolt, and brutal suppression.<sup>113</sup> Significant in foreshadowing future conflict were the Turkish atrocities on the island and the rising movement for *enosis* with Greece.<sup>114</sup> A wave of terror was instituted on the island following the 1821 anti-Turkish revolt in Greece, designed to prevent its spread to Cyprus. The Turkish regime executed most of the Greek Cypriot leaders in public, accompanied by widespread looting of churches and houses.<sup>115</sup>

A few religious leaders had escaped to Rome, from which they "issued a manifesto for the liberation of Cyprus,"<sup>116</sup> but with no real results: "Cyprus was a distant land. Its tragedy hardly found an echo in the West."<sup>117</sup> In the many battles of this period around Cyprus among competing powers in the region—the British, the Egyptians, and

109. *See id.*

110. *Id.* (discussing how the Ottomans replaced the Roman Catholic Church of the west with the more amenable Greek Orthodox Church of the east).

111. Wippman, *supra* note 51, at 142.

112. *See* JOSEPH, *supra* note 39, at 16.

The Greek Cypriots speak Greek and identify with the Greek nation, Greek culture, and the heritage of classical Greece and the Byzantine Empire. Almost all of them are members of the Orthodox Church of Cyprus . . . a member of the Greek Eastern Orthodox Church. The Turkish Cypriots speak Turkish and identify with the Turkish nation, Turkish culture, and the heritage of the Turkish Ottoman Empire. Virtually all of them are Muslims of the Sunni sect.

*Id.* For further treatment of these historical roots of division, see Floya Anthias & Ron Ayres, *Ethnicity and Class in Cyprus*, in RACE AND CLASS (1983).

113. ALASTOS, *supra* note 57, at 259-97.

114. *See generally* PURCELL, *supra* note 45 (describing the movement of Constantine Rhigas in the 1780s in Bucharest encouraging Hellenism and *enosis* in all the lands with Greek descendants).

115. *See* PURCELL, *supra* note 45, at 192-94. Some Greek Cypriot money and volunteers had supported the 1821 revolt in Greece, and "the Turkish authorities had, by way of example, hanged the Greek Orthodox bishop of the island in public." HITCHENS, *supra* note 46, at 32. Reports of executions by "hanging, impalement, and strangling" in previous Turkish punishments explain that "similar punishments were in use in the West." PURCELL, *supra* note 45, at 190-91.

116. PURCELL, *supra* note 45, at 194.

117. ALASTOS, *supra* note 57, at 293.

others—only a few unsuccessful attempts were made to take advantage of the island's instability.<sup>118</sup> Yet, in 1830, a new leader in Greece advocated union with Cyprus,<sup>119</sup> and "substantial sentiment was voiced on the Island for . . . *enosis*."<sup>120</sup> Three more revolts, which had *enosis* elements,<sup>121</sup> occurred between 1830 and 1833, but were repressed "with the usual Ottoman harshness, with the troops committing every kind of atrocity and outrage against both guilty and innocent."<sup>122</sup>

In this latter period, external events were combining to set the stage for a final colonial ruler of Cyprus. Turkey's loss in 1774 of the Crimea and much of its treasury in the war with Russia was followed by a general decline and diminished Mediterranean trade.<sup>123</sup> In this vulnerable position, as the century changed and with Russia looming as a constant threat to the north, Turkey faced a new menace, as the major Western powers concluded the Napoleonic wars and turned their attention eastward towards the weakened Ottoman empire.<sup>124</sup> Russia, France, and Britain had supported the Greek fight for independence against the Turks; all had interests to promote or protect in the region.<sup>125</sup>

The Russo-Turkish War introduced a new epoch in the history of Cyprus.<sup>126</sup> With Russia again threatening Turkey, the Turks looked to Britain for support, and maintaining the Turkish "counterpoise to Russia" served vital British interests.<sup>127</sup> "[W]ith the Tsarist armies at the gates of Istanbul . . .,"<sup>128</sup> Turkey granted administrative control of the island to Great Britain in return for British assistance against

118. See PURCELL, *supra* note 45, at 194. For a brief explanation of the period of interlocking alliances following Napoleon's defeat in 1815 and how their subsequent unraveling centered on the Ottoman Empire, see ALASTOS, *supra* note 57, at 286.

119. PURCELL, *supra* note 45, at 194 (noting Count Capo d'Istria's desire for *enosis*).

120. Ehrlich, *supra* note 39, at 1025 (emphasis added). After 1830, "[p]ressure for *enosis* built up steadily and unremittently in the next century." *Id.* The advance of the secular ideas of the Enlightenment, a growing pride in the ancient Greeks, and the wave of nationalism that followed the Napoleonic wars contributed to the rising resistance to Turkish authority. OBERLING, *supra* note 52, at 9; see also Anthias & Ayres, *supra* note 112, at 60-65 (providing for a detailed description of nineteenth and twentieth century ethnic and religious divisions, the rise of nationalism, and the formation of political parties advocating *enosis*).

121. PURCELL, *supra* note 45, at 195.

122. ALASTOS, *supra* note 57, at 296.

123. BOROWIEC, *supra* note 49, at 18.

124. *Id.* The Napoleonic wars made evident the importance of Cyprus to sea power, and the opening of the Suez Canal in 1869 further enhanced Cyprus' strategic position. PURCELL, *supra* note 45, at 198.

125. PURCELL, *supra* note 45, at 197-99 (identifying long-time French commercial and political interests, Britain's sea trade to India, and Russian expansionism and antipathy toward Turkey).

126. HILL, *supra* note 45, at 262.

127. *Id.* at 277, 269-78 (containing a full description of British policy concerns in the Levant).

128. NECATIGIL, *supra* note 106, at 3.



Russia.<sup>129</sup> Turkey retained nominal suzerainty of the island,<sup>130</sup> but when Turkey allied with Germany at the beginning of the first World War, Britain assumed full claim to the island.<sup>131</sup> Following the Axis defeat, both Turkey and Greece recognized British sovereignty over Cyprus under the terms of the 1923 Treaty of Lausanne.<sup>132</sup>

Britain instituted a modern administrative system, but perpetuated ethnic separation by maintaining the religious, education, and cultural divisions of the *millet* system.<sup>133</sup> As Greek Cypriot interest in *enosis* developed steadily through this period, the Turkish Cypriots "looked suspiciously on, finding themselves, the former masters, now relegated in British dominated Cyprus to playing the part of a largely peasant and bureaucratic minority. . . ." <sup>134</sup>

Cyprus was named a Crown Colony in 1925, but soon thereafter economic grievances and desire for *enosis* generated insurrection against British rule.<sup>135</sup> In reaction, the British abolished the representative institutions and "ruled as a bureaucratic autocracy."<sup>136</sup>

Greek Cypriot demands for *enosis* with Greece intensified to the point that demonstrations and riots became commonplace in the 1930s and 1940s.<sup>137</sup> In response, many of the Turkish Cypriots campaigned for *taksim*, or partition of the communities,<sup>138</sup> and Turkish support of the

129. Wippman, *supra* note 51, at 144. The Sultan received both tribute and England's help against Russia, but Cyprus was intended to revert to Turkish power after Turkey regained certain territories in Armenia. See The Convention of Defensive Alliance Between Great Britain and Turkey With Respect to the Asiatic Provinces of Turkey, June 4, 1878, art. I, 153 Consol. T.S. 68-73. British statesman William Gladstone described the 1878 Cyprus Convention "[w]hich embodied spurious guarantees for the Sultan against Tsarist oppression] as 'an act of duplicity not surpassed and rarely equalled in the annals of nations.'" HITCHENS, *supra* note 46, at 32. Legal theorists have complained that England did not live up to many of the commitments regarding Cyprus, and Britain annexed the island at the outset of World War I. Ehrlich, *supra* note 39, at 1025.

130. IOANNIS D. STEFANDIS, ISLE OF DISCORD: NATIONALISM, IMPERIALISM AND THE MAKING OF THE CYPRUS PROBLEM 1 (1999).

131. Wippman, *supra* note 51, at 144.

132. Treaty of Lausanne, July 24, 1923, art. 20, 28 L.N.T.S. 12, 25.

133. Reports on the *millet* system's magnification of the religious and ethnic divisions on Cyprus are many. See *supra* text accompanying notes 118-24.

134. CLEMENT H. DODD, *A Historical Overview*, in CYPRUS: THE NEED FOR NEW PERSPECTIVES 3-4 (Clement H. Dodd ed., 1999). For general description of the period and subsequent history from a minister and legal advisor to the TRNC, see N.M. ERTEKUN, THE CYPRUS DISPUTE AND THE BIRTH OF THE TURKISH REPUBLIC OF NORTHERN CYPRUS (1981).

135. STEFANDIS, *supra* note 130, at 1.

136. *Id.*

137. Ehrlich, *supra* note 39, at 1026. Popular support for *enosis* continued to build to the point that ninety-six percent of the voters favored it in a 1949 plebescite. *Id.* at 1025-26. Note that during the early British rule, little effort was made to discourage the predominant association with Greece as the motherland: school books and curriculum were the same as in Greece, pictures of Greek leaders adorned the schoolroom walls, Greek flags flew at ceremonies. HILL, *supra* note 45, at 497.

138. Michael Schmidt, *Aegean Angst: A Historical and Legal Analysis of the Greek-Turkish Dispute*, 2 ROGER WILLIAMS U. L. REV. 15, 22 (1996).

British repressive measures to stem the *enosis* agitation exacerbated the tension.<sup>139</sup> In 1931, *enosis* proponents burned the Governor's house, and the British abolished the Legislative Council.<sup>140</sup> The unrest abated some during World War II, with most Cypriots favoring the Allies.<sup>141</sup> Following World War II, demands for self-determination and *enosis* were broadly supported and became an international issue in the treaty negotiations at the end of the war.<sup>142</sup> When Britain proposed measures for a more liberal regime for the internal governance of Cyprus in 1947, the Greeks refused, demanding full union with Greece.<sup>143</sup>

In 1950, the nationalists organized a terrorist group which began a four year campaign of "arson, murder, and intercommunal clashes."<sup>144</sup> The Turkish Cypriots, adamantly opposing colonization by Greece, soon formed their own counter-terrorist group.<sup>145</sup> Commentators point to British policy encouraging Turkish resistance to *enosis* as a means of control: a policy that failed in preventing the Greek Cypriot rebellion, but succeeded in damaging intercommunal relations "severely and perhaps permanently."<sup>146</sup> "It is an article of faith among Greek Cypriots that the British used 'divide-and-rule' tactics . . ." and that view was widely held and supported by much evidence.<sup>147</sup> Britain encouraged the *taksim* movement, for example, by allowing the formation of an explicitly pro-*taksim* party, using Turkish Cypriots as special police, and some think paying for Turks to begin paramilitary activity.<sup>148</sup>

During the 1950s, Greece openly promoted unification and pressed the United Nations for "self-determination" of the island.<sup>149</sup> Turkey

139. THOMAS EHRLICH, *CYPRUS 1958-1967* 2 (1974).

140. NECATIGIL, *supra* note 106, at 5.

141. HILL, *supra* note 45, at 558-60 (explaining that discontent against Britain was mixed with a sense of support for the Allies and hope that victory would lead to *enosis*).

142. ALASTOS, *supra* note 57, at 368.

143. There is emotive text of the rejection. See *id.* at 370-74.

144. The Ethniki Organosis Kypriou Agoniston (EOKA). NECATIGIL, *supra* note 106, at 6-7.

145. This group was known as Volkan. *Id.* at 7-8. "Periods of uneasy peace alternated with outbreaks of violence . . . EOKA . . . was by far the most effective force against British rule. . . . VOLKAN conducted a similar campaign of violence against Greek Cypriots. Ehrlich, *supra* note 39, at 1030.

146. HITCHENS, *supra* note 46, at 47 (suggesting that, prior to this period, "there was no history of internal viciousness in Cyprus. . . . It was only when the Turks put on British uniforms to oppose a popular movement that they were shot at by Greeks."). Fluctuations in the demographics of Christians and Muslims, including "religious" conversions and cross-adoption of languages, caused a form of "interchangeability" among the people, such that "the number of mixed villages . . . testify to what has been termed 'traditional coexistence.'" Anthias & Ayres, *supra* note 112, at 60. "The British were undoubtedly involved in encouraging a mounting Turkish concern about the position in Cyprus. . . ." DODD, *supra* note 134, at 5.

147. HITCHENS, *supra* note 46, at 43.

148. Anthias & Ayres, *supra* note 112, at 68-69. As in Suez, Britain was posing as mediator to advance one side of the dispute. *Id.* at 45.

149. Ehrlich, *supra* note 39, at 1027. The first Greek mention of the Cyprus problem in the United Nations was in 1950. . . . STEPHEN G. XYDIS, *CYPRUS, CONFLICT AND*

resisted the campaign, demanding the island's return to Turkey if Britain withdrew.<sup>150</sup> Extensive UN debate failed to yield consensus, and fighting on the island continued.<sup>151</sup> Between 1955 and 1959, the severity of the bloody revolt and public opinion pressured Britain to end this period of destructive governance, and Britain ultimately succumbed to the inevitability of a sovereign Cyprus.<sup>152</sup>

That year at Zurich, the governments of Turkey and Greece negotiated a settlement in the form of three Treaties of Guarantee and Alliance, designed to construct a constitutional system balancing power between the communities.<sup>153</sup> With the subsequent ratification of these agreements by representatives of Britain, Turkey, and Greece, the Republic of Cyprus was created.<sup>154</sup>

The new compromise government functioned reasonably well for about two and a half years, but soon old tensions would destabilize the delicate equilibrium.<sup>155</sup> Even in the newly established country, with its constitution carefully designed to protect each side's interests,<sup>156</sup> neither Turkish nor Greek Cypriot faction was "satisfied with its share of

CONCILIATION, 1954-1958 7 (1967) (detailing the fight for Cypriot self-determination and independence in the UN). "Between 1954 and 1958, Greece resorted to the United Nations five times over the Cyprus question." *Id.* at 3. Greece promoted self-determination so that Cyprus could become independent and then, through *enosis*, a part of Greece. *Id.* at 4-5.

150. DODD, *supra* note 134, at 5.

151. Ehrlich, *supra* note 39, at 1026-28, 1030-31.

152. Britain's own Labor Party began promoting Cyprus' right to self-determination. *Id.* at 1030-31. Britain was gradually losing its position as a Middle Eastern power and was confronting anticolonial, nationalist movements, as the loss "of the Suez Canal in 1956, the Iraqi revolution, and the Lebanese civil strife in 1958 dealt severe blows to British prestige in the region." LINDA B. MILLER, *CYPRUS, THE LAW AND POLITICS OF CIVIL STRIFE* 2 (1968). "Ten years of riot, rebellion and communal strife, interspersed with intervals of truce, negotiation, and debate in international organizations drew to a close in 1959 with the British acceptance of an unavoidable change in the sovereignty of Cyprus." *Id.* at 3.

153. Wippman, *supra* note 51, at 144-45 (citing basic Structure of the Republic of Cyprus, February 11, 1959, reprinted in ABRAM CHAYES ET AL., *INTERNATIONAL LEGAL PROCESS: MATERIALS FOR AN INTRODUCTORY COURSE* 559 (1959)); Treaty of Guarantee, Aug. 16, 1960, 382 U.N.T.S. 3; Treaty of Alliance Between the Kingdom of Greece, the Republic of Turkey, and the Republic of Cyprus, Aug. 16, 1960, 397 U.N.T.S. 289). See also Ehrlich, *supra* note 39, at 1031-33 (outlining the process through which agreement was soon reached among all the parties—Greece, Turkey, Britain, and the soon-to-be-created Republic of Cyprus—and the various treaties of Alliance and Guaranty known as the Accords, were signed at Nicosia in August, 1960).

154. For further details of the Zurich negotiations and the subsequent agreement, see *id.* Evidence suggests that the Cypriots had little choice but to accept the Treaty as the price of independence. Makarios later insisted that he "had no alternative but to sign the agreement." U.N. SCOR, 19th Sess., 1098th mtg., at 20, U.N. Doc. S/PV. 1098 (1964).

155. Ehrlich, *supra* note 39, at 1040.

156. Post-independence efforts to erect a constitutional structure reflect a "consociational" approach to accommodate the different communities intermixed in a single state. NECATIGIL, *supra* note 106, at 17. The resulting 1960 agreements and, ultimately the Constitution, were intricately designed to establish a constitutional equilibrium between Greek and Turkish interests. EHRLICH, *supra* note 139, at 38. See also *infra* text accompanying notes 181-86.

government control"<sup>157</sup> and neither gave up its aspirations for unification with its "respective co-ethnic neighbor."<sup>158</sup>

Unfortunately, the constitution amplified the ethnic conflict<sup>159</sup> and "contained the seeds of partition within it."<sup>160</sup> It "established thoroughgoing bi-communalism in all spheres and all levels of government,"<sup>161</sup> creating separate categories of citizenship, separate municipalities, with separate elections—all based on Turkish or Greek status—with civil service jobs and seats in the legislature mandatorily shared in a seventy to thirty percent ratio.<sup>162</sup> The president was required to be a Greek Cypriot, and the vice president a Turkish Cypriot "each elected by his own community . . . and accountable to them."<sup>163</sup> Significantly, the Turkish-Cypriot vice president held a legislative veto.<sup>164</sup>

Social and cultural practices fortified these divisions in the two communities as they consciously nurtured their separate subnational identities.<sup>165</sup> Each community maintained its own educational system, its own language, its own distinct religious culture, and the two sides jealously protected against cultural interchange.<sup>166</sup> The post-independence efforts to erect a constitutional structure were designed to accommodate these different communities intermixed in a single state.<sup>167</sup> The resulting agreements and ultimately the constitution were intricately designed and "incredibly detailed"<sup>168</sup> to balance the power and to manage the ethnic conflict between the two communities.<sup>169</sup> Yet at the same time, the Greek Cypriots, constituting eighty percent of the population, favored uniting with Greece, while the minority of Turkish Cypriots fearing domination by the Greeks advocated partition and unity with Turkey.<sup>170</sup> Greek Orthodox Archbishop Makarios, the island's first president, soon announced that he had signed the constitutional agreements under duress, and he reaffirmed the national aim of *enosis*.

157. Suzanne Palmer, *The Republic of Northern Cyprus: Should the United States Recognize it as an Independent State*, 4 B.U. L. REV. 423, 434 (1986).

158. Wippman, *supra* note 51, at 144. As would be expected, both Greece and Turkey promoted the efforts to protect their constituents. *Id.* See also GROOM, *supra* note 39, at 126 (originally the phrase "respective co-ethnic neighbor.").

159. Anthias & Ayres, *supra* note 112, at 71.

160. HITCHENS, *supra* note 46, at 49.

161. Anthias & Ayres, *supra* note 112, at 70.

162. *Id.*

163. *Id.* at 71.

164. HITCHENS, *supra* note 46, at 49.

165. Wippman, *supra* note 51, at 142.

166. See NECATIGIL, *supra* note 106, at 2 (explaining that there is no intermarriage, and that each group maintains its own distinct cultural and historical heritage).

167. *Id.* at 17.

168. EHRLICH, *supra* note 139, at 38.

169. NECATIGIL, *supra* note 106, at 9.

170. Wippman, *supra* note 51, at 144.

A new struggle thus began, with one side agitating for amendments to the constitution and the other fiercely resisting.<sup>171</sup>

The constitution's strict requirements for the division of government between the Turkish and the Greek Cypriot communities was understandable in light of the terrorism and violence that had preceded it, but at the same time this structure reinforced the walls of separation between them.<sup>172</sup> Functionally, the complex system of constitutional checks made it possible for the minority to paralyze government,<sup>173</sup> and disputes continuously arose, ultimately producing gridlock.<sup>174</sup> When the Greek Cypriots objected to the application of mandatory quotas for filling civil service positions, Turkish Cypriots blocked passage of important legislation, including the income tax.<sup>175</sup> In response, Makarios proposed constitutional revisions that would have diminished the Turkish community's ability to block action by the majority.<sup>176</sup> Some of the proposed revisions were to "unamendable" articles that the Turks had fought for in the original constitutional negotiations.<sup>177</sup> Both the Turkish government and Turkish Cypriot leadership condemned the proposed revisions.<sup>178</sup>

Civil disorder broke out in December 1963 when a seemingly routine police questioning sparked an armed confrontation that escalated into the siege by the Greek Cypriot forces of the Turkish section of Nicosia.<sup>179</sup> Greek and Turkish troops stationed outside of Nicosia joined the fighting, and the Turkish Cypriots appealed for military help from Turkey.<sup>180</sup> In response, Turkish jets flew warning flights over Greek Cypriot installations, and both sides, including

171. PURCELL, *supra* note 45, at 311 (explaining further that when Cyprus became a member of the United Nations in 1960, the UN Charter's principle of majority-rule provided Makarios a valuable argument in his campaign).

172. Ehrlich, *supra* note 39, at 1039 (noting that "[I]t is tempting to say that the scheme never had any chance of lasting success—that a constitution that requires the ethnic origin of the coroner . . . to be that of the deceased could only fail").

173. *Id.* (using as an example that the Turkish minority in the House of Representatives was provided absolute veto over tax legislation).

174. PURCELL, *supra* note 45, at 312-17. UN mediators reported that the constitution's grant of disproportionate power to the Turkish Cypriots gave rise to the "most serious difficulties of implementation." Report by the United Nations Mediator on Cyprus to the Secretary-General, UN SCOR, 20th Sess., Supp. 1, at 249, U.N. Doc. S6253 (1965).

175. Wippman, *supra* note 51, at 146.

176. JOSEPH, *supra* note 39, at 43.

177. NECATIGIL, *supra* note 106, at 25.

178. JOSEPH, *supra* note 39, at 43.

179. Greek Cypriot policemen demanded identity cards from a Turkish Cypriot couple walking late at night in the red-light district of Nicosia, the confrontation exploded into shootings and deaths, and the virtual siege of Turkish parts of the capital city followed. See PURCELL, *supra* note 45, at 323-24; see also NECATIGIL, *supra* note 106, at 32-33 (stating that heavy firing led to evacuation by the Turkish Cypriots and the area was secured by the Greek Cypriot forces).

180. JOSEPH, *supra* note 39, at 43-45.

paramilitary groups, prepared for conflict.<sup>181</sup> As fighting spread, each side placed guards on rooftops, erected road blocks, and dug trenches around their zones of control.<sup>182</sup> General warfare soon erupted, with UN observers reporting that hundreds of villages, most of them Turkish, were destroyed or severely damaged, and that hundreds of people were killed on both sides.<sup>183</sup> The violence naturally prompted members of both communities to seek safety in separate enclaves evolving in former Greek and Turkish Cypriot neighborhoods, and thousands of people were compelled to abandon their homes.<sup>184</sup> Cruel atrocities were inflicted by both sides.<sup>185</sup>

On Christmas Day 1963, alarmed over the scope of the fighting, the three Guarantor Powers offered peacekeeping troops, which were accepted by the Cyprus government and promptly put in place.<sup>186</sup> Within days, a neutral zone, known as the "green line" was patrolled by British forces.<sup>187</sup> But the fighting continued into early 1964, when the Turkish threat to intervene militarily to protect the Turkish Cypriots was avoided only by U.S. President Lyndon Johnson's injunction against the use of U.S.-supplied weapons.<sup>188</sup> A British proposal to install a UN peacekeeping mission was approved by the United Nations Security Council in March 1964.<sup>189</sup>

181. Palmer, *supra* note 157, at 434. Preparations included staging of Turkish land, air, and naval forces near the island, and secrete preparations to move an entire Greek division onto the island. JOSEPH, *supra* note 39, at 22-23.

182. See Report of the Secretary General of the United Nations to the Security Council on the United Nations Operations in Cyprus, Doc. S/5950 of 10 Sept. 1964.

183. NECATIGIL, *supra* note 106, at 35-37 (citing UN reports). Anarchy ruled, correspondents witnessed Greeks burning Turkish homes within view of the police, and the terror spread to other villages beyond Nicosia. *Id.*

184. BOROWIEC, *supra* note 49, at 57-58.

185. PURCELL, *supra* note 45, at 326-28. ("[P]ogroms . . . disgusting acts of arson, sadism, and vengeance . . ." help explain subsequent miseries on Cyprus). After December 1963 most Turkish Cypriots withdrew to a ghetto-like existence following a period of intercommunal murder and arson. BOROWIEC, *supra* note 49, at xiv.

186. Ehrlich, *supra* note 39, at 1044. Under British leadership, Greek, Turkish, and British troops already on the island were immediately deployed and all four governments jointly requested a UN representative to observe the operation. *Id.* at 1044-45.

187. FEN OSLER HAMPSON, NURTURING PEACE, WHY PEACE SETTLEMENTS SUCCEED OR FAIL 233 (1996). To this day, called the Green Line after "[a] British officer hastily marked the dividing line on a map with green ink." BOROWIEC, *supra* note 39, at 57.

188. Richard Clogg, *Greek-Turkish Relations in the Post-1974 Period, in THE GREEK-TURKISH CONFLICT IN THE 1990'S* 13 (Dimitri Constatas ed., 1991). The United States was inextricably involved in the matter because it had supplied and trained both Greek and Turkish forces—billions of dollars of military aid—and was the foremost leader of NATO. Johnson used "all the juridical thunderbolts that could be assembled" to restrain the Turks. THOMAS EHRLICH, *CYPRUS 1958-1967* 83 (1974).

189. Security Council Resolution on the Creation of the United Nations Peacekeeping Force in Cyprus (UNFICP) Resolution no. 186 was adopted on March 4, 1964, calling for restraint from all parties, authorizing the creation of the peace-keeping force, and recommended that the Secretary General appoint a mediator to lead negotiations toward a peaceful settlement. *Id.* at 1-4, 7. "Only four years after they had painfully achieved independence, the Cypriots became victims of a superpower design for

The dispute was too deep, however, for these peacekeeping efforts<sup>190</sup> to resolve, and continuing conflict prompted further negotiations among all the major powers, the United Nations, and NATO throughout the next three years.<sup>191</sup> In 1967, "Greece precipitated a second crisis by stationing 10,000 Greek troops on the island, far exceeding the number allowed" by treaty, but international pressure again produced a settlement, reducing partisan troop levels and increasing peacekeeper forces, as the conflict continued to simmer.<sup>192</sup> In 1974, a third and more serious crisis erupted "when the military government of Greece engineered a coup in Cyprus that temporarily replaced President Makarios with a staunchly pro-*enosis* leader."<sup>193</sup> This extra-constitutional change of government alarmed many, and leading powers renewed negotiations, searching for a solution.<sup>194</sup> The Turkish Prime Minister flew to London to solicit help in a joint effort to uphold the Treaty of Guaranty, but Britain declined.<sup>195</sup> Fearful that the major powers would accept the new Cypriot regime,<sup>196</sup> Turkey invaded the

partition. This partition reflected only the strategic requirement of outside powers, and did not conform to any local needs. The economy of Cyprus, with its distribution of water resources and agriculture, makes partition an absurdity." HITCHENS, *supra* note 46, at 11.

190. Seven thousand peacekeepers established calm on the island, though only in degree. Bad acts escalated into atrocities: twenty thousand Turkish Cypriots were allegedly forced out of their homes to the Turkish side; the Cypriot government then imposed an economic blockade on the refugees' camps; neither side allowed free movement of people between the two sides; and the constitutional balance disintegrated, as most Turkish Cypriot officials left or were forced from the government; culminating in Greek Cypriot attacks on several Turkish Cypriot villages, followed by Turkish air force bombing of the attackers. Ehrlich, *supra* note 39, at 1051-54.

191. NECATIGIL, *supra* note 106, at 49-51. At one point the U.S. Sixth Fleet was positioned between the island and Turkey's mainland to calm the tension, and subsequently the Acheson Plan—after then U.S. Secretary of State Dean Acheson—recommended a compromise *enosis* with Greece, with concessions to the Turks, but neither side would agree to the concessions included. *Id.*

192. Palmer, *supra* note 157, at 436-37.

193. Wippman, *supra* note 51, at 147. Greek officers commanding Greek Cypriot national guardsmen staged a coup, replacing Cypriot President Archbishop Makarios III with *enosis*ist Nikos Sampson. Schmidt, *supra* note 138, at 23. The last six years before 1974 were marked by intermittent negotiations, as two parallel political regimes in a patchwork system of co-existence, until "the impulsive successor to Papdopoulos, Brigadier General Dimitrios Ionnides, ordered the Cypriot National Guard . . . to overthrow Makarios and take control of the government of Cyprus." PARKER T. HART, TWO NATO ALLIES AT THE THRESHOLD OF WAR: CYPRUS, A FIRSTHAND ACCOUNT OF CRISIS MANAGEMENT, 1965-1968 129-30 (1990).

194. Palmer, *supra* note 157, at 423. See Henry Kissinger's interesting description of the unfolding events around the distraction in the Watergate presidency and an unneeded crisis involving two NATO allies becoming "entangled in our domestic politics." HENRY KISSINGER, YEARS OF UPHEAVAL 1187-93 (1982). See also BRENDAN O'MALLEY & IAN CRAIG, THE CYPRUS CONSPIRACY 223 (1999) (American and British governments considered Cyprus' military facilities of paramount importance and more easily protected "in a divided Cyprus.").

195. Marios L. Hart, *The Legal Dimension of the Cyprus Conflict*, 10 TEX. INT'L L.J. 227, 261-62 (1975) (stating that Turkey charged Greece with violating the Treaty).

196. Palmer, *supra* note 157, at 438.

island, and the situation degenerated: "150,000 Greeks fled from their homes and land in the north, while 46,000 Turks fled from the south."<sup>197</sup>

The UN buffer zone became a virtual Berlin wall, with a complete separation of the populations.<sup>198</sup> World leaders scrambled to "prevent the crisis from escalating into an explosive regional conflict."<sup>199</sup> The U.S., in the lead at this point, expressed regret over the invasion, but publicly blamed Greece for the coup, as U.S. and British diplomats worked not to reverse the invasion, but to restrain the Greeks from going to war with Turkey.<sup>200</sup> The goal was foremost to stabilize the NATO alliance.<sup>201</sup>

The division of the population into two homogeneous ethnic zones was completed in 1975 when the factions formally agreed upon a large-scale population exchange between the north and south zones under the auspices of the United Nations.<sup>202</sup> Since then, some eighty thousand Turkish settlers, and thirty thousand Turkish troops have increased the local population to over 200,000.<sup>203</sup> The Green Line manned by the United Nations maintains the buffer zone between the two communities in Nicosia to this day.<sup>204</sup>

Politically, the northern Turkish community adopted a constitution by referendum in 1974, and its leader, Rauf Denktas, proclaimed the northern part of the island the Turkish Federated State on Cyprus in 1975.<sup>205</sup> The formal declaration of its independence from the Republic of Cyprus followed in November 1983, with the unilateral establishment of the Turkish Republic of Northern Cyprus (TRNC).<sup>206</sup> The United Nations Security Council condemned the declaration as an illegal partition of Cyprus.<sup>207</sup> Despite disapproval of the international community, the northern sector to this day possesses a fully functioning and democratically elected national government consisting of a presidency, a legislature of fifty MPs, similarly elected municipal

197. MICHAEL EMERSON, REDRAWING THE MAP OF EUROPE 72 (1998).

198. *Id.*

199. O'MALLEY & CRAIG, *supra* note 194, at 187.

200. *Id.* at 188-91. For details of the invasion and subsequent diplomacy leading to the stalemate, see *id.* at 187-98.

201. See *Crisis on Cyprus, A Report Prepared by the Subcommittee to Investigate Problems Connected with Refugees and Escapees for the Judiciary of the U.S. Senate*, 93rd Cong., 2d Sess. 14 (1974).

202. Wippman, *supra* note 51, at 171; U.N. SCOR, 30th Sess., Supp. For July-Sept. 1975, at 39-40, U.N. Doc. S/11789.

203. *Not a Baby*, ECONOMIST, July 22, 2000, at 14-15. The Turkish military has an important influence on the island. 2000 COMMISSION REGULAR REP. ON CYPRUS at 18.

204. *Letter From Nicosia*, ECONOMIST, June 20, 1998, at 99.

205. Palmer, *supra* note 157, at 441 (stating that this was "an internal reorganization of the autonomous Turkish administration . . . not intended to be an independent."). *Id.* at 441 n.143.

206. REGULAR REPORT ON CYPRUS, *supra* note 203, at 10.

207. U.N. SCOR, 38th Sess., 2499th mtg., at 1, U.N. Doc. S/P.V. 2499 (1983).



governments, and a functioning judiciary.<sup>208</sup> Thus, the two communities established and to this day maintain parallel political systems, based on the European model and with the usual range of parties, administrative government agencies, and education systems.<sup>209</sup>

### III. THE IMPASSE

Events after 1974 produced alternating hope and frustration, as the two sides struggled unsuccessfully through years of negotiation and mediation efforts, ultimately evincing an unyielding impasse. Only the present warming climate of rapprochement between Greece and Turkey suggests a breakthrough of that impasse.<sup>210</sup>

In 1975, a unanimous UN resolution expressed grave concern over the Turkish invasion.<sup>211</sup> Resolution 3212 "call[ed] upon all states to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus . . . ." and encouraged "the speedy withdrawal of all foreign armed forces" from the Republic and the "cessation of all foreign interference in its affairs."<sup>212</sup> Further, the resolution called for cooperation with the UN peace-keeping force and requested the Secretary-General to "continue to lend his good offices" in promoting a settlement of the dispute.<sup>213</sup> This resolution would itself create new issues and strengthen old divisions.<sup>214</sup>

UN sponsored negotiations started in 1975 in Vienna.<sup>215</sup> Greek Cypriots proposed "a bi-communal federal state . . . that would preserve the sovereignty, independence, and territorial integrity of the Republic of Cyprus"<sup>216</sup> The Turkish Cypriots argued for a looser federal solution based on a partnership of two equal polities, acting under one central, weak, and equal administration, "working together at first in a comparatively limited field, but at the same time co-operating in many

208. *Id.*

209. *See* CYPRUS, A COUNTRY STUDY, at 43-45 (1993).

210. *See infra* Part IV.

211. JOSEPH, *supra* note 39, at 112. Adopted by 117 votes to none, the resolution was the Greek Cypriot's most impressive victory in their frequent resort to the UN forum. *Id.* at 111-12.

212. UN Resolution no. 3212 (XXIX) General Assembly Resolution on the Withdrawal of Foreign Armed Forces from Cyprus, ¶¶ 1, 2.

213. UN Resolution no. 3212 (XXIX) General Assembly Resolution on the Withdrawal of Foreign Armed Forces from Cyprus, para. 8,9.

214. *See infra* text accompanying notes 237-59.

215. CLEMENT H. DODD, THE CYPRUS IMBROGLIO 34 (1998).

216. And would "ensure that the Federal Republic of Cyprus would be the sole subject of international law to the exclusion of the constituent parts, and preserve the unity of the country" with a strong central and unitary government, which was the Greek Cypriot government in existence at that time. NECATIGIL, *supra* note 106, at 157.

spheres of administration.”<sup>217</sup> Both parties further disagreed on the practical details of any settlement, such as borders between the two communities and compensation for displaced persons.<sup>218</sup>

The parties made “substantial progress in narrowing their differences” in the late 1970s.<sup>219</sup> In 1977, both communities agreed on four guidelines for future talks, most notably agreeing on the bicomunal federal republic form, which was a departure from the 1960 constitution, and thus a concession by the Greek Cypriots.<sup>220</sup> A ten point agreement in 1979 confirmed these basic guidelines and added topics such as respect for human rights and other aspects of a comprehensive settlement.<sup>221</sup> These high-level agreements in 1977 and 1979 represented a turning point because it was the first time the two sides agreed to seek a settlement on the basis of a bi-zonal, bi-communal federal republic.<sup>222</sup>

Greek Cypriot proposals in the early 1980s again emphasized the sovereignty and indivisibility of the island, as well as the concept of single citizenship and a strong central government, but the Turkish Cypriots accused them of simply trying to create a unitary state.<sup>223</sup> The Greeks persistently internationalized the dispute, resulting in the 1983 UN General Assembly resolution proclaiming the Greek Cypriot Republic’s sovereignty over the entire island.<sup>224</sup> In response, the Turkish Cypriot Parliament declared its independence and sovereignty, based on the right of self-determination.<sup>225</sup> The United Nations declared this attempted secession illegal and endorsed the Greek Cypriot embargo of the north.<sup>226</sup>

217. The joint administration’s enumerated powers would be advisory at first, leaving the residue of power with the two states, but could develop as confidence between the communities grew. *Id.* at 156-57.

218. Wippman, *supra* note 51, at 173.

219. *Id.* Turkish seismic explorations in Aegean areas claimed by Greece inflamed relations briefly in 1976, but diplomacy achieved relative stability until the end of the decade. Clogg, *supra* note 188, at 16.

220. A COUNTRY STUDY, *supra* note 209, at 45.

221. DODD, *supra* note 134, at 35-36. For text of the Ten Points, see NECATIGIL, *supra* note 106, at 162-63.

222. JOSEPH, *supra* note 39, at 135 (citing Makarios-Denktaş agreement, UN doc. S/12323, ¶ 5, 30 Apr. 1977 and Kyprianou-Denktaş agreement, UN doc. S/13369, 31 May 1979).

223. DODD, *supra* note 134, at 37.

224. Question of Cyprus, U.N. GAOR, 37th Sess., 121st plen. mtg. at 49, U.N. Doc. A/37/253 (1983). See NECATIGIL, *supra* note 106, at 191-92. The Greek Cypriots successfully turned the UN into a powerful and effective political weapon against the Turks gaining a dominant supremacy in the international political and diplomatic scene. JOSEPH, *supra* note 39, at 15.

225. NECATIGIL, *supra* note 106, at 196. The motion declared the right of the Turkish Cypriots to self-determination, with equal rights and status in an independent Cyprus, but no effective date was set for implementing the self-determination resolution. *Id.* Turkey immediately recognized the new state. Clogg, *supra* note 188, at 18-22.

226. DODD, *supra* note 215, at 38; Security Council Resolution 541 (18 Nov. 1983), 37th Sess., 2500th mtg., S/Res/541 (1983).

After this, the Greek Cypriots refused to meet face to face with the Turkish Cypriots, so "proximity talks" were instituted by the UN Secretary-General de Cuellar.<sup>227</sup> In 1985, two significant developments in the negotiations occurred: First, TRNC president Denktas agreed to lessen the Turkish claim to thirty-seven percent of the island under TRNC authority, and he abandoned the insistence that the office of president be rotated between Turk and Greek Cypriots; second, a draft agreement was formulated for the reunification of the island as a federal republic with two autonomous states, but the Greek Cypriot president Kyprianou refused to sign it, concerned over the balance of voting powers given the Turkish side and other problems involving the complexity of any settlement.<sup>228</sup>

In 1987, hopes for progress waned and then rose, as Greece and Turkey narrowly averted war over contested drilling and exploration in the Aegean, followed by a successful summit meeting at Davos, Switzerland that yielded an agreement for closer cooperation.<sup>229</sup> The warmer "spirit of Davos" culminated in the 1989 agreement authorizing the United Nations to draw up a negotiating draft for settlement, though subsequent demands for stronger language about the TRNC's sovereignty by Denktas chilled the process.<sup>230</sup>

During this time, cooperation between the Republic of Cyprus and the European Union evolved. In 1987, an agreement was signed, proposing the gradual implementation of a customs union, and, in 1990, the Cypriot government applied for full EC membership.<sup>231</sup> The application proposed membership for the entire island, but the Turkish Cypriot leadership rejected that government's right to speak for the whole island.<sup>232</sup> The EC rejected the TRNC position, repeating its support of the UN recognition of the Republic of Cyprus and non-

227. DODD, *supra* note 215, at 38-39.

228. Palmer, *supra* note 157, at 450 (stating that President Kyprianou disagreed with provisions for weighted voting and veto power for the Turkish Vice President. He was also concerned about the lack of a timetable for withdrawal of Turkish troops, and international guarantee of the agreement and the problem of 180,000 Greek Cypriot refugees wishing to return to the portion of the island controlled by the Turkish Cypriots). "A possible settlement was missed in 1985 when Kyprianou refused to sign a recently worked out accord, fearing it conceded too much to the other side." A COUNTRY STUDY, *supra* note 209, at 45.

229. Clogg, *supra* note 188, at 20 (stating that the Davos agreement called for intensification of contacts, cooperation in cultural exchanges and tourism, and creation of two committees to promote political and economic relations).

230. DODD, *supra* note 134, at 42-43.

231. JOSEPH, *supra* note 39, at 117. An association agreement had been signed in 1972, but implementation was delayed due to the 1974 invasion and its consequences on the economy. *Id.* The customs agreement has progressed and, by the present time, most trade barriers have been removed. DODD, *supra* note 215, at 60.

232. JOSEPH, *supra* note 39, at 117. An association agreement had been signed in 1972, but implementation was delayed due to the 1974 invasion and its consequences on the economy. *Id.* The customs agreement has progressed and, by the present time, most trade barriers have been removed. DODD, *supra* note 215, at 60.

recognition of the TRNC, and the application was accepted for consideration.<sup>233</sup>

In the 1990s, the negotiations climate deteriorated as "the Turkish authorities inaugurated a war of nerves in the Aegean," while Greece embarked on a seventeen billion dollar military modernization effort and then issued the ultimatum in the European Union that Cyprus must be considered as an early EU candidate or Greece would veto the accession of the newly emerging democracies in Central Europe.<sup>234</sup> In 1991, after the Gulf War, initiatives by the United Nations and the United States prompted the resumption of talks.<sup>235</sup> Intense shuttle diplomacy ensued among Athens, Ankara, and Nicosia, as several rounds of intercommunal talks were conducted.<sup>236</sup> Then, in 1992, the parties agreed upon the Secretary-General's "Set of ideas on an overall framework agreement on Cyprus" to form the basis for further negotiations.<sup>237</sup> Under this proposal, Cyprus would remain one country, a bi-zonal federal republic "with a single sovereignty and international personality,"<sup>238</sup> which would be divided into two politically equal communities with each exercising state-like authority over most matters, such as education, economic development, social welfare, "security, law and order, and the administration of justice."<sup>239</sup> The common federal government would exercise authority in limited competences, such as in foreign affairs, central bank functions, customs, federal budget, and taxation,<sup>240</sup> and each community would enjoy equal and effective participation in this joint government, as well as a veto power over designated measures against that community's interest.<sup>241</sup> The "set of ideas" also called for the demilitarization of the island, the maintenance of the 1960 Treaty of Guarantee, the adjustment of the territories of the two states, and the recognition of the rights of persons displaced by the conflict.<sup>242</sup>

233. JOSEPH, *supra* note 39, at 118. The EU considers the Republic of Cyprus to be the "sole interlocutor" for accession discussions. *Id.* at 120. The application was referred to the Commission for study. DODD, *supra* note 215, at 62.

234. FITCHENS, *supra* note 46, at xiii.

235. NECATIGIL, *supra* note 106, at 370.

236. *Id.*

237. Wippman, *supra* note 51, at 174. Set of Ideas, *annexed to* United Nations, Security Council, Report of the Secretary General on his Mission of Good Offices in Cyprus, U.N. Doc. S/24472 (1992) [hereinafter Set of Ideas]. "A sensible, broadly federal Set of Ideas put forward by the U.N. in 1992 has become more or less accepted, at least as an outline for a settlement." *Cyprus Seeks Leader*, ECONOMIST, Feb. 7, 1998, at 20.

238. Set of Ideas, *supra* note 237.

239. *Id.* ¶¶ 18, 22, 48-51.

240. *Id.* ¶ 25.

241. *Id.* ¶ 5 (pronouncing the "political equality of the two communities"). *See also id.* ¶ 32 (explaining that the proposal permitted a simple majority of representatives for either side to block legislation on key matters, such as foreign affairs, budget, security, taxation, and others).

242. *Id.* ¶¶ 53, 54, 69, and 74.

Further negotiations led the Secretary-General to report that the parties were "within agreement range" on the key areas of territory and displaced persons in the "set of ideas" and that overall agreement was likely.<sup>243</sup> The Security Council then endorsed the Secretary's report and the "set of ideas."<sup>244</sup> Agreement did not follow, however, and the Secretary-General reported that an overall framework agreement was not achieved.<sup>245</sup> Eight confidence-building measures proposed by the Secretary-General and endorsed by the Security Council<sup>246</sup> "seemed to offer greater possibility of bringing the two sides together."<sup>247</sup> The 1993 Greek-Cypriot election, however, brought in new leadership under Glafkos Clerides, who had campaigned by denouncing the Set of Ideas as blocking Cyprus' path into the EC.<sup>248</sup> With U.S. and UN pressure building, negotiations focused especially on the confidence-building measures of re-opening the airport at Nicosia and the return of Varosha on the island's eastern coast.<sup>249</sup> Both sides agreed on the measures in principle in early 1994, and proximity discussions followed.<sup>250</sup> The negotiations were hindered by the Greek Cypriots' concern that they might in some way imply recognition of the TRNC.<sup>251</sup>

Numerous meetings, including concessions on all sides, led to a June 1994 Secretary-General report of "sufficient progress" to implement a modified package of the measures.<sup>252</sup> Ultimately, however, the "logical connection between political equality and recognition had become all too apparent . . ." and the Greek Cypriot leaders would not go forward with the measures.<sup>253</sup> Two EU events in 1994 also contributed to the

243. NECATIGIL, *supra* note 106, at 394-95.

244. S.C. Res. 774, U.N. SCOR, 47th Sess., 309th mtg., at 94, U.N. Doc. S/Res/774 (1992).

245. See NECATIGIL, *supra* note 106, at 397. The Secretary-General explained that a "deep crisis of confidence" separated the two sides, observing that both sides posed conditions that could stall agreement. *Id.*

246. See *id.* at 397-98. The proposals included reducing the number of Turkish troops on the island, extending the UN buffer zone to include Varosha, the modern part of Famagusto, to which access was controlled by Turkish troops, and promoting people-to-people contact, among others. *See id.*

247. DODD, *supra* note 215, at 51.

248. *Id.*

249. See *id.* at 54-55; see also *id.* at 56 (explaining Varosha is an abandoned, fenced tourist resort owned mostly by Greek Cypriots, but closed off by the Turkish Cypriots. The area was surrounded on three sides by the TRNC with the sea at the fourth side. The UN proposed to open it again, allow owners to reclaim their property, and encourage businesses to reinvigorate it as a tourist and free trade zone.).

250. *Id.* at 55.

251. See *id.* at 55 (explaining that they "would only discuss the Confidence-building measures if they implied no direct, or indirect, recognition of the [TRNC]."). *Id.* at 55. See also *id.* at 58 (explaining that this was especially problematic in the negotiations over re-opening the airport, because, inter alia, permitting Cyprus Turkish Airlines to operate out of Nicosia might imply some degree of recognition).

252. *Id.* at 59.

253. *Id.* at 59-60. See also *id.* (explaining that the Greek Cypriot National Council voted unanimously not to continue the negotiations on the measures).

deterioration: EU leaders at the Corfu Summit in June agreed to place the Republic of Cyprus next in line for EU accession negotiations, and the EU's European Court of Justice ruled that health certificates for imports into the European Union must be issued by "legitimate authorities," thus banning certificates from the TRNC.<sup>254</sup> Thus, the European Union sought to minimize the TRNC's political and economic status. Greek Cypriot attitudes hardened after the European Union accepted their application for accession of the island, and this hardening was evidenced in their lack of interest in the 1994 confidence-building measures.<sup>255</sup>

At the same time, the European Commission took the view early on that Cyprus' integration into the Community "implies a peaceful, balanced and lasting settlement . . ." of the conflict dividing the island.<sup>256</sup> The European Union later yielded to Greek pressure, abandoning the requirement that settlement be achieved prior to accession in exchange for Greek agreement to the Amsterdam Treaty and eastern enlargement.<sup>257</sup> In what is termed the "historical compromise" of March 6, 1995, Greece withheld its veto of the EU-Turkey customs union, and in return, the EU leaders agreed that negotiations for Cyprus' accession would begin six months after the conclusion of the Intergovernmental Conference begun in Turin in March 1996.<sup>258</sup> The breakthrough for the customs union between the European Union and Turkey represented a "landmark deal," sending a billion ecus in aid to Turkey, as well as opening access to the EU markets.<sup>259</sup>

254. *Cyprus, As Divided as Ever*, ECONOMIST, Aug. 6, 1994, at 43. (explaining that until Corfu, international orthodoxy required settlement of the island's division prior to accession. As a result of these two setbacks, Denktas refused to cooperate and "the Greek Cypriots are cock-a-hoop at his discomfiture." The EU action "seems destined to make matters worse.").

255. DODD, *supra* note 215, at 92.

256. Heinz-Jürgen Axt, *The Island of Cyprus and the European Union*, in CYPRUS: THE NEED FOR NEW PERSPECTIVES 174, 176-77 (Clement H. Dodd ed., 1999).

257. *Id.* at 177. One commentator offered harsh criticisms of Greece's bargaining, arguing that the EU should have made resolution of the Greek-Turkish dispute on Cyprus a condition to Greece's original accession in 1981. Reginald Dale, *Lapse by EU Creates a Trojan Horse*, INT'L HERALD TRIBUNE, Oct. 31, 1997, at 13 (explaining that "[m]ost EU governments have long since regretted admitting Greece in 1981 - and not just because of Cyprus. Under its late leader, Andreas Papandreou, Athens milked the coffers of the Union and contributed virtually nothing but a sullen attitude.").

258. Axt, *supra* note 256, at 178. This decision was confirmed at the European Council in Cannes in June 1995. For explanation of the Greek veto and the underlying objections, see *European Union: Veto Mania*, ECONOMIST, Feb. 18, 1995, at 48.

259. *EU Forges Landmark Deal for Customs Link to Turkey*, INT'L HERALD TRIB., Mar. 4, 1995. The article explains that "[t]he agreement has been a major goal of the European Union, which increasingly regards poverty and the rise of Islamic fundamentalism in the Middle East and North Africa as the biggest threat to European security." *Id.*

Richard Holbrooke, the U.S. diplomat who negotiated the Bosnia peace agreement in 1995, announced soon thereafter that he hoped to "make 1996 the year of the big push on Cyprus."<sup>260</sup> U.S. President Bill Clinton targeted improvement in the Cyprus conflict as a key to defusing tensions between Turkey and Greece that threaten the integrity of NATO and the stability of all of southern Europe and the eastern Mediterranean.<sup>261</sup> Soon, however, a dispute over a tiny islet inhabited only by goats pressed Turkey and Greece to the verge of war.<sup>262</sup> Holbrooke confirmed that the crisis had taken the two NATO allies to the brink, before mediation resolved the dispute.<sup>263</sup> EU representatives traveled to northern Cyprus to encourage cooperation between the two sides of the island, but cooperation in confidence-building measures between the two communities failed.<sup>264</sup>

In the second half of 1996, tensions rose again, with deadly violence on the cease-fire line, as two Greece Cypriots were killed in two separate incidents in August.<sup>265</sup> The UN reports condemned the "deteriorating situation" in Cyprus, noting the violence along the cease fire line had reached a level not seen since 1974.<sup>266</sup>

In 1997, the talks continued in various locations, and the Security Council reiterated its plea for all sides to continue with the negotiations, to reduce the high levels of military spending and number of foreign troops on the island, and to implement reciprocal measures for reducing tension along the cease-fire lines.<sup>267</sup> Under Holbrooke's leadership, Clerides and Denktas met in New York in July and agreed to continue

260. Michael Dobbs, *Holbrooke Shifts Targets: Now He'll Tackle Cyprus*, INT'L HERALD TRIB., Dec. 20, 1995.

261. Thomas W. Lippman, *Clinton Seeks End to Cyprus Stalemate*, INT'L HERALD TRIB., June 19, 1996.

262. John K. Cooley, *U.S. Discovers the Hazardous Politics of the Aegean*, INT'L HERALD TRIB., Feb. 13, 1996. *See also Sad Cyprus*, ECONOMIST, Aug. 24, 1996, at 12 (explaining that the two sides "nearly went to war over a few rocks in the Aegean little bigger than the limpets that live on them.").

263. *Greek-Turkish Crisis Over a Tiny Island Forces U.S. to Alter Mission*, INT'L HERALD TRIB., Feb. 1, 1996.

264. Axt, *supra* note 256, at 178.

265. *Cyprus Impasse*, INT'L HERALD TRIB., Aug. 29, 1996.

266. Press Release, United Nations Security Council, Security Council Extends Mandate of UNFICYP Until 30 June 1997, U.N. Doc. SC/6307 (Dec. 23, 1996). The press release reiterates the UN's grave concern about excessive levels of expansion and modernization of the military forces in Cyprus as well as violent incidents causing Greek and Turkish Cypriot deaths and injuries. *Id.*

267. Press Release, United Nations Security Council, Security Council Extends Cyprus Mission Until 30 June 1998, U.N. Doc. SC/6460 (Dec. 23, 1997). The press release states that "[t]he Council reaffirmed its position that a Cyprus settlement must be based on a State of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities as described in relevant Security Council resolutions, in a bi-communal and bi-zonal federation." *Id.*

talking in August in Geneva.<sup>268</sup> At the New York meeting, a creative concept emerged. A joint statement drafted for the conference proposed a settlement based on a State of Cyprus with single sovereignty and international personality—notably not titled the Republic of Cyprus—and providing that the State's one, indivisible sovereignty “emanates equally from the Greek Cypriot and Turkish Cypriot communities.”<sup>269</sup> The Greek Cypriots fiercely opposed it, and after the European Union announced that Greek Cyprus' accession would go forward regardless of the outcome of the talks, the negotiations degenerated.<sup>270</sup> Ultimately, Denktas walked out of the negotiations in Switzerland, insisting that the TRNC be treated on an equal footing with the Greek Cypriots.<sup>271</sup>

When the December 1997 Luxembourg Summit included Cyprus in the first group of accession applicants to open enlargement negotiations, to the exclusion of Turkey, all dialogue with the European Union halted abruptly.<sup>272</sup> Turkish-TRNC leaders issued their joint declaration proposing northern Cyprus' gradual integration into Turkey, rather than into the European Union.<sup>273</sup> The joint statement denounced the ongoing Cyprus-EU accession negotiations as an “historic mistake” that “will speed up the integration process between the TRNC and Turkey.”<sup>274</sup> Subsequently that year, the two countries signed an Association Agreement to encourage further integration in economic, defense, and foreign policy.<sup>275</sup> The European Union has declared that

268. Philip Gordon, *Cyprus: Divorce Could Precede Reconciliation*, INT'L HERALD TRIB., July 24, 1997, at 8. See also Celestine Bohlen, In 'Signal of Hope,' Greeks and Turks Take Wary Step to Better Ties, INT'L HERALD TRIB., July 22, 1997, at 5 (explaining that calmer voices were being heard in both Turkey and Greece, as the combative Andreas Papandreou was succeeded by the low-key Costas Simitis and the pro-Islamic Necmettin Erbakan was succeeded by the center-right, pro-European Mesut Yilmaz).

269. Draft Joint Statement by the Leader of the Greek Cypriot Community and the Leader of the Turkish Cypriot Community (Troutbeck, 12 July 1997) & 2c.

270. DODD, *supra* note 215, at 102.

271. See *Keep on Trying*, ECONOMIST, July 24, 1999 (explaining that the idea is not that far from the loose federation that Clerides would accept but the Greek Cypriots are reluctant to give the TRNC any form of recognition).

272. Hans van den Broek, *Europe's Expander*, ECONOMIST, June 6, 1993, at 54. See Philip H. Gordon, *Turkey Overreacts, but the EU Is Not Blameless*, INT'L HERALD TRIB., Dec. 20, 1997, at 6 (explaining that the Turkish Prime Minister Mesut Yilmaz stormed out of the summit, as Turkey threatened to renounce the Customs Union, annex the TRNC, and “veto NATO enlargement.”); see also Barry James, *Turkey Is Rejected for EU Membership; Amid Signs of Showdown on Cyprus, Ankara Ends Political Dialogue*, INT'L HERALD TRIB., Dec. 15, 1997, at 1 (explaining that in the TRNC, Denktas complained that the EU decision had “helped destroy the established framework for a settlement in Cyprus.”).

273. *Regular Report From the Commission on Turkey's Progress Toward Accession*, in A. Introduction b) Relations between the European Union and Turkey, Historical Background and Recent Development 5 [hereinafter *Regular Report on Turkey's Progress*].

274. *Id.* § 1.3.

275. *Id.*



the proposed integration is "incompatible with international law as expressed in the relevant UN resolutions."<sup>276</sup>

Further complicating the conflict, the TRNC has refused to participate in the accession negotiations between the Republic of Cyprus and the European Union.<sup>277</sup> Although Mr. Denktas does not oppose accession involving the Greek Cypriots, since December 1997 he has refused to meet with EU representatives, considering accession to involve Greek Cypriots only.<sup>278</sup> The European Commission faults the Turkish Cypriots' intransigence for the continuing delay in Cyprus' accession negotiations, though such a divided polity hardly represents a fertile ground for collaboration.<sup>279</sup>

Throughout 1998, Holbrooke "tried and failed to revive talks between the two parts of the fractured island."<sup>280</sup> When the talks broke down, he complained that he had been unable to make progress in three days of mediation, observing that Turkish Cypriot demands made "meaningful exchange" impossible.<sup>281</sup> The Turkish Cypriots had demanded that their country be recognized as an independent state and that EU membership talks with Greek-controlled Cyprus be canceled.<sup>282</sup> A month later, conflict threatened again as both Greek and Turkish fighter jets were dispatched to the island.<sup>283</sup> Thus, new disputes fanned the flames of the typical antagonisms, sufficient to scuttle Holbrooke's efforts at shuttle diplomacy.<sup>284</sup>

Later in 1998, Turkey became alarmed about Russian missiles en route to Greek Cyprus.<sup>285</sup> Turkey threatened to bomb any installation of the missiles, and the Greek Cypriots avoided the conflict by canceling the installation.<sup>286</sup> Clerides, under intense international pressure,

276. *Id.*

277. *Id.*

278. *Id.*

279. *Regular Report on Cyprus*, § 1.3. The Regular Report on Cyprus noted that "because of the political situation . . . the 'acquis' (screening) could not cover Cyprus as a whole and . . . [i]t regretted that it had not been possible to achieve a political solution to the continuing division of Cyprus in time for the accession negotiations." *Id.* (quoting the General Affairs Council in Luxembourg on October 5.)

280. *Cyprus. Too Late, Perhaps*, *ECONOMIST*, Jan. 9, 1999, at 46.

281. *U.S. Envoy Drops Talks On Reunifying Cyprus*, *N.Y. TIMES*, May 5, 1998, at A16.

282. *Id.*

283. *Politics This Week*, *ECONOMIST*, June 20, 1998, at 4. *Greece Sends Warplanes to New Base on Cyprus*, *N.Y. TIMES*, June 17, 1998, at A11 (reporting that six Greek F-16 fighter jets and a C-130 transport arrived on June 15, 1998, at the newly constructed air base in Western Paphos).

284. See DODD, *supra* note 215, at 111 (providing an in-depth description of events and negotiations).

285. Stephen Kinzer, *Greek and Turkish Jets Lead New Round of Cyprus Tension*, *N.Y. TIMES*, June 20, 1998, at A5.

286. Stephen Kinzer, *Politically Weak at Home, Turks Flex Muscles Abroad*, *N.Y. TIMES*, Jan. 10, 1999, at 9. The United States and other European countries pressured Cyprus as well. *Id.*

defused the crisis by deciding not to install the Russian missiles, but hopes for progress were quashed by Denktas' insistence that his government be recognized as a sovereign state before negotiations begin.<sup>287</sup> While the two positions were not that far apart on paper, both parties were psychologically miles apart.<sup>288</sup>

The European Commissioner for External Relations, Hans van den Broek, praised the Cypriot decision not to install the missile system and then chided Turkey to contribute to the resolution of the conflict.<sup>289</sup> Van den Broek then "expressed satisfaction" on progress of the Cyprus accession negotiations and "reiterated the offer to the Turkish Cypriot community . . . to join the Cypriot delegation negotiating EU accession."<sup>290</sup>

In that same year, Denktas suggested a confederation of the island's two parts that would end the partition, but both Greek Cyprus and Greece rejected it.<sup>291</sup> The UN efforts at negotiating a resolution to the impasse involved further shuttle diplomacy between the two sides, generally promoting the 1992 UN "set of ideas" with its "framework for a bizonal, bicommunal federation. . . ."<sup>292</sup>

In 1999, the Greek Cypriot government proposed demilitarizing the island with the deployment of an international peace force on the island.<sup>293</sup> Turkish Cypriots condemned the suggestion as "political hypocrisy" because it was the Greek Cypriots who were militarizing the island.<sup>294</sup> Subsequently, Greek officials offered to lift objections to Turkey's EU membership if the European Union would permit Cyprus' accession without first requiring a settlement of the divided island,<sup>295</sup> and days later Turkish Prime Minister Ecevit proclaimed at a rally in northern Cyprus that the island could never be reunited.<sup>296</sup>

At the Security Council's initiation in December, proximity talks were convened in New York.<sup>297</sup> The Helsinki European Summit expressed strong support for the effort and then issued the significant decisions breaking the dead-lock on Turkey's accession negotiations and

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287. *Cyprus. Too Late, Perhaps*, *supra* note 280, at 46.

288. *Cyprus. Can the Circle be Squared?*, *ECONOMIST*, Feb. 21, 1998, at 52.

289. *EU/Cyprus: Union Seeks Gesture From Turkey*, Europe Information Service, European Report, Feb. 3, 1999, available in LEXIS, Nexis Library; Europe; EURRPT File.

290. *Id.*

291. *Politics This Week*, *ECONOMIST*, Sept. 5, 1998, at 4.

292. *UN Envoy to Cyprus Resumes Shuttle Talks*, *AGENCE FRANCE PRESSE*, Feb. 4, 1999.

293. *Turkish Cypriots Reject Proposal for International Peace Force*, *AGENCE FRANCE PRESSE*, Feb. 5, 1999.

294. *Id.*

295. *Greece Offers Deal For Turkey in EU*, *INT'L HERALD TRIB.*, July 13, 1999, at 7.

296. *Ecevit Bars a United Cyprus*, *INT'L HERALD TRIB.*, July 21, 1999, at 6. (explaining that a loose confederation might be possible, however).

297. 2000 COMMISSION ON TURKEY'S PROGRESS TOWARDS ACCESSION REGULAR REP., at 20.

freeing Cyprus for advancement as well.<sup>298</sup> Further rounds of talks continued throughout 2000, with “encouraging signs that the two sides were engaging in substantive discussion.”<sup>299</sup>

#### IV. CURRENT CLIMATE OF RAPPROCHEMENT

Unexpected events in 1999 and 2000 contributed to a stunning shift in relations between Greece and Turkey,<sup>300</sup> presenting what one commentator described as “an unprecedented combination of favourable circumstance to resolve the [Cyprus] dispute” and “a historic window of opportunity for reconciliation.”<sup>301</sup> Typically tense Greek-Turkish relations flared in February 1999, over Greece’s harboring of a notorious Kurdish terrorist,<sup>302</sup> but by year’s end Greece had dropped its veto of

298. See *supra* text accompanying note 28.

299. REGULAR REP. ON CYPRUS, *supra* note 203, at 21-22. See also, *A New Route?*, ECONOMIST, July 15, 2000 (The proximity talks produced a “limp agreement to meet again” but the leaders agreed to consider “thoughts” about how a settlement can be reached,” covering the same issues the two sides have disagreed over for decades: how to make the Turkish Cypriots feel secure, how much land to restore to the Greek Cypriots, and how to fashion a weak central government after partition ends). The Secretary-General’s Report to the Security Council in December 2000 noted the several meetings of Clerides and Denktas and others, and observed a generally stable situation along the cease-fire line. *Report of the Secretary-General on the United Nations operation in Cyprus*, ¶¶ 2, 16, U.N. Doc S/2000/1138 (Dec. 1, 2000).

300. Kerin Hope, *Dramatic Shift in Relations Between Old Enemies*, FIN. TIMES, Dec. 21, 1999, at 1. (“It would be hard to imagine a more dramatic shift taking place in relations between the old enemies Greece and Turkey.”). While Greece has been a prospering member of the European Union for years, Turkey’s aspiration to join the European Union combines with its strategic position in the region to warrant careful attention to its current evolution. “The critical geopolitical position of Turkey between Europe and the Middle East, between the West and the growing natural resource economies of Central Asia, is by now a cottage industry unto itself in post-Cold War scholarship.” Barry Bartmann, *The Quest for Legitimacy: International Status of the Turkish Republic of Northern Cyprus*, in CYPRUS, A NEED FOR NEW PERSPECTIVES 260, 279 (Clement H. Dodd ed., 1999). See also *A Turkish Move into Central Asia*, ECONOMIST, Nov. 25, 2000, at 56 (Recent Turkish dealings with Uzbek leaders, for military arms and training, could shift the balance of power in this vast area. The United States, hoping to stem Iranian and Russian influence in the region, is delighted at Turkey’s advances, but the instability and potential for conflict must cause worry to observers.); *Iraq Resumes Oil-Flow to Turkey, but Not Exports: Officials*, AGENCE FRANCE PRESSE, Dec. 5, 2000 (oil flows from Iraq through pipelines to Turkish ports).

301. Leyla Boulton & Kerin Hope, *Omens Good for Greek-Turkish Links*, FIN. TIMES, June 6, 2000, at 3. Commentators termed recent military cooperation between the two former enemies as “dramatic evidence of the recent rapprochement between the two neighbouring countries.” *Id.* (emphasis added).

302. The discovery that Greek diplomats sheltered Turkey’s most notorious fugitive, Kurdish terrorist Abdullah Ocalan, caused a stir in Turkey. Stephen Kinzer, *In Snatching a Fugitive Rebel, Ankara Wins Opportunities on Several Fronts*, N.Y. TIMES, Feb. 17, 1999, at A6. See also Stephen Kinzer, *Turkey and Greece Trade Words Over Kurd*, N.Y. TIMES, Feb. 22, 1999, at A12. (Turkish president calls Greece an “outlaw state” which “should be added to the list of countries which support terrorism and harbor terrorists.”). *Id.*

Turkish candidacy to the European Union, a watershed event in itself, and the two traditional rival countries were exchanging confidence-building promises of cooperation.<sup>303</sup> Five accords, on matters from culture to maritime safety, were signed as collaboration between the traditional rivals.<sup>304</sup> In early 2000, the countries' foreign ministers made official visits to each other's capitals, the first of a Turkish Foreign Minister to Athens in forty years.<sup>305</sup> Then, in an event with powerful symbolism, Turkish fighter jets landed in Greece for NATO exercises in May 2000, the first time Turkish aircraft have ever been in Greece.<sup>306</sup> In June, Turkish marines landed on a Greek beach as part of NATO exercises.<sup>307</sup> In September 2000, cooperation continued as the Turkish military Chief of Staff attended NATO talks in Athens, while a prominent Greek banker was in Istanbul finalizing a huge private equity fund for investment in Turkish companies.<sup>308</sup>

This unexpected diplomatic reversal was caused by an intersection of fortuitous and calamitous events. First, in both countries, foreign ministers with moderate approaches and compatible personalities came to power.<sup>309</sup> Second, massive earthquakes struck both Greece and Turkey, generating a spontaneous outpouring of sympathy between the two countries and each side sending assistance to the other.<sup>310</sup> Finally,

303. Hope, *supra* note 300, at 1.

304. See *infra* text accompanying notes 324-27.

305. Leyla Boulton, *Çem's Visit Set to Bolster Growing Links with Athens*, FIN. TIMES, Feb. 4, 2000, at 3. ("The rapprochement between two old enemies takes another step forward . . . when Ismail Çem, the Turkish foreign minister, begins the first official visit to Greece by a Turkish foreign minister in 40 years."). In January 2000, Greece's foreign minister, George Papandreou, had visited Turkey, as part of "dramatic improvements in Turkey's relationship with Greece and the European Union in general." *Id.*

306. *Greece: Turkish Warplanes Arrive*, N.Y. TIMES, May 20, 2000, at A4.

307. Boulton & Hope, *supra* note 301, at 3.

308. Leyla Boulton, *Lure of Joining EU Focuses Cypriots' Minds on Reunification*, FIN. TIMES, Sept. 12, 2000, at 3.

309. *Proximity Talks*, FIN. TIMES, Dec. 3, 1999, at 13 ("[R]elations have improved between Greece and Turkey, largely thanks to good personal contacts between their foreign ministers.").

George Papandreou, Greece's affable foreign minister, has been flying around EU capitals in search of a deal. Helped by his soft approach and by a swing in Greece's public mood from hostility to sympathy after two terrible earthquakes in Turkey (and another in Greece), the two countries, so long riven with enmity, are—for the moment—getting along much better than usual.

*Talks About Talks*, ECONOMIST, Dec. 4, 1999, at 3. Papandreou and Turkish Foreign Minister Çem have provided the momentum for the recent warming of relations, following a letter from Çem in June 1999 recommending a course of pragmatic rapprochement. Douglas Frantz, *Despite Turkish-Greek Thaw, Cyprus Quarrel is Not Melting*, N.Y. TIMES, Dec. 18, 2000, at A8.

310. *Proximity Talks*, *supra* note 309, at 3. The "outpouring of sympathy towards Turkey after a devastating earthquake last August, helped soften Greek hostility and secure Turkey's status as a candidate for EU membership." Boulton, *Çem's Visit to Bolster Growing Links with Athens*, *supra* note 305, at 3.

on a broader, systemic level, the end of the Cold War has positioned major world powers better to push for resolution of this crisis.<sup>311</sup>

The timing was also good because warmer relations served the interests of all three of the principal countries. Greek reconciliation with its former foe would “remove a significant obstacle to foreign investment” and give Greece more credibility as a member of the euro-zone.<sup>312</sup> Reducing the enormous military defense spending in both Turkey and Greece will yield substantial fiscal benefits as well.<sup>313</sup> Timing is also good for the two sides on Cyprus to work together. First, the economy of the South is booming and the North would benefit from economic interchange, and second, the threat of *enosis* is now seriously lessened, as the political elite of the South have abandoned that goal.<sup>314</sup>

The immediate benefits of the rapprochement to Turkey and Cyprus are more dramatic and direct because the change of Greek policy has opened the way for the accessions of both countries to the European Union.<sup>315</sup> The ultimate trigger at Helsinki for creating this opportunity was Greece’s decision to abandon its veto and permit Turkey’s candidacy. Decoupling Cyprus’ accession from Greek-Turkish bilateral issues, the Helsinki leaders agreed that Cyprus could enter the European Union without a political settlement of its division.<sup>316</sup> This became possible when the new Greek government under Prime Minister Costas Simitis and Foreign Minister George Papandreu reversed that country’s position on Turkey, urging that the only way to resolve their long standing controversies was to “deal with Turkey as an equal partner in the Union.”<sup>317</sup> The Greek Foreign Minister commented that the Helsinki Summit decision to accept Turkey as a candidate was “a historic shift towards peace, security and development in our region.”<sup>318</sup> Papandreu publicly explained his country’s bold reversal of policy:

311. HAMPSON, *supra* note 187, at 36. In particular, the United States and NATO are less preoccupied with preserving workable relations in NATO’s southern flank of Greece and Turkey, so more pressure can be brought against these two patron powers to resolve their differences. *Id.*

312. Boulton & Hope, *supra* note 301, at 3.

313. “Fear of Turkey burdens Greece with the highest per capita defence spending in the western alliance.” *Id.* Greece’s military spending is huge at almost five percent of GDP, but both Turkey and Greece have been in an arms race for past decade, so benefits would accrue to both countries. Hope, *supra* note 300, at 1.

314. HAMPSON, *supra* note 187, at 45.

315. See *supra* text accompanying notes 1-6.

316. Hope, *supra* note 300, at 1. (“The outcome at Helsinki may give a boost to a new round of ‘proximity talks’ . . . between the divided Cypriot leaders. Warming relations between the parent countries would at least make the UN mediators’ task easier and could perhaps become a catalyst for a settlement.”).

317. Dick Leonard, *Finnish Presidency Ends in Success*, EUROPE, Feb. 2000, at 4. (“This is perhaps an echo of the French leap of faith fifty years earlier when it sought détente with Germany through their joint membership of the European Coal and Steel Community, the forerunner of the European Union.”).

318. Leyla Boulton, *Delighted Turks Face Some Big Adjustments*, FIN. TIMES, Dec. 13, 1999, at 10. (Importantly, it also marked the ‘basis for a new relationship.’).

With the harrowing war in Kosovo still fresh in our memories, the Greek people are critically aware of the importance of good neighborly relations. We believe that our neighbor's strength is our strength. To exclude a country from the full benefits of international society is a sure path to the kind of crises we have faced for too long in Southeast Europe.<sup>319</sup>

Papandreou expressed his belief that the only choice was for Turkey and Greece to "explore new avenues for cooperation [so that] [o]ur mutual interests can outweigh our political differences."<sup>320</sup> Thus, he proclaimed, Greece has initiated a new policy of constructive dialogue and openness with Turkey, and he praised Turkish Foreign Minister Çem's statements promising to resolve their territorial disputes according to international law and work toward the Agenda 2000 accession criteria.<sup>321</sup> Papandreou recommended a diplomatic solution for the Cyprus conflict, based on UN decisions, and EU accession as "the best way to guarantee progress on the Cyprus issue."<sup>322</sup> Papandreou went further, calling on the European Union to make an "unequivocal commitment to Turkey's European future."<sup>323</sup>

Papandreou's strategy was to initiate bilateral cooperation with a series of accords on low-key issues, in such uncontroversial areas as culture, environment, and trade, avoiding potentially more divisive issues such as mineral rights and island sovereignty in the Aegean.<sup>324</sup>

The strategy proved effective. In January 2000, he and Çem met in Ankara to sign several accords, in what Çem described as "a successful beginning toward a new era in relations" between two countries.<sup>325</sup> The accords protect investments in the two countries from double taxation and promote cooperation in environmental and tourism matters and against organized crime and illegal immigration.<sup>326</sup> Papandreou and Çem have deliberately focused on low-key, practical steps of cooperation and confidence building in signing the five accords.<sup>327</sup>

During the same period, Turkish President Süleyman Demirel led a national campaign, encouraging his countrymen to donate blood and to help find bone marrow donors for two children, one a Greek Cypriot and

319. George Papandreou, *Greece Wants Turkey to Make the Grade*, INT'L HERALD TRIB., Dec. 10, 1999, at 8. ("The heart of the European ethos lies in building the institutions and practices of inclusiveness.")

320. *Id.*

321. *Id.*

322. *Id.*

323. *Id.*

324. Hope, *supra* note 300, at 1.

325. Stephen Kinzer, *As Relations Warm, Greece and Turkey Sign Series of Accords*, N.Y. TIMES, Jan. 21, 2000, at A3 ("Four years after Greece and Turkey went to the brink of war over a barren islet in the Aegean Sea, their foreign ministers met here [in the Turkish capital] to sign a series of accords and pledge themselves to peace."). *Id.*

326. *Id.*

327. Boulton, *Çems Visit Set to Bolster Growing Links with Athens*, *supra* note 305, at 3.

the other a Turkish Cypriot, who suffer from leukemia.<sup>328</sup> In what could only build good will, thousands of Greek and Turkish Cypriots have given blood in the general campaign to find marrow matches for these children.<sup>329</sup>

In Turkey, the good news from Helsinki of Turkey's acceptance into the EU accession process brought further encouraging signs. The Istanbul stock market "jumped an initial 11 percent, reflecting optimism over [the] launch of a reform package backed by a \$4bn loan facility from the [IMF] which the country hopes will finally rid the country of double-digit inflation."<sup>330</sup> Fueling the good feelings was the success of the current coalition government in passing 131 laws since it took office in April 1999.<sup>331</sup> "Turkey's hard won acceptance as a full candidate for membership of the EU is prompting Turks to address festering problems at home and abroad. These range from the Kurdish guerilla war to the thirty-six year old division of Cyprus between Greek and Turkish Cypriots."<sup>332</sup> "[T]he incentive of eventual EU membership has provided reformers with the most powerful weapon for change they could have hoped for."<sup>333</sup>

Other government initiatives illustrate that Turkey is taking modern reforms seriously. For example, in December 1999, the government took over five troubled private banks, significant because it demonstrates the government efforts to consolidate the undercapitalized banking sector as a part of its program to reduce the gross annual inflation rate, as well as to push through reforms in spite of political ramifications, as one of the banks was owned by a nephew of President Demirel.<sup>334</sup> In May 2000, the government again acted to enforce its

328. Leyla Boulton, *Turkish Tyre Workers End Strike*, FIN. TIMES, May 9, 2000, at 2.

329. *Id.* For example, on March 27, 2000, hundreds of Turkish Cypriots entered the UN buffer zone to give blood "in the hope of providing a life-saving bone marrow transplant for a Greek Cypriot boy, raising hopes that the two peoples could draw closer." *Cyprus: 25 Years of Uneasy Calm and Failed Negotiations*, AGENCE FRANCE PRESSE, Apr. 14, 2000.

330. Leyla Boulton, *Turkey Indulges in Rare Feelgood Spirit*, FIN. TIMES, Jan. 5, 2000, at 3. The IMF subsequently raised the assistance package to ten billion dollars, in response to a late 2000 financial crisis. Dani Rodrik, *Turkey Deserves its Dollars 10bn*, FIN. TIMES, Dec. 7, 2000, at 25. The World Bank added five billion dollars to help Turkey survive its late 2000 emergency. *Turkey's Escape*, FIN. TIMES, Jan. 12, 2001, at 16.

331. Boulton, *Turkey Indulges in Rare Feel Good Spirit*, *supra* note 330, at 3 (including "better regulation of capital markets and limits on officials' immunity from prosecution for torture and other crimes."). The current government, in power since 1999, is "an unlikely-looking alliance of a leftish prime minister, Bulent Ecevit, the conservative Mr. Yilmaz and a hard-nosed right-winger, Devlet Bahceli of the Nationalist Action Party, [and] has given Turkey its most stable administration in years." *The Battle-Lines in Turkey*, ECONOMIST, Jan. 13, 2001, at 47.

332. Boulton, *supra* note 330, at 3.

333. *Id.*

334. Leyla Boulton, *Turkey Takes Control of Five Private Banks*, FIN. TIMES, Dec. 23, 1999, at 7.

economic reforms, ordering a sixty-day halt to a strike by the country's three thousand tyre workers, sending a message to public sector workers to limit their demands as the country attempts to bring inflation down to single digits by 2003.<sup>335</sup>

In November 2000, progress continued as the World Bank offered to work closely with Turkey's newly established anti-corruption ministry, addressing European Commission calls for an overhaul of public procurement and other areas of fiscal integrity as a prerequisite for widening the EU-Turkey customs union.<sup>336</sup> The interior ministry has waged "an unprecedented war on corruption . . . in which entire gangs have been arrested, and some very big fish netted."<sup>337</sup> "Almost a year into an ambitious three-year disinflation programme, confidence remains high that economic reforms launched this January will stabilise public finances and enhance growth and investment."<sup>338</sup>

Commentators praised the IMF's decision to provide further loans to Turkey in late 2000, noting that the government had put into place "many structural reforms, including privatisation and financial restructuring."<sup>339</sup> The IMF also hailed the accelerated Turkish reform, including the adoption of "legislation liberalising the state-dominated energy sector and the official go-ahead for 29 long-delayed private energy investment projects."<sup>340</sup>

The OECD observed in its January 2001 survey that Turkey's late 2000 financial trauma made reform policies stronger, "due to renewed momentum that has been given to the structural reform programme."<sup>341</sup> In its most recent progress report on Turkey's efforts toward accession, the European Union concluded that "considerable progress" had been achieved toward the economic criteria for accession.<sup>342</sup> The lowest inflation rate since 1986, a strong annual growth rate, modest but successful privatization, reforms in various sectors, and anti-corruption efforts suggest economic and political progress.<sup>343</sup> Prime Minister

335. Boulton, *Turkish Tyre Workers End Strike*, *supra* note 328.

336. Leyla Boulton, *Aid for Turkish Push on Corruption*, *FIN. TIMES*, Nov. 20, 2000, at 4.

337. *The Battle-Lines in Turkey*, *supra* note 331, at 47.

338. *Turkey: Banking Finance and Investment: On Target for an Economic Turnaround*, *FIN. TIMES*, Nov. 20, 2000, at 1. *But see infra* text accompanying notes 342-45 (explaining that the economy struggles through catharsis of the reforms).

339. *Last Chance for Turkey*, *FIN. TIMES*, Dec. 22, 2000, at 14. Even the state-owned alcohol and tobacco monopoly has been reformed. Leyla Boulton, *Turkey Acts on Raki Monopoly*, *FIN. TIMES*, Jan. 13, 2001, at 5.

340. Leyla Boulton, *IMF Hails Turkish Reform Ahead of New Loan Tranche*, *FIN. TIMES*, Jan. 22, 2001, at 2.

341. Leyla Boulton, *Turkey Praised for Tightening Policies after Financial Crisis*, *FIN. TIMES*, Jan. 12, 2001, at 3.

342. *Turkey: Banking Finance and Investment: On Target for an Economic Turnaround*, *supra* note 338, at 1.

343. *Id.* The improvements must continue to produce a "fully functioning market economy in which prices, as well as trade, are liberalised, and an enforceable legal system



Ecevit's 2001 National Programme for EU accession, his strategy for leading the country toward the accession criteria, has been called by one official "the most important project since Ataturk's revolutionary reforms of the 1920s and 1930s."<sup>344</sup> U.S. President George W. Bush underscored the importance of the gains Turkey has achieved in economic reforms, as he gave assurances of U.S. support during the February 2001 devaluation of the lira.<sup>345</sup>

In the field of human rights, again modest progress appears to have been made, though some pessimistic reports continue.<sup>346</sup> Abdullah Ocalan has not been executed, Turkey's justice minister has promised that the death penalty itself will be abandoned soon, and the deaths "in police custody and under suspicious circumstances have all but ceased."<sup>347</sup> Turkish officials announced in late 2000 that some twenty thousand prisoners would be released as part of reforms of the prison system.<sup>348</sup> In another positive sign, a military court unanimously acquitted an author of charges she had insulted the military by publishing a book critical of the Kurdish war.<sup>349</sup> Cem insists that progressive legislation, "such as a new civil code enshrining equal rights for men and women, is already in front of Parliament."<sup>350</sup>

A surprising sign of stability in Turkey's present coalition and new cooperation among Turkey's political parties emerged from the presidential elections in Spring 2000. Following the refusal of the Turkish Parliament to approve the Ecevit government's proposal for a constitutional amendment to allow the incumbent president Demeril to serve another term, many people feared instability.<sup>351</sup> Surprisingly, Ecevit "won the support of all [the political] parties" for his fall-back nominee to succeed to the presidency, Necdet Sezer, the secular chief

is in place." *Id.* A banking crisis arose in December 2000, forcing the government to finally "offer private investors management control over Türk Telekom, the most important state-owned enterprise slated for privatisation." Leyla Boulton, *Turkish Talks on Bank Crisis With IMF Begin*, FIN. TIMES, Dec. 4, 2000, at 8.

344. *The Battle-Lines in Turkey*, *supra* note 331, at 48.

345. Leyla Boulton & Richard Wolffe, *Bush Offers Ecevit Backing as Lira Falls*, FIN. TIMES, Feb. 24, 2001, at 2.

346. *Darker Clouds, a Few Gleams Yet*, ECONOMIST, Nov. 4, 2000, at 48. The most encouraging development for many Turks was the election of Ahmet Necdet Sezer as Turkey's new President. Mr. Sezer has called for numerous democratic reforms. *Id.*

347. *Id.* "Few believe [Ocalan] will be hanged," and his trial was described by commentators as "largely fair and free" at least partially because military judges were removed from the court. *The Battle-Lines in Turkey*, *supra* note 331, at 47.

348. *Turkey: 20,000 Go Free*, N.Y. TIMES, Dec. 29, 2000, at A8.

349. Douglas Frantz, *Turkish Journalist Cleared of Insulting Army*, N.Y. TIMES, Sept. 30, 2000, at A7.

350. Leyla Boulton, *Turkey Plans New Push on EU Accession*, FIN. TIMES, Sept. 19, 2000, at 3.

351. Stephen Kinzer, *Turkey's Highest-Ranking Judge Is Likely to Be Next President*, N.Y. TIMES, Apr. 26, 2000, at A7.

judge of the country's constitutional court.<sup>352</sup> "This unique show of solidarity," coupled with the present government coalition's longevity, suggests that the country may be willing to make the needed "transition to full democracy by shedding its largely undemocratic and outdated laws."<sup>353</sup>

Following his election, Sezer promised to strengthen the rule of law and secular government during his seven year term.<sup>354</sup> On May 16, in his inaugural remarks, Sezer urged Turkey to modernize, and he proclaimed that "Turks deserved to live in a freer and more prosperous world."<sup>355</sup> Sezer is "an unpretentious new president . . . [who] has warmed millions of Turkish hearts" and is, "for the first time since Ataturk, . . . beating the army in the opinion polls."<sup>356</sup> This inauguration, according to one commentator, "cap[s] a year of extraordinary change . . ." in Turkey.<sup>357</sup> Once in office, Sezer showed mettle quickly when he refused to extend the term of "Turkey's fiercely anti-Islamic chief prosecutor," suggesting more tolerance for the future.<sup>358</sup>

Prime Minister Ecevit has maintained an unusually stable government for two years, "pulling the country out of chaos." For example, the IMF has supported a four billion dollar stabilization program, fostering privatization and decreasing inflation—previously approaching one hundred percent annually—the Turkish Parliament passed the reform program, and the fifteen year old war against the

352. Metin Munir & Vincent Boland, *Sezer Set to Become Turkey's President*, FIN. TIMES, Apr. 26, 2000, at 3.

353. *Id.* The present Turkish coalition formed in 1998 has been surprisingly stable. Devlet Bahçeli, *Turkey's Latest Political Pivot*, ECONOMIST, Oct. 14, 2000, at 64. Turkey's current "coalition government, despite its flaws, is the most stable and reform-minded Turkey has had for years, and deserves support." *Turkey's Troubles*, FIN. TIMES, Dec. 4, 2000, at 14.

354. The Turkish Parliament elected Sezer as President in the final round on May 5, 2000. *Turkey's Parliament Selects Top Judge to Be Country's President*, N.Y. TIMES, May 6, 2000, at A4.

355. Leyla Boulton, *Reformist Sezer Sworn in as Turkey's President*, FIN. TIMES, May 17, 2000, at 3.

356. *The Battle-Lines in Turkey*, *supra* note 331, at 47.

357. Stephen Kinzer, *Turks Have a Sense of a Swing Toward a Fuller Democracy*, N.Y. TIMES, May 15, 2000, at A3. The article notes Sezer's endorsement of free speech, an end to restrictions against the Kurdish language, and the military's subjection to the rule of law. *Id.* See also Ahmet Necdet Sezer, *a Westward-Looking Turk*, ECONOMIST, Nov. 18, 2000, at 64.

Sezer has clearly shown that he is prepared to stand up for democratic values and the rule of law, whether or not the men in uniform like it. He has shown his independence from the military twice rejecting their proposed decrees enabling the government to fire thousands of civil servants accused of political incorrectness regarding Islam or the Kurdish question.

*Id.*

358. *The Battle-Lines in Turkey*, *supra* note 331, at 48.

Kurds has ended.<sup>359</sup> The keystone to the reversal of fortunes was the European Union's decision to overrule its bar of Turkey from negotiations for eventual EU accession, "in a turnaround that thrilled nearly every Turk. . . ."<sup>360</sup> In May 2000, "Turkish enthusiasm for EU membership [was] at an all-time high."<sup>361</sup> A squabble during NATO exercises in October 2000 was smoothed over, and, as the year 2000 ended, tourism had doubled over the previous year and bilateral trade has nearly done the same.<sup>362</sup> Greek Foreign Minister, Papandreou, proclaimed that the countries are closer than they have been in forty years, while insisting that there must be some solution about Cyprus.<sup>363</sup>

Sezer pushed for further reforms as 2001 progressed, confronting Prime Minister Ecevit for insufficient pursuit of corrupt politicians, while "a long-awaited law" on liberalizing Turkey's energy markets finally was enacted by Parliament.<sup>364</sup>

Turks view the dis-inflation program is part of a transition from an introverted, statist and authoritarian past to a liberal, democratic and cosmopolitan future. . . . Reforms that seemed unthinkable even a couple of years ago, such as lifting the ban on teaching and broadcasting in Kurdish, are now the stuff of parliamentary subcommittees and newspaper editorials. In other words, the process of accession has taken on a bureaucratic momentum of its own.<sup>365</sup>

The confrontation between Sezer and Ecevit caused Turkish financial markets to stumble, and the catharsis produced an agreement of cooperation advancing reforms even further.<sup>366</sup> Both government and military leaders agreed to "remove obstacles" to Kurdish language broadcasting and education, as well as to increase the number of civilians on the powerful Security Council.<sup>367</sup> These reforms signal a fundamental change taking place in Turkey, making EU accession plausible.

The critical element of the equation for peace on Cyprus and in the entire eastern Mediterranean may be the energy generated by EU enlargement for Cyprus and Turkey. Some fear the consequences if a Member State would, after all of Turkey's reform efforts to satisfy Western demands, veto Turkey's ultimate accession, the rejection would

359. Kinzer, *Turks Have a Sense of Swing Toward a Fuller Democracy*, *supra* note 359, at A3.

360. *Id.*

361. Douglas Frantz, *This Turk Will Knock on Europe's Door*, N.Y. TIMES, May 2, 2000, at A12.

362. Douglas Frantz, *Cyprus Limits Greece-Turkey Warming*, INT'L HERALD TRIB., Dec. 19, 2000, at 5.

363. *Id.*

364. *Turkey's Future, On the Brink Again*, ECONOMIST, Feb. 24, 2001 at 25. The spirited Sezer "is said to have thrown a copy of the constitution at . . ." Ecevit. *Id.*

365. *Id.* at 26.

366. Leyla Boulton, *Turkey Acts to Salvage Campaign for EU Membership*, FIN. TIMES, Feb. 27, 2001, at 8.

367. *Id.*

"embitter relations for decades . . . endanger the country's hard won democratic stability, and revive old enmities."<sup>368</sup> Reversing today's peaceful cooperation and reverting to ancient hostilities would also cause a calamitous effect on Cyprus: "Any hopes of peace in Cyprus, and defusing the tension with Greece, would be lost."<sup>369</sup> Moreover, Cyprus is one of the most prepared for accession according to the Copenhagen criteria.<sup>370</sup> The European Commission in its 2000 Regular Report<sup>371</sup> on Cyprus' Progress Toward Accession commended Cyprus' progress toward fulfillment of the Copenhagen criteria,<sup>372</sup> concluding that Cyprus has met the political and economic criteria with a democracy that places emphasis on human rights and due process of law and a strong economy.<sup>373</sup> The Commission praised the substantive progress in various key areas of the *acquis*, such as internal market, agriculture, transport, and other requirements.<sup>374</sup>

The division of Cyprus featured prominently in the Commission's report, and it determined that accession would be more inclusive if the Turkish Cypriot delegation would come to the negotiating table, insuring that Turkish Cypriot concerns are included and helping to advance the accession process.<sup>375</sup> The 2000 Regular Report also noted that contacts between the two communities had increased over the past year, including meetings of trade unions, professional groups, media, women's organizations, youth events, and even political party representatives.<sup>376</sup> A recent poll indicated that ninety percent of Turkish Cypriots favor accession to the European Union.<sup>377</sup>

An Accession Partnership between the European Union and the Republic of Cyprus was established by the Council in March 2000, and several Financial Protocols have infused several million dollars of aid to

368. Quentin Peel, *Cultures Collide as Turkey Meets Europe*, FIN. TIMES, Mar. 9, 2000, at 23.

369. *Id.*

370. Cyprus leads the candidate countries in satisfying the *acquis*, with sixteen chapters closed. Dick Leonard, *Enlargement: The "Target Date" Debate*, EUROPE, Sept. 2000, at 4. As one commentator curiously put it: Cyprus is better objectively qualified to join the EU than Greece or Italy. *EU Enlargement*, ECONOMIST, Dec. 18, 1999, available at 1999 WL 29812041.

371. The Commission is required to make regular reports to the Council reviewing each applicant country's progress toward the Copenhagen criteria for accession, and especially its adoption of the *acquis*. 2000 COMMISSION ON CYPRUS' PROGRESS TOWARD ACCESSION REGULAR REP. 5.

372. See Conclusions of the Presidency (Copenhagen European Council, June 1993), BULL. EUR. COMMUNITIES, June 1993, point I.13 [hereinafter 1993 Copenhagen Summit Conclusions].

373. 2000 Regular Report, *supra* note 203 at 93.

374. *Id.* at 90-92.

375. *Id.* at 10.

376. *Id.* at 21. The UN is also urging both communities to cooperate on projects of mutual concern, such as cultural heritage, public health, and natural resources. *Id.*

377. *Id.* at 18.

the island.<sup>378</sup> In September 2000, Cyprus submitted its first National Program for the Adoption of the *Acquis* to the Commission, outlining its strategy for progress to accession.<sup>379</sup>

Thus far, the regional rapprochement has not advanced as well on the specific Cyprus issue. The "proximity talks" between the two communities on Cyprus have continued, but with little progress.<sup>380</sup> In November 2000, at a fifth round of UN-led talks, Kofi Annan offered new suggestions for a federated solution, with the two sides working together in a joint government as a single state.<sup>381</sup> The TRNC rejected the proposals as leading nowhere, and Turkey's Foreign Minister Ismail Çem reacted more strongly, warning that the proposal if implemented could lead to violence between Cyprus' Greek and Turkish communities.<sup>382</sup> Greece, the Greek Cypriots, and the United Nations favor the federal plan, which includes two zones and two communities.<sup>383</sup> Turkish Prime Minister Ecevit also refused the EU recommendation that Turkey support the UN two-zone federation proposal for Cyprus, insisting that membership in the European Union could not be tied to the Cyprus issue.<sup>384</sup>

A week later, Denktas threatened to pull out from the sixth round of talks, unless the United Nations moderated its settlement proposal.<sup>385</sup> The United Nations has agreed to the concept of "two separate states" and even the presence of Turkish troops on the island, but Denktas was angered by proposals suggesting that Greek Cypriots might recover property lost in the 1974 war without mentioning an exchange of property for the Turkish Cypriots as well.<sup>386</sup>

Following the Cyprus talks in November, Turkey advanced its cooperation with EU countries by volunteering substantial military personnel and equipment to the EU's newly forming rapid-reaction defense force.<sup>387</sup> The offer was conditional on Turkey, a strategically

378. *Id.* at 8. This was done by using loans, grants, and risk-capital funds. *Id.*

379. *Id.*

380. *Turkish PM Slams UN Document on Cyprus*, AGENCE FRANCE PRESSE, Nov. 11, 2000 [hereinafter *Turkish PM*].

381. *Id.*

382. *Çem Warns that Annan's Proposals Might Cause Ethnic Unrest in Cyprus*, AGENCE FRANCE PRESSE, Nov. 13, 2000. (The author describes the issue as possibly becoming "an *intifada*, a new Bosnia or a new Kosovo.") (emphasis added).

383. *Turkish PM*, *supra* note 380.

384. Douglas Frantz, *Turkey: Plan For Cyprus Rejected*, N.Y. TIMES, Nov. 14, 2000, at A6. Timing was problematic: the European Commission's insistence that Turkey support the UN proposal as a condition for beginning accession talks came the same day as the UN's new proposal, thus giving some the impression that the EU and the UN were ganging up on the Turks and Turkish Cypriots. Leyla Boulton, *Turk Cypriot Leader May Quit UN Talks*, FIN. TIMES, Nov. 28, 2000, at 2.

385. Boulton, *Turk Cypriot Leader May Quit UN Talks*, *supra* note 384.

386. *Id.*

387. Offering a mechanized brigade of up to five thousand men, thirty-six F-16 warplanes, two transport planes and a small flotilla of ships. Michael R. Gordon, *Turkey Offers Troops for New European Force, With a Proviso*, N.Y. TIMES, Nov. 24, 2000, at A5.

located NATO ally equipped with a large military, receiving in return a responsible role in the force.<sup>388</sup> Turkey's position as a full partner in the consensus-based NATO magnifies this thorny issue because of plans for NATO to work closely with the EU defense force.<sup>389</sup> The European Union has offered an institutional arrangement with NATO to overcome Turkey's concerns, and NATO leaders have assured Turkey of its role as "a major player in the European security equation,"<sup>390</sup> but resolution of the issue was left for later.<sup>391</sup>

The issues are sensitive. In November 2000, a meeting of EU foreign ministers was brought to rapid halt when Papandreou insisted that reference to the Greek-Turkish differences in boundary disputes and on Cyprus be included in a proposed "road map" document for Turkey's EU membership.<sup>392</sup> Turkish officials had warned EU ministers the day before not to include such apparently sensitive references in the accession partnership document or Turkey would "reconsider its position on a number of issues," including the use of NATO assets for the EU defense force.<sup>393</sup>

The complexity of these conflicting relationships makes the problem inscrutable: A sense of betrayal grows in Turkey over the Greek and therefore EU position re-linking the start of Turkey's accession negotiations, while Turkey's veto ability as full NATO member endangered planned progress of the new EU defense force in the eastern Mediterranean.<sup>394</sup> Turkey is one of four NATO countries not in the European Union, and Turkish leaders reacted strongly when the new conditions were added, insisting that only the original Helsinki conditions were legitimate.<sup>395</sup>

Just forty-eight hours before the Nice summit was to open, an eleventh hour accord was struck, "fudging the wording on thorny Cyprus and Aegean issues," thus defusing the tension for progress in cooperation

The offer was the largest offer from a non-EU contributor; Norway pledged thirty-five thousand, Slovakia 450, and Estonia an infantry battalion. Alexander Nicoll, *Turkey's troops on Offer to New EU Force*, FIN. TIMES, Nov. 22, 2000, at 3.

388. Gordon, *supra* note 387. Turkey maintains the largest army in Europe. Leyla Boulton, *NATO Seeks to Reassure Turkey on EU Force*, FIN. TIMES, Nov. 24, 2000, at 3.

389. Nicoll, *supra* note 387.

390. Boulton, *NATO Seeks to Reassure Turkey on EU Force*, *supra* note 388 (quoting George Robertson, Secretary-General of NATO).

391. Nicoll, *supra* note 387.

392. Peter Norman, *Ministers Agree on Aid for Western Balkans*, FIN. TIMES, Nov. 21, 2000, at 10.

393. Leyla Boulton, *Ankara Warns EU Not to Refer to Dispute with Athens*, FIN. TIMES, Nov. 20, 2000, at 4. Turkey has "already agreed to take the boundary disputes to the International Court of Justice by 2004" and argued "that it should not be subjected to different criteria from [the other applicants]." *Id.*

394. Leyla Boulton, *Turks Feel Growing Sense of Betrayal over EU Demands*, FIN. TIMES, Nov. 29, 2000, at 2.

395. *EU-NATO Cooperation Clouded by Turkey's Opposition*, AGENCE FRANCE PRESSE, Dec. 4, 2000. The other three non-EU members of NATO are Hungary, Poland, and the Czech Republic. *Id.*

on the European defense force.<sup>396</sup> Carefully worded adjustments to an existing document addressing the Aegean and Cyprus disputes harmonized it with the Conclusions of the Helsinki Summit, and Greek and Turkish leaders were praised for their cooperation, as Greek Foreign Minister Papandreou proclaimed: "We have opened up a new path and a new road."<sup>397</sup>

The December 2000 French Presidency Conclusions from the Nice Summit urged further collaboration in 2001:

The European Council welcomed and strongly supports the efforts of the United Nations Secretary-General to achieve an overall agreement on the Cyprus problem consistent with the UN Security Council Resolutions and to arrive at a positive conclusion of the process initiated in December 1999. It appeals to all the parties concerned to contribute to the efforts made to this effect.<sup>398</sup>

#### IV. THEORY OF ACCESSION COLLABORATION

The European Union is a unique venture, with no model in history. Only together, through the Union, can we meet tomorrow's challenges.<sup>399</sup>

This Article proposes a new, European based approach to the political and legal dilemma presented by today's divided Cyprus. Current events offer a special moment of opportunity in which the principal parties to the dispute are motivated and situated for breaking the present impasse and for which the European Union may rise to its aspiration as peacemaker, prosperity builder, and world leader. This theory of constructive collaboration emphasizes a pragmatic flexibility in adapting potentially anachronistic and unproductive applications of

396. *NATO Defense Ministers Meet after Last-Minute EU Accord with Turkey*, AGENCE FRANCE PRESSE, Dec. 5, 2000.

397. Peter Norman & Leyla Boulton, *Deal agreed on Turkish Path to EU*, FIN. TIMES, Dec. 5, 2000, at 2. French Prime Minister, Hubert Védrine, called the agreement "a major source of satisfaction," while Enlargement Commissioner Günter Verheugen added that it would "initiate a fundamental democratic change in Turkey" in cooperation with the EU. *Id.*

398. Presidency Conclusions, *supra* note 3, at 14.

399. Presidency Conclusions, Helsinki European Council, Dec. 10 and 11, 1999, Millennium Declaration, Annex I. The unique nature of the EU is frequently noted. The freely chosen integration of autonomous nations is "an experiment without precedent in the history of ideas." William Pfaff, *France and Europe Are Doing Some Things Right*, INT'L HERALD TRIB., June 20, 1998, at 6 (quoting Harvard Professor Joseph Weiler). With unprecedented originality: fluid in structure and substance, hovering between politics and diplomacy, states and markets; "that rarest of all historical phenomena, a studied change of regime. It is the reverse of conquest and quite different both from incremental adjustment, which is the political norm, and from revolution, which is the social equivalent of an earthquake." Brigid Laffan, *The European Union: A Distinctive Model of Internationalisation?*, at <http://eiop.or.at/eiop/texte/1997-018a.html> (quoting DUCHÈNE, JEAN MONNET: THE FIRST STATESMAN OF INDEPENDENCE 20 (1994)).

international law,<sup>400</sup> promoting models of creativity and functionalism, which have evolved from successes in European integration, to be energized with the current impetus of European enlargement.<sup>401</sup>

Reconciliation of the multilayered, deeply embedded conflicts presented in Cyprus and the eastern Mediterranean requires a fresh approach to "political problem-solving beyond the nation state."<sup>402</sup> The successes of regional cooperation around the globe expand the spectrum of theoretical and practical bases for innovative, productive new thinking toward resolving old issues. The advance of European integration, accompanied by similar but more modest progress in Asia and North and South America,<sup>403</sup> has transformed the dialogue and the scope of transnational collaboration. Any serious strategy to confront the Cyprus enigma should accommodate this new political and legal reality.

In today's new context of "debordered governance," states are increasingly embedded within "transnational, supranational and multi-level systems of governance" with political problem solving inseparably bound up with law and lawmaking.<sup>404</sup> The European Union itself is in the middle of inventing a new political form of government, a union of intergovernmental and supranational cooperation, a form without a name, "something more than a confederation but less than a federation in an association of sovereign states which pool their sovereignty in limited areas or to varying degrees."<sup>405</sup> In this way, today's Europe

400. See *infra* text accompanying notes 440-60 (discussing Cyprus and the norms of international law regarding recognition, secession, and self-determination).

401. Accession has often been recommended as a catalyst to promote reform in applicant countries. See, e.g., DODD, *supra* note 215, at 91. But only now, after the Helsinki and Nice summits, is the essential Turkish role in the enlargement equation and the Cypriot conflict situated for movement.

402. Michael Zárn & Dieter Wolf, *European Law and International Regimes: The Features of Law Beyond the Nation State*, 5 EUR. L.J. 272 (1999).

403. Laffan, *supra* note 399, at 1. "The acceleration of internationalisation in the 1990s has profound implications for political and economic order at the international, regional and national levels . . . [and] [o]ne important characteristic of contemporary internationalisation is the increasing prominence of regional organization. . . ." such as NAFTA, APEC (Asia Pacific Economic Co-operation), ASEAN (Association of South East Asian Nations), the Southern Common Market in Latin America, and the "most extensive and intensive form of regionalism"—the EU. *Id.* Africa is the natural situs of eleven regional groups, such as the Central African Economic and Monetary Community, and the Southern African Customs Union. *Afrabet Soup*, ECONOMIST, Feb. 10, 2001, at 77. See also Davis Brown, *The Role of Regional Organizations in Stopping Civil Wars*, 41 A.F. L. REV. 235, 266 (1997) (examining the new regional role in intervening to resolve conflicts, observing that "[t]he newfound acceptance by the international community of regional action to stop civil wars has resulted in the formation of new norms in international law and relations.").

404. Zárn & Wolf, *supra* note 402, at 292.

405. Larry Siedentop, *A Crisis of Legitimacy*, FIN. TIMES, Oct. 24, 2000, at 27. "[L]ess than a superstate but more than an alliance: an unprecedented, unique, and horribly complex combination of the supranational and the intergovernmental, of economic integration and political cooperation." TIMOTHY GARTON ASH, HISTORY OF THE PRESENT 133 (1999).



presents an innovative example of shared sovereignty.<sup>406</sup>

Amid Europe's denationalism today, older "[s]ituations of governance . . . in a postnational setting, have been cast asunder, as the nation state is being incorporated within an interwoven multilevel system."<sup>407</sup> Even the familiar dichotomy between intergovernmental cooperation and supranational institutions has become *passee*, as today's European Union discovers that it "cannot function well unless its own institutions work closely with national governments"<sup>408</sup> as well as other organizations.<sup>409</sup> "The [European Union] is transforming politics and government at both European and national levels into a system of multi-level, non-hierarchical, deliberative and apolitical governance."<sup>410</sup> Thus, evolving new forms gain acceptance and offer models for the flexibility needed today in Cyprus.

The trend in transnational cooperation must also be viewed in context of another evolution relevant to the conflict in Cyprus.<sup>411</sup> Overlapping the broad postnational movement toward regionalism is the concurrent, anomalous rise of sovereign small states, a counterforce reflecting perhaps the culmination of the decolonial period. In recent years, a proliferation of micro-states have won sovereignty, UN membership, and other recognition in the international system.<sup>412</sup>

It may seem premature to speak of the demise of the nation-state when the last decade has seen the proliferation of ever-smaller nation-states throughout Eastern Europe and Asia and the demand for secession from

406. Michael Prowse, *Party's Over for Small States with Attitude*, FIN. TIMES, Mar. 3, 2001 at 24 (comparing Britain's autonomy to that of the state of California).

407. Zárn & Wolf, *supra* note 402, at 272.

408. GRANT, *supra* note 1, at 16. The EU today is "more a quasi-federation of nation states than a quasi-federal state, even if it has some of the characteristics of the latter. . . ." *Id.* at 8. And externally, the EU advocates further innovation, urging Serbia and Montenegro to remain together fashioning a "new constitutional arrangement." *EU Approves February Troika Mission to Yugoslavia*, AGENCE FRANCE PRESSE, Jan. 22, 2001.

409. Offering another example of novel merging of forms is the planned cooperation between NATO and the EU's proposed defense rapid reaction force, in which the two will be "meshed together with a minimum of duplication." Alexander Nicoli, *EU Offers Turkey a Say in Proposed New Force*, FIN. TIMES, Nov. 14, 2000, at 3.

410. Jan Zielonka, *Enlargement and the Finality of European Integration*, (Jean Monnet Working Paper No. 7/00), at [www.jeanmonnetprogram.org/papers/00/00f0801-03.html](http://www.jeanmonnetprogram.org/papers/00/00f0801-03.html). "Effective governance is today about recognising complexity, flexibility, and dispersion." *Id.* at [www.jeanmonnetprogram.org/papers/00/00f0801.html](http://www.jeanmonnetprogram.org/papers/00/00f0801.html).

411. The Cyprus conflict "reaffirm[s] that the world of nations is a global community caught amidst forces of independence and interdependence." JOSEPH, *supra* note 39, at 133. Peoples strive for "independent states encompassing national individuality, shared values, and common interests, while on the other hand, patterns of interdependence inherent in the international system dictate interaction that results in conflict and co-operation, and the creation of international organizations." *Id.*

412. Barry Bartmann, *The Quest for Legitimacy, International Status of the Turkish Republic of Northern Cyprus*, in CYPRUS, THE NEED FOR NEW PERSPECTIVES 260, 262 (Clement H. Dodd ed., 1999) (noting some "with truly diminutive populations such as Tuvalu (9,000) or Palau (16,000).").

national movements in countries as diverse as Canada, Yugoslavia, Sri Lanka, Indonesia, Russia, Spain, and India.<sup>413</sup>

While the international community resists coercive changes in international borders, it condones them "as an option of last resort" in states where ethnic divisions appear to be irreconcilable.<sup>414</sup> Since the implosion of the Soviet Union, a new climate has evolved for the self-determination of minorities locked in larger states, such as seen in Ukraine, and the Slovakian, Slovenian, and Croatian separations, in which new democratic governments legitimized independence.<sup>415</sup> Bangladesh,<sup>416</sup> Eritrea,<sup>417</sup> and other examples amplify the exception.<sup>418</sup> The international community is becoming more sensitive to minority groups and more generous in accepting concepts of derogation and devolution.<sup>419</sup>

413. James D. Wilets, *The Demise of the Nation-State: Towards a New Theory of the State Under International Law*, 17 BERKELEY J. INT'L L. 193, 193 (1999). See also Cass R. Sunstein, *Constitutionalism and Secession*, 58 U. CHI. L. REV. 633, 643-47 (1990) (describing post-1989 vigorous secession movements in Europe).

414. Wippman, *supra* note 51, at 142. "[T]he international community clearly favors countermajoritarian political settlements over coerced shifts in international boundaries . . . [as] a way to accommodate the conflicting demands of competing subnational groups without creating new external boundaries, and thereby inviting violent demands for territorial change by subnational groups around the world." *Id.* Yet, it is evidently willing to condone such territorial changes as a measure of last resort, as for example in Yugoslavia. Most states disfavored the non-consensual breakup of Yugoslavia, until dissolution appeared inevitable, when most states promptly reversed position with approval. *Id.* at 142 n.2. See also NECATIGIL, *supra* note 106, at 399-400 (discussing the collapse of federal systems such as Yugoslavia and Czechoslovakia in which deep-rooted ethnic difference have not been reconciled).

415. Bartmann, *supra* note 412, at 264-65. Slovenia is now in the forefront of accession candidates. Former UN Secretary-General Boutros Boutros-Ghali acknowledged the pressures for fragmentation and the possibility of a future global system of perhaps four hundred states. In May 1992, the UN admitted Slovenia, Bosnia and Hercegovina, and Croatia, which had seceded from the Yugoslav federation. Yehuda Blum, *UN Membership of the "New" Yugoslavia: Continuity or Break*, 86 AM. J. INT'L L. 830, 830 (1992).

416. LEE C. BUCHHEIT, SECESSION: THE LEGITIMACY OF SELF-DETERMINATION 211 (1978).

417. A thirty year war culminated in the 1991 overthrow of the government, leading to consensual division of the country. David Wippman, *Treaty-Based Intervention: Who Can Say No?*, 62 U. CHI. L. REV. 607, 664 n.199 (1995).

418. The UN has faced the secession problem several other times: In 1947, Pakistan was partitioned from India and was admitted to the UN in the same year. Wippman, *supra* note 417, at 664 n.6. Subsequently, Bangladesh seceded from Pakistan in 1971 and was admitted to the UN in 1974. *Id.* Syria had seceded from the United Arab Republic in 1961, maintaining its former seat, prior to the creation of the UAR. *Id.* at 664 n.7. For admittance of former Soviet Republics, see *id.* at 664 n.9.

419. Bartmann, *supra* note 412, at 281. Bartmann notes increased respect for smaller communities, specifically citing many smaller states including Greenland, Palestine, Montenegro, Bermuda, Aruba, Catalonia, and others. *Id.* at 277-81. "[T]he era when majorities dominating minorities with impunity appears to be over." BOROWIEC, *supra* note 49, at xv.

These “seemingly conflicting centrifugal forces of nationalism and centripetal forces of confederation”<sup>420</sup> are compressed in Cyprus because of its discrete size and the region’s high definition of the East-West ethnic conflict. This pressurized situation requires reconciliation before long-term equilibrium can be achieved. Repeated failures to resolve this conflict painfully illustrate the need for a responsive, forward-looking basis for collaboration between the majority and minority communities. The new approaches must focus above different social and political cultures, elevating their common, core values into a collaborative vision. Traditional notions of international law framing this dispute<sup>421</sup> have proved impotent, and the old “classic”<sup>422</sup> model for European integration and accession, the product of past nationalistic experiences, is ill-equipped for the complex issues presented in Cyprus’ case. As the overall Eastern enlargement requires adaptation both within the European Union and by applicant countries,<sup>423</sup> so should the model of collaboration adapt and become more flexible for such a difficult case as Cyprus.

The traditional UN and EU position has been often posited that the Cyprus conflict must be resolved according to established rules of international law, condemning the illegal invasion by Turkey, fallacious demands for sovereignty by the TRNC, and disregard of the United Nations Charter.<sup>424</sup> The only legal solution according to this argument is for the Turkish Cypriot community to rejoin the Greek Cypriot majority in a federal state, carefully designed to maintain the statehood of the Republic of Cyprus under international law with emphasis placed on the territorial integrity and unity of the present Greek Cypriot state.<sup>425</sup>

On the other hand, the Turkish side has argued that the use of force in 1974 was necessary to maintain the balance between the two communities and was therefore authorized by the Treaty establishing

420. James D. Wilets, *The Demise of the Nation-State: Towards a New Theory of the State Under International Law*, 17 BERKELEY J. INT’L L. 193, 193 (1999).

421. See *infra* text accompanying notes 438-41. See also *European Law and International Regimes: The Features of Law Beyond the Nation State*, 5 EUROPEAN L.J. 272 (1999) (discussing the “low quality” of international law, compared to “high quality” national law and “a lesser quality” European Law).

422. REDMOND, *supra* note 41, at 217.

423. As is fully discussed in EU literature, the old Community of nine or fifteen is structurally unprepared for 25 members. See, e.g., European Commission, *Agenda 2000, For a Stronger and Wider Union*, in E.U. Bull. no. 12.97,56 (Supplement 5/97), at 24-28, 135-36.

424. See KYPROS CHRYSOSTOMIDES, *THE REPUBLIC OF CYPRUS: A STUDY IN INTERNATIONAL LAW* 3-16, 479-94 (2000) (arguing that Cyprus is the victim of foreign intervention, with thirty-six percent of the country under foreign military occupation).

425. See *id.* at 12. (“The Cyprus Government has the legal and political duty to actively hinder any efforts leading to the consolidation of a purported ‘secessionist unit,’ fomented by external military support, on its territory.”).

the island's independence.<sup>426</sup> Further, the Turkish Cypriots insist that the Greek inspired and supported coup violated the Treaty's guarantee of Cyprus' existence as an independent state.<sup>427</sup> Turks and Turkish Cypriots resist Greek Cypriot insistence on the unity of the island by reminding everyone that the island has only been united when under colonial rule, either British or Ottoman, except for the first three years of independence in the 1960s.<sup>428</sup> Even the Treaty of Guarantee has been claimed to violate the international law principle of *jus cogens* in that Article IV empowers the guarantor powers to intervene in the internal affairs of the Republic under certain circumstances, though such intervention in a state's internal affairs contravenes basic UN principles of state sovereignty.<sup>429</sup> Ultimately, the Turkish Cypriot position strongly resists any return to the fate of the Turkish minority before the intervention in 1974.<sup>430</sup>

The international community and Greek Cyprus favor resolution of the present conflict within a bi-zonal federation, but Turkish Cyprus and the Republic of Turkey have publicly insisted that the island may be reunited only when the TRNC is acknowledged and then as a confederation of equal states.<sup>431</sup> These polar positions have been supported by divergent legal arguments, their underlying political interests, as well as the inconsistent application of international law.

Experience teaches that the application of international law norms—as with any law—can be ambiguous, and this ambiguity has led to the predictable, unproductive debate over Cyprus. International law provides no easy answer to the problem of separatist efforts, as

426. Wippman, *supra* note 51, at 143. See also BOROWIEC, *supra* note 49, at xiv

427. Wippman, *supra* note 51, at 143. Wippman further confirms Greek instigation and support of the coup. *Id.* at 163 n.146.

428. BOROWIEC, *supra* note 49, at xiv. "Turkey believes that it must protect its ethnic minority on Cyprus from Greek domination and its army is also there to make sure that Cyprus does not become a Greek military bastion only 40 miles from the Turkish coast." *Id.* at xiii. Greeks would prefer the pre-invasion status quo in which the "the Turkish Cypriots were an inconvenient but powerless minority." *Id.*

429. The Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations provides that "all peoples have the right to freely determine, without external influence, their political status. . . ." G.A. Res. 2625, Annex, 25 U.N. GAOR, Supp. No. 21, at 121, U.N. Doc. A/5217 (1970). The Treaties founding the Republic of Cyprus have been criticized by the Republic of Cyprus numerous times as violating international law because they were imposed on the Cypriot people as they were striving for independence from outside powers, emphasizing that no Cypriots participated in the drafting of the treaties or the constitution. See, e.g., Marios L. Evriviades, *The Legal Dimensions of the Cyprus Conflict*, 10 TEX. INT'L L.J. 227, 256 (1975).

430. See BOROWIEC, *supra* note 49, at xiv. ("Since 1974, when the Turkish army carved out a portion of Cyprus, the Turkish Cypriots have enjoyed a security that they are unlikely to give up.")

431. *EU Won't Admit Cyprus Before Settlement: Denktash*, AGENCE FRANCE PRESSE, Feb. 13, 2000.

“opposing principles” promote contrary interests and results.<sup>432</sup> While the positive law status and the applicability of each peoples’ right to their own land are debatable, so uncertainty surrounds the extent of existing states’ rights to maintain their territorial integrity.<sup>433</sup> The international community’s response to this repeating challenge has been “ambiguous and inconstant.”<sup>434</sup> At the beginning of the twentieth century, “self-determination was not considered a rule of international law and was selectively applied so as not to interfere with colonial control exercised by world powers.”<sup>435</sup> Subsequently, self-determination was included in the United Nations Charter, though not as an express right to gain independence through self-determination.<sup>436</sup> There is a natural concern about the conflicting international interests in promoting self-determination of peoples versus the security needs to protect against disintegration of the current international system.<sup>437</sup> The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations articulates the duty to respect the right of self-determination in accordance with the UN Charter.<sup>438</sup> Many other international instruments, treaties, and other documents likewise confirm the right.<sup>439</sup> At the same time, UN Member States stress the importance of the unity of states, but then recognize accomplished secession after the fact.<sup>440</sup> “Political philosophers struggle with the

432. Lea Brilmayer, *Secession and Self-Determination: A Territorial Interpretation*, 16 YALE J. INT’L L. 177, 177-78 (1991). See also Cass R. Sunstein, *Constitutionalism and Secession*, 58 U. CHI. L. REV. 633 (1991).

433. See Brilmayer, *supra* note 432, at 177-78.

434. Steven R. Ratner, *Drawing a Better Line: Uti Possidetis and the Borders of New States*, 90 AM. J. INT’L L. 590, 590 (1996). See also Edward Canuel, *Nationalism, Self-Determination, and Nationalist Movements: Exploring the Palestinian and Quebec Drives for Independence*, 20 B.C. INT’L & COMP. L. REV. 85, 86 (1997) (stating that ambiguity and uncertainty characterize these norms in international law and scholarship).

435. Suzanne Palmer, *The Turkish Republic of Northern Cyprus: Should the United States Recognize It as an Independent State?*, 4 B.U. INT’L L.J. 423, 426 (1986). For history of self-determination, see Eric Kolodner, *The Future of the Right to Self-Determination*, 10 CONN. J. INT’L L. 153, 154-57 (1994).

436. See INGRID DETTER DELUPIS, *INTERNATIONAL LAW AND THE INDEPENDENT STATE* 7 (1974). U.N. Charter article 1, para. 2 and article 55 articulate the purpose of the UN “[t]o develop friendly relations among nations based on . . . equal rights and self-determination of peoples. . . .” Declaration on the Granting of Independence to Colonial Countries and Peoples, G.A. Res. 1514, U.N. GAOR, 15th Sess., Supp. No. 16, at 66-67, U.N. Doc. A/4684 (1960). It has been argued that this inclusion elevated self-determination to a fundamental principle of customary international law. Robert A. Friedlander, *Self-Determination: A Legal-Political Inquiry*, 1975 DETRIOT C. L. REV. 71.

437. Robert McCorquodale, *Self-Determination: A Human Rights Approach*, 43 INT’L & COMP. L.Q. 857, 857 (1994).

438. Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations, annex to G.A. Res.2625 (XXV), adopted without vote on Oct. 24, 1970.

439. McCorquodale, *supra* note 437, at 858.

440. Ratner, *supra* note 434, at 590. As one commentator noted:

circumstances under which secession and dissolution are desirable; international law declares the lack of either a blanket right to, or prohibition against, secession and seemingly relegates its achievement to a pure power calculus."<sup>441</sup> The notion that "the legitimacy of a claim to self-determination can be tested by the degree of success that attends the claimants' undertaking is probably the prevailing view among most international jurists."<sup>442</sup> The modern view is more restrictive in accepting self-determination, but political expedience may be the major consideration in allowing self-determination movements to secede in non-colonial states.<sup>443</sup>

The ambiguity in international law doctrine about the legality of a community seceding from another masks the subjectivity of the application of the principles. For example, the same Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States, noted above, also forbids secession or "any disruption of the national unity and territorial integrity of any other state."<sup>444</sup> Yet, the United Nations has recognized secessions in numerous circumstances, as in Slovenia, Croatia, Slovakia, Bangladesh, and the others mentioned above. The distinction cannot be fully explained by the difference between devolution with the former sovereign's consent and secession produced by force. In several of these countries, the former sovereign did not consent or consented only after force made clear the futility of resistance, as in Slovenia.<sup>445</sup>

Coherence and consistency in these positions may be elusive, but their unproductiveness is clear. The ultimate objection to this debate is

Thus, the UN Security Council and other international bodies solemnly and repeatedly declare that "independence achieved by force of arms is unacceptable," and that negotiations over the status of subnational communities must be predicated on recognition of the territorial integrity of the affected state. At the same time, the international community has made clear that it will accept, however reluctantly, the forcible breakup of a state, if that breakup is successfully concluded.

David Wippman, *Treaty-Based Intervention: Who Can Say No?*, *supra* note 419, at 663-64.

441. Ratner, *supra* note 434, at 590 (citing leading authorities on self-determination and secession). See also McCorquodale, *supra* note 437, at 857-58 (stating that present approaches to the issue of self-determination have not provided a coherent framework).

442. BUCHHEIT, *supra* note 416, at 211.

443. Canuel, *supra* note 434, at 86.

444. G.A. Res. 2625, Annex, 25 U.N. GAOR Supp. No. 28 at 121, ¶ 7-8., U.N. Doc. A/5217 (1970).

445. In early 1992, the European Community recognized the new countries of Croatia and Slovenia, as the Serbian hesitant military campaign was ineffective in preventing their departure. *The Futility of War*, *ECONOMIST*, Jan. 18, 1992, at 14. The Serbian army decided that it could not win in Slovenia, and so withdrew. *Quiet, But No Peace*, *ECONOMIST*, Sept. 28, 1991, at 55. "Where Yugoslavia used to be, four new countries—Slovenia, Croatia, Macedonia, and Bosnia & Herzegovina—have acquired or will soon acquire their own flags and seats at the United Nations." *A Truly Dangerous Idea*, *ECONOMIST*, May 30, 1992, at 12.

that it has been waged for years and has led only to an intractable stalemate. Considering the history of Cyprus, reliance on these classic international law positions is no longer profitable for any party. More importantly, it is not necessary. A middle ground is available amid today's nuanced notions of intergovernmental and supranational cooperation.<sup>446</sup> The irrepressible question persists: Should not intelligent leaders embrace a more flexible approach to achieve shared goals, but with less devotion to old forms and rhetoric of a not-so-consistent international law? Recognizing that the controlling principles of international law can be ambiguous, that geo-politics plays a role, and that responsibility for the Cyprus division falls not simply to one side, but rather to many,<sup>447</sup> a middle ground seems a realistic and fair course to pursue. All parties should advance the reality that Cyprus is the "common home" of the two ethnic communities and that both have the right to participate in its decision making "on an equal footing."<sup>448</sup> Thus, the two communities and the other international leaders should progress to the substance of cooperation.

Another unpleasant but compelling reality of Cyprus' complex situation today underscores the ineffectiveness of the present debate and recommends the same middle ground. Two distinct communities have been, for a quarter of a century, entrenched in separate functioning polities, each securely guarded by ethnic alliances and massive military enforcement. A pragmatic analysis of the current UN-EU strategy and the formal resolutions undergirding their negotiating approaches inevitably dead-ends into the unfortunate likelihood that this present conflict shows little sign of resolution and that, in such disjunction, the militarily-divided Cyprus will not be allowed to accede to the European Union.<sup>449</sup>

446. Cooperation, sovereignty, and self-determination are "capable of embracing much more nuanced interpretations and applications. . . ." S. James Anaya, *The Capacity of International Law to Advance Ethnic or Nationality Rights Claims*, 75 IOWA L. REV. 837, 842 (1990) (referring primarily to self-determination).

447. All of the principal players in Cyprus share accountability for the events leading to the division of the island. "It has aptly been said that the Greek Cypriots cannot remember what happened between 1963 and 1974 and that the Turkish Cypriots cannot forget." DODD, *supra* note 215, at 33. Multiple, complex events and policies produced the present division on Cyprus. "The current episode in Cyprus began in 1974 with the Turkish invasion of the northern third of the island, triggered by an attempted putsch by Greek nationalists seeking unification with Greece, itself then governed by a military regime." EMERSON, *supra* note 197, at 72. Moreover, the United States, Britain, Turkey, and Greece have also been criticized for acts and omissions contributing to the Cyprus dilemma. See *infra* note 484 and accompanying text.

448. UN Secretary-General, Opening Statement (Feb. 26, 1990), reprinted in NECATIGIL, *supra* note 106, at 437.

449. Former German Chancellor Helmut Kohl conceded privately that a divided Cyprus would not be permitted accession. JOHN NEWHOUSE, EUROPE ADRIFT 258 (1997). At best, the military separation on the island makes Cyprus "a difficult case" for accession at this time. Peter Norman, *Bonn Upbeat About EU Enlargement*, FIN. TIMES, June 23, 1999, at 2. "EU governments . . . remain skeptical about admitting a divided country . . .

In spite of Greek insistence and the acquiescent political promises to the contrary, common sense argues against accession into the Community of only the southern two-thirds of a militarily-divided island. Greece exercised its EU veto at a strategic time and extracted the European leaders' initial promise of Cypriot accession without resolution of the island's division. Yet, attaining the ultimate, actual vote for accession is another matter.

While the belabored dialogue has brought the sides closer in theory, a final agreement on actual, concrete collaboration has remained elusive. Any realistic movement toward breaking this impasse demands a new theoretical framework. The general theory proposed here stems pragmatically from that realization, reasoning to the most likely manner of the conflict's resolution. Facing the lack of success from the long-standing UN negotiating efforts, the logical approach is to direct the rising energy of EU leadership toward the opportunity, to seize the momentum of today's enthusiasm for enlargement, and to renovate the political dialogue,<sup>450</sup> proposing a collaborative model founded on the core agreements achieved in past negotiations and on the broad, systemic successes of the EU's functional evolution. All interested parties, including especially NATO and the United Nations, should be included in this marshaling effort, but EU leadership must occupy the dominant negotiating role as the accession process continues to motivate political and legal reform.

Enlargement has changed the political landscape of Europe and today presents the most strategic context for settling the disputes and fostering peace in this area. "Enlargement is a 'foreign and security policy' in the sense that the prospect of admitting and the eventual accession of . . . countries into the EU may help resolve age-old conflicts such as those which once plagued Western Europe."<sup>451</sup> Enlargement has driven radical change in thinking about government and transnational cooperation across the continent.<sup>452</sup> Günter Verheugen, EU Commissioner for Enlargement, has pointedly observed that the accession process could encourage the resolution of the political conflict

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they are unlikely to let Greek Cypriots in on their own." *A Prickly Friend*, *ECONOMIST*, June 10, 2000. In January 2001, EU Enlargement Commissioner Verheugen, while predicting "a new qualitative stage" for the advance of enlargement in general, expressed "deep concern" over the lack of progress in Cyprus. Peter Norman, *EU Talks on Enlargement "Set to Pick up Momentum"*, *FIN. TIMES*, Jan. 17, 2001, at 2. One senior EU official foresees a "nightmare . . . if the Greek-Cypriots get in on their own." *The Cyprus Conundrum*, *ECONOMIST*, Feb. 24, 2001, at 28.

450. JOSEPH, *supra* note 39, at 137.

451. Enlargement is, of course, a foreign policy tool. Krenzler, *supra* note 1, at 1.

452. The campaigns to satisfy the accession criteria have fostered widespread legal reform in all of the candidate countries. See generally *Agenda 2000* and subsequent annual Commission Regular Reports for each candidate country for the massive transformation of law taking place in central and eastern Europe.



in Cyprus.<sup>453</sup> Many others have observed the appeal of accession as a motivator for solving issues.<sup>454</sup>

The present impasse is partially the product of Cypriot leaders' judgment that the division is preferable to the concessions necessary to dissolve it,<sup>455</sup> so there has been less motivation to risk political capital. The UN peacekeeping efforts have been part of the equation of stalemate—the parties are not “hurting,” as one expert describes it, and they have less incentive to pursue a political settlement.<sup>456</sup> Now, on the other hand, with accession offering palpable gains to both sides, the parties are more likely to reconfigure the political arithmetic and pursue a new direction. If a change in political will is what is required to solve the Cyprus conflict,<sup>457</sup> accession offers the most likely impetus for that change.

With the benefits of EU accession as motivation and based on the experience of the European Community's successful evolution, the two Cypriot communities, supported by their neighbors and the European Union, should embrace a convention of accession collaboration—a form of broad Accession Partnership among the two communities and the European Union, erecting a structure and a process, familiar concepts in European integration, for the cooperative advance of the island's two communities acting in concert under one unique entity. The unique form could purposefully marginalize older unproductive and inflammatory issues. While such a focused, formal collaboration among the European Union and two divided communities would be new, the practical details of peaceful co-existence on Cyprus have been explored repeatedly. The issues and the parties' positions are well-known. What this plan adds is impetus, direction, and structure.

This novel accession partnership—adopting EU methods and stabilized with EU leadership—would embark on a joint enterprise to launch a forward-looking, open-ended structure and building process for the future accession of the island. Pragmatism has been the watchword of EU governance,<sup>458</sup> and the same should apply for Cyprus. As with early, incremental peacebuilding in western Europe, a structure for initiating limited collaboration between the two Cypriot communities

453. Interview by Robert J. Guttman with Gunter Verheugen, European commissioner for enlargement, Washington, D.C., in *EUROPE*, June 2000, at 19.

454. Other experts agree with this compelling appeal of enlargement enthusiasm. See, e.g., JOSEPH, *supra* note 39, at 136 (agreeing that the EU has a “unique position to play a role in bringing about permanent peace and stability on the Mediterranean island and in the region.”).

455. HART, *supra* note 193, at 136.

456. HAMPSON, *supra* note 187, at 28.

457. As observed in the Report of the Secretary General on his Mission of Good Offices in Cyprus, UN doc. S/1994/629, para 52, 30 May 1994.

458. GRANT, *supra* note 1, at 8 (stating that tackling challenges together that cannot be well-handled alone may be an apt description of why Cyprus' communities must work together).

with a common process to work together for common purposes offers a realistic approach. Small steps could break the impasse and, over time, lead to peaceful cohabitation, full trade, and accession to the European Union.

The first step would be for the European Union to lead the two communities and their patron countries, Greece and Turkey, and other significant contributors<sup>459</sup> to a Cypriot intergovernmental conference at which a new course could be considered honestly in an open forum. The conflict on Cyprus has been both "intranational and international," and therefore any settlement or cooperative arrangements must recognize the linkages between all the different interests involved.<sup>460</sup> The fruitless bilateral exchanges of the past decades have fallen into a familiar pattern, as each side recounts the historical and moral sins of the other.<sup>461</sup> The leadership of the European Union and the other participants could encourage candor, compromise, and assurances of support for the accession project.

Foremost at the conference, a critical threshold obstacle to the dialogue must be finessed: the Republic of Cyprus, Greece, the United Nations and the European Union must abandon, or at least side-step, the notion that the TRNC does not exist. Deadlock is guaranteed until mutual acknowledgment of the two Cypriot communities is—even in some flexible form—achieved. A central difficulty in reaching any accord is that each side "sees the dispute over the status of the other as fundamental."<sup>462</sup>

What makes this debate so intractable is that it is part of the larger debate over the nature of political community and the meaning of statehood. Turkey and the Turkish Cypriots view Cyprus as a bifurcated state composed of two equal and independent political communities. Greece and the Greek Cypriots view Cyprus as a unitary state consisting of a single political community with a majority and a minority. The international community has vacillated between these two views, which represent fundamentally different legal and political approaches towards resolution of the conflict.<sup>463</sup>

The UN approach has proven counterproductive with the status issue, taking one side as a legitimate government but not the other,

459. Each country and international organization with a traditional role in this dispute would be invited, though participation would be structured by the conference organizers, the European Union, and the two Cypriot communities.

460. HAMPSON, *supra* note 187, at 36.

461. "Bilateral negotiations of any parties to a serious conflict frequently result in deadlock as each rehearses its version of history with its betrayals, atrocities, and the like, and points to the ethical validity in legal and moral terms of its case when compared with that of its adversary." A.J.R. Groom, *Cyprus, Greece and Turkey: A Tread Mill in Diplomacy*, in *CYPRUS IN TRANSITION* 126, 154 (John T.A. Kouloulides ed., 1986).

462. Christopher Brewin, *Turkey, Greece and the European Union*, in *CYPRUS: THE NEED FOR NEW PERSPECTIVES* 148, 165 (Clement H. Dodd ed., 1999).

463. Wippman, *International Law and Ethnic Conflict in Cyprus*, *supra* note 51, at 143.

while bringing them together to the table as if they were equals.<sup>464</sup> This illogical quasi-dialogue must be disconnected and a new, meaningful medium explored. The continued failure to advance the peace process makes plain the need to modify the current UN-EU insistence that the TRNC's very existence is illicit. Some see the central problem as the "1964 [UN resolution recognizing] the Makarios Government as that of the whole island" and guaranteeing undivided sovereignty for the Republic as well as the island's territorial unity and independence.<sup>465</sup> The EU's stoic support of this unproductive position is no longer necessary. The new forms of today's European Union and other regional cooperative efforts illustrate that sovereignty and political power can be divided and shared.

Here, on this central issue, is where creative forms can break the impasse and advance the process of cooperation. Working together in a limited and structured accession program does not necessitate creating a traditional federal state, and the discussion should focus more on how to share notions of sovereignty and the operation of limited governmental functions.<sup>466</sup> Some experts suggest going "beyond traditional concepts" to create a new form with both a division and a sharing of sovereignty.<sup>467</sup> Furthermore, the historical period in which most states enjoy full, unlimited sovereignty is finished—the globalized economy and the large number of transnational actors have now dispersed political power.<sup>468</sup> As the European Union has demonstrated, real sovereignty in today's world is shared sovereignty.<sup>469</sup>

This offers the most reasonable path for breakthrough on the sensitive issues of unity and sovereignty. The European Union should lead the two communities to an agreement based in general on the proposal for the 1997 UN negotiations in New York, which envisions sovereignty as "emanating equally" from both communities.<sup>470</sup> This change to an open-ended, innovative concept could side-step the stale positions on which both sides have invested so much capital. From this fresh position of a recognized shared sovereignty, they may then proceed

464. Brewin, *supra* note 462, at 164-65.

465. Axt, *supra* note 256, at 180, 179-81.

466. Tanja A. Börzel & Thomas Risse, *Who is Afraid of a European federation? How to Constitutionalise a Multi-Level Governance System* (Jean Monnet Working Paper No. 7/00), at <http://www.jeanmonnetprogram.org/papers/oo/00f0101.html> (Hard copy on file) (The authors criticize the "stylised dichotomy of the 'Confederacy of European States'" and the "European federal State" which has dominated the political debate about the "*finalité politique*" of the European integration process.).

467. *Id.* (Such sharing and division already exists in today's EU.).

468. Michael Prowse, *Party's over for small states with attitude*, FIN. TIMES, Mar. 3, 2001 at XXVIII. ("[S]overeignty, in practice, is measured not by the pompous assertions of politicians in assemblies but by the power that nations can actually project.").

469. *Id.*

470. *See supra* notes 268-69 and accompanying text.

to share authority over limited common accession enterprises, working together toward accession goals.

The UN's sole and unitary sovereignty approach has failed the pragmatic test in Cyprus because it has propped up a fiction. Contrary to years of proclamations and resolutions, two separate governments are operating on the island. Nothing in the present approach suggests any change in this fact. The most reasonable course for the future is to recognize reality and work with it, rather than to fruitlessly demand its resolution according to one view.

As on the issue of sovereignty, further constructive and face-saving new relationships can promote effective implementation of accession collaboration, as well as dialogue leading to future enhanced cooperation on a wider level. This model recommends an accession partnership to lead the island into the European Union: in a novel form of a limited yet overarching common authority comprising two communities and two zones, yet sharing political authority and sovereignty in planning and implementing a program for advancing gradually toward evolving cooperation and ultimately accession. This model would balance the security and political interests of the separate sides, yet accommodate the need for incremental progress, offering a "middle" way for Cyprus, blending "both federal and confederal components, with a creative tension between the two,"<sup>471</sup> as in the European Union. The new inclusive authority would represent the island in the EU processes, as well as involve the European Union in the joint administration of the enterprise. Under the rubric of a discrete EU-Cyprus project, the authority could administer the gradual process of the island's accession, as goals are set and pursued, yet recognize the two communities as quasi-autonomous, quasi-sovereign states, similar in concept to the quasi-sovereignty of states in the U.S., Swiss, or other federal contexts. "As in Belgium, the integrity of [each] state would be conditional on the practical right of self-rule in their own areas by the dominant cultural communities."<sup>472</sup> The two Cypriot states would retain their present de facto autonomy in all matters except the accession project processes and competencies to which they specifically agree. The accession convention could establish a foundation as articulated in the 1992 UN "Set of ideas,"

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471. Geoffrey Howe, *A middle way for Europe*, FIN. TIMES, Nov. 28, 2000, at 15. The weak federation model seems to be "the most probable and promising" long range solution. Axt, *supra* note 256, at 187. Confederation has been suggested by many as a solution for Cyprus, and the concept of some form of broadly defined yet carefully delimited association between the two separate states, to initiate cooperation and confidence building collaboration would be a reasonable start. See, e.g., Nanette Neuwahl, *Cyprus, Which Way?—In Pursuit of a Confederal Solution in Europe*, (Harvard Jean Monnet Working Paper 4/00), at 1.

472. Brewin, *supra* note 462, at 170.

acknowledging the political equality of the two communities and the primary power of each over matters reserved to its competence.<sup>473</sup>

This new limited quasi-confederation, perhaps with a forward looking name such as The Accession Partnership of Cyprus, could erect collaborative structure and process with the functionalism of the original Coal and Steel Community as a guide. Collaborative intergovernmental processes would be agreed upon to control the fundamental decision-making and planning of the accession program, with a discrete grant of supranational authority in the limited sector of implementation of agreed-upon accession projects. The project would establish leadership for decision making and administration of the accession project. The partnership would deliberate and decide on specific initiatives for the accession program, such as the opening of borders, the promotion of interchange and the reduction of burdens on commerce between the two communities, timetables, and conditions insuring gradual, secure progress toward harmonization. The disbursement of accession support resources would also constitute a primary responsibility for the partnership.

In addition, the program could adopt broader confidence-building measures to foster further concrete collaboration,<sup>474</sup> including the promotion of tourism, the environment, and perhaps the operation of a common public utility.<sup>475</sup> As time progresses, this could evolve with further agreements and expansions of cooperation, as progress toward accession targets is achieved. Subsequent conventions could allow and promote enhanced cooperation in numerous fields or adjust machinery that proves imperfect in practice, as has occurred in successive EU treaties.

Thus, this theory suggests a flexible, evolving structure, beginning with the joint exercise of power and only a modest limitation of reciprocal sovereignty, in a small clearly-defined and limited area of supranational collaboration and a broader area of intergovernmental cooperation, accompanied with the creation of the nascent instruments and institutions necessary to administer the common accession endeavor

473. Set of Ideas, *annexed to* United Nations, Security Council, Report of the Secretary General on his Mission of Good Offices in Cyprus, U.N. Doc. S/24472 &5 (1992).

474. The appeal of confidence-building measures has been suggested often for Cyprus. See, e.g., Security Council resolution 789 (1992) of 24 November 1992, ¶ 8.

475. One example could be a collaboration of an improved, shared public water utility. The island suffers water shortages, and Turkey has already initiated what it terms a "peace water project," hoping that it might serve as a catalyst for some reconciliation on the divided island. Metin Munir, *Turkish Peace pipe to carry water to Cyprus*, FIN. TIMES, Jan. 18, 2000, at 6. The plan calls for a sixty-eight mile long, floating water pipeline from Turkey's southern coast, under the Mediterranean, to the TRNC. *Turkey switches priority to water pipeline for northern Cyprus*, AGENCE FRANCE PRESSE, Apr. 4, 2000. Thus, a joint water "high authority," to use old ECSC terminology, could be established with transnational authority, to manage the shared supply, allocation of costs, and maintenance.

and promote democratic values and peace.<sup>476</sup> The concrete structure of the instruments and institutions could also follow the early Coal and Steel model, comprising an Administration under the intergovernmental leadership of a Council of Ministers, with advice and consent of a popular Assembly. Such a collaborative structure would be established for the general administration of the project's limited purposes, as well as for representing the island in EU processes. The assembly and the common administration would provide both democratic expression and administrative competence, while the Council would enable the two separate states a large measure of security and control. The process and its legal norms—somewhere between national laws and international law—could “act as a fulcrum between the normative framework of the social and political system on the one hand, and the life-world conditions of the addressees of regulations on the other.”<sup>477</sup> In all matters relating to the project, the two constituent Cypriot “states” would enjoy proportionate representation, yet retain a veto. The most important quality of government is creating a climate of consent.<sup>478</sup>

The process of accession collaboration must include democratic accountability and not just “mask the extension of bureaucratic power.”<sup>479</sup> Much is written about the EU's democratic deficit, and few would argue about the essential value of having “democratic discourse.”<sup>480</sup> Thus, democratic organs and processes must accompany the collaboration's short-term execution, as well as its long-term extension and evolution. In a construct of ethnic and cultural heterogeneity, as in Cyprus, no common *Volk* or people will bring legitimacy, so the notion of closer cooperation between the different peoples bound together in cooperation will need a broader democratic basis or foundation,<sup>481</sup> thus the fundamental importance of transparent, popular discourse.

The two communities should not be expected, at this time, to agree to “an ever closer union”<sup>482</sup> or a traditional full unitary state as their ultimate goal, but they could agree to pursue accession and to begin, at their own pace, to introduce the basic principles of the European Union to their consociational partnership. This pursuit should not and need

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476. See, e.g., Neuwahl, *supra* note 471, at 1. Including “some joint machinery of deliberation and decision making and a jointly manned central administration.” *Id.* at 1. This beginning, narrow plan entails only “partial internalisation in the legal and political sphere—and virtually none at the social level.” Zárn & Wolf, *supra* note 402, at 274.

477. *Id.* at 274.

478. Larry Siedentop, *A Crisis of Legitimacy*, FIN. TIMES, Oct. 24, 2000, at 27.

479. *Id.*

480. J.H.H. Weiler, *Does Europe Need a Constitution? Demos, Telos, and the German Maastricht Decision*, 3 EUR. L.J. 219, 222 (1995).

481. *Id.* at 230.

482. This language in the Preamble to the Treaty on European Union treats unity as “a vanishing point in the future.” Hans Lindahl, *European Integration: Popular Sovereignty and a Politics of Boundaries*, 6 EUR. L.J. 239, 250 (2000).

not be rushed; trade advantages and other benefits of the EU customs union can gradually be extended across the island.<sup>483</sup> The parties enjoy wide flexibility in fashioning creative forms, as evidenced in today's changing political landscape, as discussed above.<sup>484</sup> Following Western Europe's early steps, the threshold course must transcend the solely statal view in considering legal concepts and institutions,<sup>485</sup> aiming for a form of limited intergovernmental and supranational legal cooperation, with a purpose not just to stabilize relations, but to transform them toward a common future.<sup>486</sup> The two communities dividing the single island of Cyprus need progress in cooperation, not stabilization.

The unfortunate history of ethnic conflict on Cyprus compels a careful strategy for bringing the island physically together. There is little alternative to allowing ethnic separation to continue in some form, as a part of a process that will lead to reintegration.<sup>487</sup> Retaining the separate identities of the two communities at this time is both prudent and unavoidable, and the European Union is situated opportunely to provide the framework for bringing these two cultural communities closer in an accession partnership, while respecting their identities.<sup>488</sup>

Herein lies the implicit significance of the Cyprus challenge. How does the leadership create peace and then cooperation between two communities so long divided by such a history of tortured conflict? The answer lies in a European vision, in which these separations can furnish the inspiration for the project. To make peace and set collaborative processes into motion, while maintaining identity, is exactly the promise and the challenge of today's European Union.

Today's European Union enjoys no one common *demos* in the constitutional sense, and European integration recognizes the broad differences of the many peoples of Europe.<sup>489</sup> In fact, retaining the plurality of the peoples is "a desideratum of integration."<sup>490</sup> Such a

483. The natural benefits of increased trade, reduced costs, and pooled resources will advance further cooperative endeavors.

484. See *supra* text accompanying notes 400-03.

485. Armin Von Bogdandy, *A Bird's Eye View on the Science of European Law: Structures, Debates, and Development Prospects of Basic Research on the Law of the European Union in a German Perspective*, 6 EUR. L.J. 208, 213 (2000).

486. *Id.* at 224. The integrative function is key and such supranational cooperation can serve as "an instrument for political and social transformation of a completely new dimension for democratic societies." *Id.*

487. Roger Cohen, *Eyewitness Account*, N.Y. TIMES, Oct. 29, 2000 (Book Review), at 29.

488. Brewin, *supra* note 462, at 162. The EU should "provide a framework for enabling cultural communities to maintain their identities in territories where they are not a majority." *Id.* at 168. Charles Grant predicts that the TRNC will ultimately join a confederal arrangement with the EU. GRANT, *supra* note 1, at 48-49.

489. J.H.H. Weiler, *Federalism and Constitutionalism: Europe's Sonderweg* (JEAN MONNET WORKING PAPER NO. 10/00), at 2 of 5, available at <http://www.jeanmonnetprogram.org/P...s/JeanMonnet/papers/00/001001.html>.

490. Lindahl, *supra* note 482, at 239.

concept is viable in Cyprus even though the communities are so divided by ethnicity, culture, and history. History has seen generations pass and wars fought in a country before one *demos* evolves to reflect a "sense of mutual belonging transcending political differences and factions and constituting a political community essential to a constitutional compact of the classical mould."<sup>491</sup> As in the European Union, this model proposes to erect a compelling *telos* of accession, implicitly bringing peace, inclusion, and incremental cooperation between two different communities, in spite of the absence of one common *demos*. The acceptance of the common *telos* can be a first step "towards a thicker social and political notion of constitutional *demos*,"<sup>492</sup> an important long-term goal for Cyprus.<sup>493</sup> The commonality of the people of the two communities in Cyprus, they share "a deep-rooted heritage—however much they may wish not to acknowledge it,"<sup>494</sup> is sufficient to form the common allegiance to core values, such as peace, civil society, and economic progress.

Sometimes, separation or de-unification is not necessarily nondemocratic, as with the devolution in the former Czechoslovakia, the former Yugoslavia, or the former Soviet Union.<sup>495</sup> A united trust and public opinion are needed to make representative government work.<sup>496</sup> And separate languages play a role. The recent history of Europe offers no evidence that "the immensely diverse peoples of Europe, speaking such different languages, having such disparate histories, geographies, cultures, and economies, are ready to merge peacefully and voluntarily into a single polity."<sup>497</sup> People sharing the same language, culture, and traditions logically want to share their own government.<sup>498</sup> A primary goal should be liberal order, not with some artificially maintained geographical unity as a primary quality, but rather with focus on peace

491. J.H.H. Weiler, *supra* note 489, at 5.

492. *Id.*

493. By retaining central powers in the two separate states, the model fosters sensitivity to diverse range of cultural, economic, and social differences—a requisite to constructive evolution to more progressive collaboration. See LARRY SIEDENTOP, *DEMOCRACY IN EUROPE* 26-31 (2000). Enhancing diversity in the collaborative process advances the project more than adversarial competition for single prevailing victors on the numerous potentially divisive issues arising in the project. *Id.*

494. Groom, *supra* note 39, at 126.

495. TIMOTHY GARTON ASH, *HISTORY OF THE PRESENT* 322 (1999).

496. *Id.* at 325 (citing John Stuart Mill, Ash emphasizes that democracy requires trust).

497. *Id.* at 250. The devolution in Belgium is another example of ethnolinguistic groups demanding more self-government. Scotland too provides another example of this, as well as the rise in regionalism and the decline of statism. *Id.* at 322. This has been termed Britain's "daring experiment in devolution." *Undoing Britain*, *ECONOMIST*, Nov. 6, 1999, at 3. For a detailed description of Swiss and Belgian linguistic political balancing along linguistic lines, see James D. Willets, *The Demise of the Nation-State: Towards a New Theory of the State Under International Law*, 17 *BERKLEY J. INT'L L.* 193, 230 & nn.154, 156 (1999).

498. ASH, *supra* note 495, at 316-31.



and freedom.<sup>499</sup> Thus, the European Union could lead the parties together, respecting the identities of the two communities.

"[T]here is no need to demonise diversity, overlapping authorities and multiple identities. Divergence is a normal state of affairs. Some would even argue that divergence is 'pluralism' by another name, and that it is Europe's greatest historical and cultural treasure."<sup>500</sup> Fixed, mutually exclusive forms of territoriality are no longer the basis of political life—the European Union, for example is very good at "unbundling territoriality."<sup>501</sup> One expert observed: "Perversely, Cyprus's division might have to be recognised before it can be overcome. . . . Once their borders are made clear and their international status is settled, the two sides in the Cyprus conflict, like France and Germany before them, could get on with reconciliation, economic integration, and a stable peace."<sup>502</sup>

After the parties agree to the principle of accession cooperation, they would be rewarded with a special EU accession process and timetable, with economic and other cooperative incentives. In the lofty context of transition to accession of the whole island, incentives and deliberative structure can encourage advancement and accountability at the same time.

Security is an overarching concern on all sides. In view of the past violence, care must be taken to insure the physical safety of the people and the stability of their economic and cultural interests. In the earliest stage of cooperation, the EU principles of the four freedoms would constitute long term goals to be pursued gradually with full discussion by the parties. In particular, issues such as freedom of movement, of settlement, and of property purchase, must be handled with care and over time. The free movement of people to travel and work on both sides of the island should be introduced as soon as basic security controls are in place. Gradualism is the underlying principle of the evolving cooperation and interaction of the communities.

A special Pan European police force with a mixture of EU, UN, and NATO peacekeepers could keep and enforce the peace. This international force should be coordinated and directed by the European Union, as a part of the project.<sup>503</sup> This peacekeeping mission would be stationed throughout the island to insure safety and to assist in the orderly development of the project, but the regular police forces of the

499. *Id.*

500. Jan Zielonka, *Enlargement and the Finality of European Integration*, Jean Monnet Working Paper No. 7/00, available at <http://www.jeanmonnetprogram.org/papers/00/00f0801-03.html>.

501. *Id.*

502. Phillip Gordon, *Cyprus: Divorce Could Precede Reconciliation*, INT'L HERALD TRIB., July 24, 1997 at 8. Gordon is a senior fellow at the International Institute for Strategic Studies.

503. Brewin, *supra* note 462, at 171. Brewin argues that the EU could step up to its duty of placing a security force in Cyprus. *Id.*

two Cypriot communities would remain in each zone, coordinated and under the direction of the special force. To insure continuity and build confidence, both Turkish and Greek forces would participate in the peacekeeping force, though in much smaller numbers than in their present massive forms, all under the authority of the accession project administration.

The rule and uniformity of law, in the limited spheres of common competence, would be infused by a creative dispute resolution and enforcement institution. The parties, with EU leadership, would craft a system of judicial interpretation and adjudication that brings together mediation structures and ultimately an arbiter to finally resolve disputes arising in the processes and general administration of the project.<sup>504</sup> Mediation by joint panels could begin the dispute resolution process, perhaps followed by referral to a panel of arbiters appointed by the Council of Ministers for resolution of difficult cases. On the other hand, the regular courts and administrative decision makers of the two communities would remain functional for matters in each community zone unrelated to the accession project.

After a successful period of stabilization, the freedom to purchase property should be authorized by the island's joint legislative processes, again with EU guidance and supervision. Likewise, the restoration of some property, with any necessary compensation and support for inhabitants moved, would be decided by the partnership. Free movement of capital would be introduced gradually and some modification on the freedom to purchase property would be necessary initially—the Turkish Cypriots fear that the richer Greek Cypriots would simply buy up key properties, disenfranchising the Turkish Cypriots in a new fashion.<sup>505</sup> Special consideration must be given to protect short term and long term interests, all in a gradual plan to build stability. After further passage of time, the accession project's joint authority would introduce further freedoms, appropriate to the circumstances.

Overall the multiple benefits of the collaboration would drive the project: economic, political, even moral. Both sides would gain access to the whole island and the beginning of its restoration from a war zone to a prosperous trading center. Greek Cypriots would, ultimately, regain territory and Turkish Cypriots would end isolationism and receive economic growth.<sup>506</sup> They both would gain with ultimate accession to the European Union. This cooperative plan offers the TRNC its ultimate incentive to move in a new direction, the one thing it cannot have in the

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504. Weiler, *Does Europe Need a Constitution?*, *supra* note 480, at 223. Further, a court must be available to adjudicate disputes arising from application of the process, to enforce the agreements, and to provide the "intellectual and moral leadership" that majoritarian organs sometime fail to offer. *Id.*

505. Brewin, *supra* note 462, at 170.

506. Wippman, *supra* note 51, at 177.

current structured negotiations: acknowledgment as a legitimate, though limited, government.<sup>507</sup> Both sides would benefit enormously from access to EU funds and markets, including development and structural funds, as well as free transfer of goods. Both sides would enjoy the freedoms to travel and breathe freely all across the island.<sup>508</sup>

A further incentive would be an EU fund set up to compensate those dispossessed by the 1974 intervention. It would be difficult to immediately relocate these people back to their former homes to live surrounded by members of the other communities.<sup>509</sup> Forces could not now enter to forcibly evict and restore property—the best that can be expected is fair compensation, or if land books are available and in some cases restoration possible, so be it through legal channels and over time.<sup>510</sup> Rights to compensation could be early business for the island's administration and other decision-making institutions.<sup>511</sup> The financial commitment necessary for this would be modest in comparison to many EU expenditures and would be one of the shrewdest investment the European Union has ever made.

The recommended more affirmative role for Europe in Cyprus would be a positive development in European integration on multiple levels.<sup>512</sup>

First, achieving real progress in decompressing an historic pressure point in Europe has obvious benefits for future enlargement and general harmonization. Removing the most pointed conflict on Europe's southeastern edge would dramatically pacify the political and military landscape of this volatile region. The East-West intersection in Europe, with its diverse ethnic, political, and religious dimensions, forms a lengthy and sensitive dividing line that demands careful attention. "It is now the conventional wisdom that the proliferation of ethnic-violence constitutes the greatest threat to public order and human rights since the lifting of the Iron Curtain."<sup>513</sup> The political symbolism of a successful, EU-led cooperative effort bridging that dangerous division would be powerful. The momentum generated by a forward-looking and inclusive European strategy in Cyprus would counter the current rise of conflict in the Middle East and Central Asia.

507. Axt, *supra* note 256, at 192-93.

508. HITCHENS, *supra* note 46, at xiii.

509. Brewin, *supra* note 462, at 162.

510. *Id.* at 171.

511. Brewin, *supra* note 462, at 162.

512. Axt, *supra* note 256, at 183. While the EU has avoided becoming involved in internal conflicts in its Member States, such as in Northern Ireland, Spain, Corsica, and the Greek-Turkish arguments over boundaries in the Aegean, this active leadership fits properly in the expanding role of the EU in shepherding enlargement and promoting harmony in the region. *Id.*

513. Ratner, *supra* note 434, at 590. "[Ethnic] hatreds . . . [have] unleashed centrifugal forces that are pulling states apart from Africa to Europe to South and Central Asia." *Id.*

Finally, the European Union, in leading such a collaborative project in Cyprus, would promote the integrity of the overall European order. Constitutions do more than just establish relationships between authority, states, and individuals; constitutions embody moral commitments and fundamental values, thus reflecting the collective identity of the people.<sup>514</sup> Some commentators argue that the European Union has a moral duty to act to foster peace because, in spite of all its pragmatism, the European Union is held together by an "intangible glue" of common European values, and it "cannot tolerate atrocities on [its] own doorstep."<sup>515</sup>

The continuing integration of Europe is a normative process, which involves competition among individuals, institutions, interest groups, and others seeking to secure hegemony of their values.<sup>516</sup> This process therefore must accommodate many forms of conflicts: social, cultural, economic, and historical. Integration "is not a bland process of social change . . . [or] a value-free, uncontradictory, goal-oriented flow of historical events through time. On the contrary, it is a process of conflict, of cooperation and competition, as different individuals, institutions, groups, networks, and other organisations try to impose their definitions of what is right . . . , within certain specific historical circumstances."<sup>517</sup> The European Union must not ignore this deeper purpose of its leadership. Thus, from practical peacekeeping to theoretical value-setting, the EU's active intervention to help heal destructive divisions in Cyprus advances multiple benefits.

On the other hand, the failure to seize the present opportunity to advance accession in the eastern Mediterranean could well result in a popular backlash against Europe. A process that promises much, demands difficult commitments, and then delivers little produces resentment at a minimum.<sup>518</sup> Scholars argue persuasively that the promises of enlargement extended after 1989 changed the political landscape of Eastern Europe, injecting a danger that the newly emerging eastern polities would lose popular support for the orthodoxy of the West's democratic and free market principles if the Western

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514. Weiler, *Federalism and Constitutionalism*, *supra* note 489. Professor Weiler observes that the integrity of the national constitutional orders rests not only on legal obedience and political power but also on moral commitment and identity. Government arrangements ought to promote the fundamental values of the polity. *Id.*

515. GRANT, *supra* note 1, at 9. *See also* Brewin, *supra* note 462, at 171 (arguing that establishing peace on Cyprus may be an "international duty"); Axt, *supra* note 256, at 193 (The EU should support "any chance of rapprochement of both communities on the island").

516. Francis Snyder, *Editorial*, 6 EUR. L.J. 307 (2000).

517. *Id.*

518. William Pfaff, *France and Europe Are Doing Some Things Right*, INT'L HERALD TRIB., June 20, 1998, at 6.

governments did not fulfill their promises.<sup>519</sup> Such a twist in direction could destabilize weaker governments in this important region, fostering unrest, producing the opposite of European goals and values. Thus, affirmative European leadership in this region would work wisely to fulfill past promises.

## V. CONCLUSION

After centuries of conflict and exploitation, the people of Cyprus today witness surprisingly favorable circumstances for the meaningful advancement of peace and cooperation on their divided island. The dramatic shift in foreign policies between Greece and Turkey and the rising energy of the EU's eastern enlargement process combined at the Nice and Helsinki Summits to open the enlargement doors to Turkey, thus making Cyprus' own accession and regional collaboration more realistic. The alignment of these and the other lesser contributing forces present the most opportune moment for progress on Cyprus in recent history.<sup>520</sup> The European Union should respond affirmatively. Sometimes reaction to unexpected change can be as important as "the preconceived product of political engineering."<sup>521</sup> The whole fortuitous series of events suggesting an environment for rapprochement recommends that the European Union act "in a new role as chief catalyst" for a solution of the Cyprus question.<sup>522</sup>

Of all the interested countries, institutions, and organizations, the European Union appears best positioned to lead and leverage constructive movement among the vital parties. As the preeminent symbol of cross-border cooperation that evolved into revolutionary political collaboration, the European Union is well-situated to lead the other players to initial, impasse-breaking cooperation. And, enlargement presents the most realistic and strategic context for settling the disputes and fostering peace in this area. Moreover, the EU's present Mediterranean policy and relationships with the accession applicants offer a concrete infrastructure for leadership.

The European Union should seize the opportunity to lead the two communities and their supporting neighbors out of their futile

519. Karin Fierke & Antje Weiner, *Constructing Institutional Interests: EU and NATO*, 6 J. EUR. POL'Y 721, 737 (1999). As context changes meaning, the West's promises were transformed into threats of instability in the emerging Eastern countries and threats to the identity of the EU and NATO. *Id.* at 736.

520. "A lack of ripeness" has been a frequent reason offered for the failure of so many mediations to resolve the Cypriot dispute, but when situations become ripe, leadership is needed to prompt action. FEN OSLER HAMPSON, *NURTURING PEACE: WHY PEACE SETTLEMENTS SUCCEED OR FAIL* 27-28 (1996).

521. Krenzler, *supra* note 1, at 1.

522. Leyla Boulton, *Lure of joining EU focuses Cypriots's minds on reunification*, FIN. TIMES, Sept. 12, 2000, at 3.

stalemate, into a fresh dialogue for collaboration toward accession. Such a new dialogue should embrace creative new forms of intergovernmental and supranational cooperation. A unique form of Accession Partnership between the two Cypriot communities and the European Union could lead the parties past old issues and into a collaborative structure and process to advance accession of the whole island. In the context of two communities working together under a single, limited accession authority, old issues of sovereignty and self-determination could be remolded into less divisive forms, sharing power and sovereignty. Considering the ambiguous application of international law, with geopolitics playing a significant role, and acknowledging that many countries share responsibility for the Cyprus stalemate, a middle ground presents the most realistic and fair path to peace.

EU initiative in this region at this time could be of compelling significance. To promote stability in this volatile region, as the newly evolving countries of the former Soviet Union experiment with democracy and rule of law and the Middle East simmers with unrest, would advance EU goals on many levels: political, economic, and moral. The political symbolism of an energized Europe, reaching out to share its resources and promote its values, would communicate a firm leadership, reassuring all witnesses of its strength. One group of scholars has written: "The historic mission of European Union is to contribute to stability and peace through integration . . .," observing that there was no alternative to eastern enlargement after the events of 1989.<sup>523</sup> The same may be said today about the accession of Cyprus. The alternative to EU leadership in advancing the European promise of peace and cooperation in Cyprus is, at best, to forsake an opportunity for peace, or at worst, to risk the frightening possibility that the Cypriot accession process may run head-on into an unyielding political and military stand-off, exploding into the antithesis of today's European ethos of community.

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523. Krenzler, *supra* note 1, at 1.

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