

Reunification of Cyprus: The Possibility of Peace in the Wake of Past Failure

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Introduction

One could hardly construct a “problem case” more fully illustrative of the complexity of world politics in our time than the real-life case of Cyprus, that island beset by traditional antipathies between ethnic groups, torn by the pulls and pressures exerted by neighboring states interested in the fate of its constituent nationalities, agonized by the conflict between majority rule and minority rights, . . . and exposed to the political winds of both the East-West and the North-South struggles.¹

The Republic of Cyprus was born in 1960 as a bicomunal republic, consisting of both Greek and Turkish Cypriot communities.² Fourteen years after its independence, Turkey invaded the northern third of Cyprus,

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1. Inis L. Claude, Jr., *Foreword to* JAMES A. STEGENGA, *THE UNITED NATIONS FORCE IN CYPRUS* vii (1968).

2. See N.M. ERTEKUN, *THE CYPRUS DISPUTE AND THE BIRTH OF THE TURKISH REPUBLIC OF NORTHERN CYPRUS* 8 (1984).

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effectively establishing what is now the Turkish Republic of Northern Cyprus (TRNC).³ Although this Turkish-controlled entity does not have international recognition as a sovereign state, a military-enforced line of demarcation effectively divides the island, with U.N. peacekeepers struggling to maintain a fragile peace.⁴ Continued fighting between Greek and Turkish troops has made the division of Cyprus "little more than a long standoff that remains volatile."⁵ Twenty-seven years after the partitioning of Cyprus, U.N. efforts have begun anew, with the intent to reunify Greek and Turkish Cypriots under one government.⁶

Cyprus, a small island located in the eastern Mediterranean at the crossroads of three continents, has engendered great international concern, and reunification efforts in Cyprus sit at the forefront of U.N. policy.⁷ A U.N. success in Cyprus is badly needed in order to further Western foreign policy objectives, which lack strength following the lethal consequences of intervention in Somalia and Bosnia.⁸ This is a critical time for the reunification of Cyprus, but each passing day widens the gap and further threatens the potential for peace.

President Clinton, who brought Greek and Turkish Cypriot leaders to agree to the most recent round of U.N.-sponsored negotiations, stated that these "proximity talks 'will go forward without preconditions . . . to prepare the ground for meaningful discussions . . . leading to a comprehensive settlement.'"⁹ Such discussions are to include planning future cultural activities, developing economic ties, and resolving the *de facto* confederation in favor of a single "bicomunal federation on Cyprus."¹⁰ However, Turkish Cypriot leaders have refused any further discussions with the Greek Cypriot government until their government is treated as a sovereign state.¹¹

3. See CYPRUS: A COUNTRY STUDY 171-72 (Eric Solsten ed., 1993).

4. Radha Kumar, *The Troubled History of Partition*, 76 FOREIGN AFF. 22, 28 (1997).

5. *Id.* at 29.

6. President Clinton announced in his final State of the Union Address that the United States should be proud of "promoting reconciliation between Greece and Turkey and in Cyprus." President William J. Clinton, Address Before a Joint Session of the Congress on the State of the Union, 36 WEEKLY COMP. PRES. DOC. 160 (Jan. 27, 2000).

7. See, e.g., S.C. Res. 939, U.N. SCOR, 3412th Mtg., U.N. Doc. S/RES/9939 (1994).

8. Ved P. Nanda et al., *Tragedies in Somalia, Yugoslavia, Haiti, Rwanda and Liberia - Revisiting the Validity of Humanitarian Intervention Under International Law - Part II*, 26 DENV. J. INT'L L. & POL'Y 827, 828-30 (discussing the effect of current geopolitical trends on humanitarian intervention). In particular, the U.N. action in Somalia, where non-Americans headed U.S. forces and eighteen American servicemen were killed, has led to a U.S. reluctance to commit forces to any foreign conflicts. Julia Preston, *U.S. Troops May Aid in U.N. Withdrawal from Somalia*, WASH. POST, Sept. 16, 1994, at A29.

9. Charles Babington, *Cypriot Leaders Agree to Talks*, WASH. POST, Nov. 15, 1999, at A17. The Bush administration has indicated that it will not substantially alter U.S. policy toward Cyprus and will actively continue to seek a settlement between the Greek and Turkish Cypriot communities. James Morrison, *Realistic About Cyprus*, WASH. TIMES, Apr. 11, 2001, at A10.

10. Babington, *supra* note 9.

11. See Andrew Borowiec, *Turkey's EU Prospects May Hinge on Cyprus Talks*, WASH. TIMES, Dec. 3, 1999, at A17.

This Note argues that the reunification of the Republic of Cyprus is necessary and possible despite previous failures. In particular, this Note analyzes the changes that have occurred in Cyprus since the 1974 Turkish invasion and proposes that the two communities are now legally and politically ripe for reunification. Part I outlines the major events that led to the failure of the Cypriot constitution and partition of the island. Part II examines the differences that exist between the Cyprus of 1960 and that of today. Part III concludes that, despite the failures of the 1960 constitution and subsequent reunification efforts, a modern peace settlement is both legally required and politically feasible as a means of reunifying the Republic of Cyprus.¹²

I. Background

A. Establishment of the Republic of Cyprus

Throughout history, the strategic location of the small Mediterranean island has made it the interest of several states seeking to gain a foothold for Middle East invasions.¹³ Greece gained control of Cyprus in the thirteenth century B.C., and Greeks dominated the island until the Ottoman takeover of 1571, after which Turkish immigrants began to inhabit the island.¹⁴ During the weakening of the Ottoman Empire in the wake of its war with Russia, the United Kingdom negotiated to become the protecting power over Cyprus.¹⁵ Great Britain officially gained sovereignty over the island in 1923 under the Treaty of Lausanne,¹⁶ and Cyprus became a British Crown Colony the following year.¹⁷

From the signing of the Treaty of Lausanne until its 1960 independence, the ethnic makeup of Cyprus remained stable at approximately seventy-eight percent Greek Orthodox and eighteen percent Turkish and Muslim.¹⁸ The ethnic groups remained distinct, divided along linguistic, cultural, and religious lines, with each group identifying itself exclusively with either the Greek or Turkish "motherland."¹⁹ These antagonistic loyalties to Greece and Turkey transplanted the larger Greek-Turkish battles to the island of Cyprus, where the two ethnic communities fought against

12. This note does not attempt to suggest a specific solution for reunification. For a spectrum of proposed allocations of sovereignty in a reunified Cyprus, see David Wippman, *International Law and Ethnic Conflict on Cyprus*, 31 *TEX. INT'L L.J.* 141, 165-79 (1996).

13. See JOSEPH S. JOSEPH, *CYPRUS: ETHNIC CONFLICT AND INTERNATIONAL POLITICS* 15-16 (1997). Cyprus is located 40 miles south of Turkey, 60 miles west of Syria, 240 miles north of Egypt, and 500 miles east of Greece.

14. See JOSEPH, *supra* note 13, at 16.

15. See Convention of Defensive Alliance between Great Britain and Turkey, June 4, 1878.

16. The Treaty of Lausanne, July 24, 1923, art. 20, *reprinted in* 18 *AM. J. INT'L L.* (Supp. 1924) (recognizing Britain's 1914 annexation of Cyprus as a result of Turkey's alliance with the Central Powers during World War I).

17. See JOSEPH, *supra* note 13, at 16.

18. See *id.*

19. See *id.* (noting the dominant influence of the Greek Orthodox Church and Ottoman Muslims in the preservation of cultural differences).

each other during the Balkan wars, the First World War, and the Greek-Turkish War of 1919-23.²⁰ During colonial rule, the British established a policy of "divide and rule," under which the British secured control of Cyprus by encouraging ethnopolitical polarization of the Cypriot communities, thereby preventing a unified political culture opposed to colonial rule.²¹

Following World War II, the decolonization movement took force as Greek Cypriots, then representing eighty-two percent of the Cypriot population, pushed for independence as a means of bringing about *enosis*, the unification of Cyprus with Greece.²² The Republic of Greece made five consecutive appeals to the U.N. that *enosis* was a proper means for decolonization based upon "the repeatedly and solemnly expressed will of the overwhelming majority of the people of Cyprus for union with Greece, which they regard as their mother country."²³ Greece premised its legal argument for decolonization of Cyprus on the principles of equal rights and self-determination.²⁴ Because of their common history and shared ethnicity, Greece argued that "Cyprus belongs to the Greek world; Cyprus is Greece itself."²⁵

Turkey rejected *enosis*, advocating *taksim*, the partition of Cyprus into separate Greek and Turkish states.²⁶ Turkey responded to Greek claims in the U.N. by encouraging anti-Greek demonstrations, confiscating Greek-owned property in Turkey, and expelling thousands of Greeks from the Turkish mainland.²⁷ During the height of the U.N. debate, British decolonization, and Cypriot revolt, British Prime Minister Anthony Eden invited Greece and Turkey to a tripartite conference in London in 1955 to create a settlement for Cyprus that would avoid political partition of the island.²⁸

20. *Id.* at 18.

21. *Id.*

22. *Id.* Although the Greek Cypriots had long talked of unification with the "Greek motherland," the British had not previously opposed talk of *enosis* because of wartime alliances between Britain and Greece. ROBERT STEPHENS, *CYPRUS: A PLACE OF ARMS* 118 (1966). In fact, "[t]here was a general expectation on the part of the Greek Cypriots that, since Greece had fought by Britain's side, and in view of Allied declarations about national freedom and liberation, . . . the British would, without question, permit the union of Cyprus with Greece." *Id.* at 119.

23. U.N. Doc. A/2703 (1955) (letter from the Greek prime minister to the Secretary-General).

24. See STEPHENS, *supra* note 22, at 123. The principles of equal protection and self-determination limit territorial sovereignty, obligating a state "to pay regard to the freely expressed will of peoples." ROBERT JENNINGS & ARTHUR WATTS, *OPPENHEIM'S INTERNATIONAL LAW* 714 (1992).

25. U.N. Doc. A/2703, *supra* note 23. *Enosis* was supported in the United Nations by Eastern Bloc and developing countries. See JOSEPH, *supra* note 13, at 20. However, the Greek government, dependent on economic aid from Great Britain, could not exert sufficient pressure on behalf of the *enosis*ists. See STEPHENS, *supra* note 22, at 123.

26. See JOSEPH, *supra* note 13, at 18.

27. See JOSEPH S. JOSEPH, *CYPRUS: ETHNIC CONFLICT AND INTERNATIONAL CONCERN* 72 (1985).

28. STEPHENS, *supra* note 22, at 141. No Cypriot representatives were invited to the conference. *Id.*

The independence process continued through fierce debates, riots, and bloodshed from 1955 to 1960.²⁹ Great Britain's control of Cyprus became more of a liability than an asset, but it felt that it had to retain control of the island to prevent a civil war between the communities.³⁰ Great Britain feared that such a conflict might spread to war between Greece and Turkey, which would further weaken NATO's presence against the new Soviet threat.³¹

However, British control over the island was growing increasingly weaker. When Greek and Turkish foreign ministers Averoff and Zorlu agreed to Greco-Turkish talks on Cyprus, the British government reluctantly declared that it was prepared to give up sovereignty over Cyprus.³² The Greco-Turkish talks continued into 1959, and on February 5, the prime ministers of Turkey and Greece met in Zurich to draw up a settlement for Cyprus, which would be brought to London on February 17 of that year for discussions with the British government.³³ On August 16, 1960, the newly proclaimed Republic of Cyprus gained independence from British colonial rule through an externally guaranteed constitution supplemented by three treaties providing for the protection of the Cypriot people.³⁴

Great Britain limited the sovereignty of the new republic in the constitution to meet the dual aims of self-determination and human rights protection.³⁵ The London Accords established a bicomunal constitutional structure for the Republic of Cyprus, under which each of the Cypriot communities accepted the Zurich formula.³⁶ In the Zurich-London compact, the United Kingdom, Greece, and Turkey established: 1) a Basic Structure of the Republic of Cyprus; 2) a Treaty of Establishment; 3) a Treaty of Guarantee between the Republic of Cyprus, Greece, Turkey, and the United Kingdom;³⁷ and 4) a Treaty of Alliance between the Kingdom of Greece, the Republic of Turkey, and the Republic of Cyprus.³⁸

29. From 1955 to 1960, a Greek Cypriot revolution—led by Orthodox Church leader Archbishop Makarios and the pro-enosis Organization of Greek Cypriot Fighters (EOKA)—applied additional pressure on Great Britain, making administration of the island extremely difficult. See JOSEPH, *supra* note 13, at 19.

30. See HALIL IBRAHIM SALIH, *CYPRUS: THE IMPACT OF DIVERSE NATIONALISM ON A STATE* 8 (1978).

31. See STEPHENS, *supra* note 22, at 157. With Turkey as NATO's easternmost frontier, it was feared that a Greco-Turkish war would permit the Soviet Union to overrun Turkey. See *id.*

32. See *id.* at 159.

33. See *id.* 159-60.

34. See CLEMENT H. DODD, *THE CYPRUS IMBROGLIO* 19 (1998); see *infra* notes 35-39.

35. See FARID MIRBAGHERI, *CYPRUS AND INTERNATIONAL PEACEMAKING* 15 (1998).

36. See Wippman, *supra* note 12, at 145. The Zurich Formula consisted of: "a Basic Structure of the Republic of Cyprus, a Treaty of Guarantee between the Republic of Cyprus, Greece, the United Kingdom, and Turkey, and a Treaty of Alliance between the Kingdom of Greece, the Republic of Turkey and the Republic of Cyprus." *Id.* at 144. Neither Cypriot community was privy to the drafting of the constitution. See *id.*

37. Treaty of Guarantee, Aug. 16, 1960, 382 U.N.T.S. 3.

38. Treaty of Alliance, Aug. 16, 1960, 397 U.N.T.S. 289. This treaty authorized permanent stationing of 950 Greek and 650 Turkish troops on the island.

The Guarantor Powers³⁹ designed the new government of the Republic of Cyprus to accommodate antagonistic groups, agreeing to a conditional independence that would “recognise and guarantee the independence, territorial integrity and security of the Republic of Cyprus.”⁴⁰ The bicommunal constitution developed under the London Accords acknowledged the existence of two distinct ethnic groups, and required that all citizens be counted as members of one of the two communities.⁴¹ Both Greek and Turkish became the official languages.⁴² The Cypriot government encompassed a powerful constitutional court and a small federal countermajoritarian legislature made up of the two component communities.⁴³

This arrangement aimed to maintain “a delicate but immutable equilibrium between the interests of the Greek majority and the Turkish minority.”⁴⁴ The executive branch consisted of a presidential regime, with a Greek President and Turkish Vice President, assisted by a council of seven Greek and three Turkish ministers.⁴⁵ Each community elected its respective executive, and, having coequal powers, each executive had an ability to block the actions of the other.⁴⁶ The legislature, consisting of only a House of Representatives, had 35 Greek and 15 Turkish seats, although the constitution required separate majorities of both communities for unified legislation.⁴⁷ The Supreme Constitutional Court had only four judges: a neutral presiding judge assisted by two Greek and one Turkish Cypriot.⁴⁸ This court had jurisdiction over appeals of the constitutionality of contested legislation and government acts.⁴⁹ Even civil service posts were subject to ethnic apportionment, with 70 percent of positions filled by Greek Cypriots.⁵⁰

B. Failure of the Republic

Even after the independence of Cyprus, the ethnically polarized communities remained politically divided.⁵¹ Because social and cultural events were closely linked to religion and culture, there was little social interaction

39. The Guarantor Powers consisted of the United Kingdom, the Republic of Turkey, and the Republic of Greece. See DODD, *supra* note 34, at 20-21.

40. Treaty of Guarantee, Aug. 16, 1960, 382 U.N.T.S. 3, art. II.

41. REPUBLIC OF CYPRUS CONST. OF 1960, art. 2, reprinted in AMOS J. PEASLEE, CONSTITUTIONS OF NATIONS: VOLUME III - EUROPE 138 (3d ed. 1965) [hereinafter CONST. OF 1960].

42. See The Zurich Agreement: Basic Structure of the Republic of Cyprus, Feb. 11, 1959, reprinted in SALIH, *supra* note 30, at 123.

43. CONST. OF 1960, *supra* note 41, Part IV, Part IX.

44. Thomas Ehrlich, *Cyprus, The “Warlike Isle”: Origins and Elements of the Current Crisis*, 18 STAN. L. REV. 1021, 1033 (1966).

45. CONST. OF 1960, *supra* note 41, Part III.

46. *Id.*

47. See STEPHENS, *supra* note 22, at 161.

48. CONST. OF 1960, *supra* note 41, art. 153. The neutral judge could not be a national of Cyprus, Greece, Turkey or Great Britain. See STEPHENS, *supra* note 22, at 162.

49. *Id.*

50. *Id.* The army, however, was recruited on the basis of 60% Greek and 40% Turk, with at least one Turkish leader. *Id.*

51. See JOSEPH, *supra* note 13, at 28-30.

between the Greek and Turkish Cypriots.⁵² Segregation within the educational system remained.⁵³ Furthermore, traditional family customs prohibited intermarriage between the Greek Orthodox and the Turkish Muslim communities.⁵⁴ “[T]he Greek and Turkish radio stations, newspapers, politicians and speech-makers plunged into a passionate and vicious propaganda war, attributing evil motives and the worst faith to the opposite side, and especially the opposite side’s leaders.”⁵⁵ As a result of these ethnic divisions, members of both communities continued to reaffirm their commitment to achieving either *enosis* or partition.⁵⁶

The Government of Cyprus argued that the Guarantor Powers imposed the 1960 London Accords on Cyprus “prior to, and as a condition for, such a people being permitted to accede to independence.”⁵⁷ The first government of Cyprus—led by Archbishop Makarios and Dr. Fasil Kuchuk, the Cypriot leaders who signed the Zurich and London agreements—set out to build the governmental institutions provided for in the constitution.⁵⁸ However, because the 1960 Constitution allowed either community to block passage of legislation, a stalemate developed when the Turkish Cypriot leaders blocked several major Greek initiatives.⁵⁹ The resulting lack of central control in the new republic led to economic paralysis.⁶⁰ The government deadlock prevented the formation of an army, as mandated by the constitution, leading to the creation of private armies in both communities.⁶¹

By 1963, President Makarios had proposed constitutional amendments to prevent the Turkish community from blocking majority-backed legislation in the House of Representatives.⁶² Turkey rejected the amendments, believing that such amendments would “abolish all the safeguards provided for the Turkish community under international agreements, and reduce that community to a simple minority at the mercy of the Greek Cypriots.”⁶³ The ensuing constitutional crisis in 1963 led to civil disorder

52. *See id.* at 29.

53. *Id.*

54. *Id.*

55. ZENON STAVRINIDES, *THE CYPRUS CONFLICT: NATIONAL IDENTITY AND STATEHOOD* 57 (1984).

56. *See id.* at 30. *But see* SALAH R. SONYEL, *CYPRUS THE DESTRUCTION OF A REPUBLIC* 11 (1997) (noting conciliatory statements by Archbishop Makarios at the conclusion of the constitution negotiations).

57. ANDREAS J. JACOVIDES, *TREATIES CONFLICTING WITH PEREMPTORY NORMS OF INTERNATIONAL LAW AND THE ZURICH-LONDON ‘AGREEMENTS’* 17 (1966).

58. *See* MIRBAGHERI, *supra* note 35, at 17.

59. *See* JOSEPH *supra* note 13, at 26. Sources of constitutional tension between the communities consisted of: an extension of the income tax, the ratio of community members in public service, the establishment of separate municipalities, and the right of the president and vice-president to veto decisions of the council of ministers and the parliament. *Id.*

60. *Id.*

61. *Id.* at 27.

62. *See* President Makarios’ Thirteen-Point Proposal to Amend the Constitution, *reprinted in* JOSEPH, *supra* note 13, at 146. President Makarios justified the amendment as necessary for “the smooth government of the State.” *Id.*

63. SONYEL, *supra* note 56, at 51.

and the removal of all Turkish government officials.⁶⁴ On December 26, President Makarios pressed the U.N. Security Council for protection against outside threats and acts of aggression.⁶⁵ The Guarantor Powers and the United Nations quickly interposed a peacekeeping force ("UNFICYP") and encouraged immediate reunification.⁶⁶

The peacekeeping force could not prevent the violence that followed. Paramilitary organizations in both communities, receiving arms from abroad, fought for a decade, limited in magnitude only by the personal diplomacy of United States President Johnson in 1964 and 1967.⁶⁷ Greece sent a large number of troops and arms to aid President Makarios.⁶⁸ Recognizing their military inferiority, Turkish Cypriots voluntarily left their homes and took refuge in enclaves,⁶⁹ using self-isolation as a means of convincing world leaders that the two communities could not live together in harmony.⁷⁰

The United States immediately sent former Secretary of State Dean Acheson to Geneva to broker a political deal between Greece and Turkey.⁷¹ The U.N. began mediation in Cyprus. The Turkish Cypriots argued that only physical separation and separate governments could resolve the crisis, but the Greek Cypriot government held firm that territorial integrity was non-negotiable.⁷² The U.N. mediator concluded that any potential solution must exclude both *enosis* and partition.⁷³ All attempts by the U.N. and Guarantor Powers to settle the impasse failed and further divided the communities.⁷⁴

In 1967, summit talks collapsed entirely, and fighting again broke out

64. See James H. Wolfe, *Cyprus: International Law and the Prospects for Settlement*, 78 AM. SOC'Y INT'L L. PROC. 107, 109 (1984).

65. See U.N. Doc. S/5488, letter dated 26 Dec. 1963, from the representative of Cyprus to the president of the Security Council.

66. See Wippman, *supra* note 12, at 147. For a discussion of the disadvantages of the UNFICYP, see JOHN REDDAWAY, BURDENED WITH CYPRUS: THE BRITISH CONNECTION 154 (1986) (noting that "[the peacekeeping force] tends to freeze the state of affairs, and . . . a temporary truce thus acquires the character of a permanent settlement").

67. See, e.g., Eugene T. Rossides, *Cyprus and the Rule of Law*, 17 SYRACUSE J. INT'L L. & COM. 21, 33 (1991) (President Johnson wrote a letter to Turkey to persuade it not to invade Cyprus and sent a diplomatic mission to Cyprus to prevent hostilities.).

68. See MIRBAGHERI, *supra* note 35, at 46.

69. Greek forces blocked international aid from reaching Turkish Cypriot enclaves, making them dependent on Turkey for relief supplies. See *id.* For a detailed examination of the violence against Turkish Cypriots, see HARRY SCOTT GIBBONS, THE GENOCIDE FILES (1997).

70. See *id.* at 48. Cf. U.N. Doc. S/6228 (1965), ¶ 17 (Secretary-General U Thant stated that "the Turkish Cypriot policy of self-isolation has led the community in the opposite direction from normality.").

71. KEITH KYLE, CYPRUS: IN SEARCH OF PEACE 14 (1997). The United States plan would have provided Greek Cypriot control over Cyprus in exchange for Greece ceding the Greek island of Kastellorizon to Turkey. *Id.*

72. See Marios L. Evriviades, *The Legal Dimension of the Cyprus Conflict*, 10 TEX. INT'L L.J. 227, 247-48 (1975).

73. See MIRBAGHERI, *supra* note 35, at 42-43.

74. See JOSEPH, *supra* note 13, at 15-19.

in Cyprus.⁷⁵ Greek Cypriot police came under fire from Turkish Cypriot fighters while patrolling a Turkish enclave; however, the Greek troops retaliated quickly, killing 28 Turkish Cypriots.⁷⁶ U.N. forces narrowly maintained the peace in Cyprus and prevented a widespread Greco-Turkish war.⁷⁷ During this same period, a military regime overthrew the democratic government in Greece and seized power.⁷⁸ As a result of the events of 1967, both in Cyprus and mainland Greece, Makarios abandoned his pro-*enosis* position as impractical, thereby improving his bargaining position in Cyprus but further deteriorating relations between his government and the Greek *junta* government.⁷⁹

C. Turkish Invasion of Cyprus

Makarios's lack of concern for Greek authority caused the Greek *junta* in Athens to support terrorist groups conspiring to eliminate him.⁸⁰ Makarios attempted to distance Cyprus from the Greek government even further by requesting that Greece withdraw all Greek officers staffing the Cyprus National Guard.⁸¹ During negotiations in 1974, the Greek military staged an illegal *coup d'état* that temporarily replaced President Makarios with pro-*enosis* leader Nicos Sampson.⁸² Seizing upon a moment of Greek weakness, Turkish Prime Minister Bulent Ecevit met immediately with British Foreign Secretary James Callaghan in London to discuss Turkish options for intervention under the Treaty of Guarantee.⁸³

1. The invasion

Two days after the *coup*, the Turkish military invaded Cyprus with 45,000 men, jets, and American-supplied heavy artillery and napalm bombs.⁸⁴

75. See ERTEKUN, *supra* note 2, at 22.

76. See MIRBAGHERI, *supra* note 35, at 54.

77. See *id.* (noting that U.N. forces unsuccessfully attempted to enforce a curfew in all cities and enclaves).

78. See *id.* at 53.

79. KYLE, *supra* note 71, at 15-16. Makarios stated that "[a] solution by necessity . . . must be sought within the limits of what is feasible, which does not always coincide with the limits of what is desirable." *Id.*

80. See ERTEKUN, *supra* note 2, at 31.

81. KYLE, *supra* note 71, at 17. Makarios wrote to the Greek *junta* that he was "[n]ot an appointed prefect or locum tenens of the Greek Government in Cyprus but an elected leader of a large section of Hellenism." *Id.*

82. See MIRBAGHERI, *supra* note 35, at 88. Two weeks prior to the *coup*, Archbishop Makarios had accused the Greek regime of trying to overthrow his government. Both the military government of Greece and the Sampson's pro-*enosis* government of Cyprus fell eight days after the *coup*, and Greece reinstated Makarios's party in Cyprus. See 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, 438 (1986). In 1976, Nicos Sampson was sentenced to 20 years imprisonment for his role in the *coup*. *Greek Cypriot Militiaman Nicos Sampson Dies at Age 66*, WASH. POST, May 11, 2001, at B6.

83. See DODD, *supra* note 34, at 30. See also JOHN L. SCHERER, BLOCKING THE SUN: THE CYPRUS CONFLICT 35-36 (1997) (noting that Callaghan turned down Ecevit's request for joint action in any Turkish action in Cyprus).

84. The Turkish invasion took place under two offensives, separated by a series of brief, inconclusive peace talks, during which the Turkish army violated two cease-fire

This attack resulted in the killing of several thousand inhabitants, the widespread violation of human rights,⁸⁵ the establishment of a line of demarcation over nearly forty percent of the island (termed the "Attila Line" by Greek Cypriots and the "Green line" by Turkish Cypriots), the taking of seventy percent of Cyprus's economic resources, and the forcible displacement of Greek Cypriot inhabitants.⁸⁶ Catastrophic war between Greece and Turkey was avoided only because of the political and military disarray in Greece and clear Turkish military superiority.⁸⁷ On February 13, 1975, Turkish Cypriots proclaimed the "Turkish Federated State of Cyprus."⁸⁸ Turkey then adopted an illegal policy of deporting the remaining Greek Cypriot inhabitants⁸⁹ and systematically colonizing Northern Cyprus with settlers from the Turkish mainland.⁹⁰

2. Justifications for the Invasion

The Turkish government has argued that the treaties creating the Republic

agreements. Flora Lewis, *Cyprus Pact Will Impose a New Truce: Turks to Remain*, N.Y. TIMES, July 31, 1974, at A1. For a comparison between the Turkish invasion of Cyprus and the Iraqi invasion of Kuwait, see ROSSIDES, *supra* note 67, at 73-81.

85. See KYLE, *supra* note 71, at 19. The human rights violations included: the creation of 180,000 refugees, the killing of 3,000 Greek Cypriots, and the disappearance of an additional 1,619 persons. See *id.* For an argument that the Turkish invasion resulted in what is now termed "ethnic cleansing," see KYPROS CHRYSOSTOMIDES, *THE REPUBLIC OF CYPRUS: A STUDY IN INTERNATIONAL LAW* 159-214 (2000).

86. See REPUBLIC OF CYPRUS, PRESS AND INFORMATION OFFICE, *THE CYPRUS PROBLEM* 69-77 (1995). The 200,000 Greek Cypriots in the area of Cyprus which came under Turkish occupation amounted to 80 % of the population in that region and 40 % of the total Greek Cypriot population of the island. *Id.*

87. See JOSEPH, *supra* note 27, at 185. Greece chided NATO for its inability to prevent Turkey from creating a state of conflict between two allies and subsequently withdrew its armed forces from the military wing of NATO. See *id.* at 187-88.

88. See CYPRUS: A COUNTRY STUDY, *supra* note 3, at 44. In 1983, Turkish Cypriots officially declared independence from Cyprus, creating the "Turkish Republic of Northern Cyprus." *Id.*

89. The Turkish forced expulsion of Greek Cypriots unequivocally violated international law. The Universal Declaration of Human Rights, regarded as customary international law, binding all states by virtue of its widespread acceptance, prohibits involuntary displacement and the creation of refugees. See The Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., U.N. Doc. A/810 (1948). "Since refugees are forced directly or indirectly out of their homes . . . they are deprived of the full and effective enjoyment of all articles in the Universal Declaration of Human Rights." Principle 2 of the 1992 Cairo Declaration of Principles of International Law on Compensation to Refugees, adopted by the International Law Association (Cairo, 1992), reprinted in 87 AM. J. INT'L L. 157, 158 (1993) [hereinafter UDHR]. Specifically, forced expulsion violates UDHR article 13 ("Everyone has the right to freedom of movement and residence within the borders of each State."), article 9 (right to be free from "arbitrary arrest, detention, or exile"), and article 17(2) ("[n]o one shall be arbitrarily deprived of his property"). For a discussion of customary international law prohibiting the "deliberate mass expulsion of a population and forced population transfers," see Eric Rosand, *The Right to Compensation in Bosnia: An Unfulfilled Promise and a Challenge to International Law*, 33 CORNELL INT'L L.J. 113, 137 n.103 (2000).

90. Estimates place the number of illegal Turkish settlers since 1974 at 80,000; these settlers have been given lands taken from Greek Cypriots and other foreign nationals. See Alex J. Kondonassis & Birol Yesilada, *The Economy*, in CYPRUS: A COUNTRY STUDY, *supra* note 3, at 250; ROSSIDES, *supra* note 67, at 26.

of Cyprus authorized its unilateral act of force.⁹¹ Conversely, Greece has declared that such an interpretation cannot exist under Article IV of the Treaty of Guarantee.⁹² Even if Turkey acted within the confines of Article IV, Greece argued that Turkey's invasion must nevertheless be held void since it was incompatible with both the U.N. Charter⁹³ and peremptory norms of international law (*jus cogens*).⁹⁴ The United Nations Security Council agreed with Greece, unanimously disapproved of the Turkish invasion, and adopted resolutions on the day of the invasion "respect[ing] the sovereignty, independence and territorial integrity of Cyprus."⁹⁵ The Security Council called for the "withdrawal without delay from the Republic of Cyprus of foreign military personnel present otherwise than under the authority of international agreements."⁹⁶ Although Turkey was quick to recognize the "Turkish Federated State of Cyprus," the Security Council denounced the proclaimed secession.⁹⁷ The government of Cyprus, controlled at that point exclusively by Greek Cypriots, successfully pressed the international community to sever all contacts with Turkish Cypriot authorities in the North.⁹⁸

D. Attempts at Reunification

Three years after the Turkish invasion, Makarios and Turkish-Cypriot leader Rauf Denktash met for the first time in fourteen years and accepted four guidelines for intercommunal talks to create a bicomunal federal republic.⁹⁹ By 1979, the leaders of the two communities reached a ten-

91. The Turkish government has justified the military invasion of Cyprus under Article IV of the 1960 Treaty of Guarantee, which provides in pertinent part: "[i]n so far as common or concerted action may not prove possible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty." Treaty of Guarantee, Aug. 16, 1960, 382 U.N.T.S. 3, art. IV.

92. Greece has criticized the Turkish justification for failing to satisfy the requirement of consultations with all parties, interpreting "action" to mean "armed force," and undertaking military action without "the sole aim of reestablishing the state of affairs created by the present Treaty." Andreas J. Jacovides, *Cyprus—The International Law Dimension*, 10 AM. U. J. INT'L L. & POL'Y 1221, 1227 (1995).

93. Article 2(4) of the Charter of the United Nations prohibits any threat or use of force between independent states. U.N. CHARTER art. 2, para. 4.

94. See LOUIS HENKIN ET AL., HUMAN RIGHTS 301 (1999) (citing THE RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 331 cmt. e (1987)). A *jus cogens* norm is a rule of international law, "recognized by the international community of states as peremptory, permitting no derogation." *Id.* Such a norm is an overriding principle of international law, which cannot be set aside by treaty or acquiescence. See IAN BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 515 (1998). For an explanation of the role of *jus cogens* in international law, see *Barcelona Traction (Belg. v. Spain)*, 1970 I.C.J. 32; BROWNLIE, *supra*, at 514-15.

95. S.C. Res. 353, U.N. SCOR, 29th Sess., 1781st mtg. ¶ 1 (1974).

96. *Id.* ¶ 4.

97. See S.C. Res. 367, U.N. SCOR, 30th Sess., 1820th mtg. ¶ 2 (1975) (arguing that the Turkish Cypriot proclamation compromised "the continuation of negotiations between the representatives of the two communities on an equal footing").

98. See Wolfe, *supra* note 64, 112 (1984).

99. See MIRBAGHERI, *supra* note 35, at 91.

The guidelines stated:

point agreement to ease further talks.¹⁰⁰ Although these agreements initially raised hope for the reunification of Cyprus, neither community implemented the major terms of the agreements.¹⁰¹ Stalemate quickly reemerged.¹⁰²

On November 15, 1983, the Turkish Cypriot legislative assembly, invoking the principle of self-determination, attempted a Unilateral Declaration of Independence to proclaim its secession from Cyprus and form the "Turkish Republic of Northern Cyprus" (TRNC).¹⁰³ Only Turkey recognized this secession as legitimate, thereby acting in violation of its obligations under the 1960 treaties creating the Republic of Cyprus.¹⁰⁴ The international community continued to recognize only the government in politically-free Cyprus, reasoning that TRNC was an illegal entity because it grew out of an illegal secession in violation of international law.¹⁰⁵ The United Nations, the Council of Europe, the European Community, and most states, including the United States of America,¹⁰⁶ universally condemned this secession.¹⁰⁷

In another U.N. effort to bring peace to the region, Secretary-General Javier Perez de Cuellar, secretly supported by the United States, announced a new round of intercommunity negotiations in 1984 and again in 1985.¹⁰⁸ Although Turkey accepted the Secretary-General's proposed settlement *in toto*, Greece refused the settlement based upon the location of

We are seeking an independent, Non Aligned bicommunal Federal Republic. The territory under the administration of each community should be discussed in the light of economic viability or productivity and land ownership. Questions of principle, like freedom of movement, freedom of settlement, the right of property and other specific matters, are open for discussion, taking into consideration the fundamental basis of a bicommunal federal system and certain practical difficulties which may arise for the Turkish Cypriot community. The powers and functions of the central federal government will be such as to safeguard the unity of the country, having regard to the bicommunal character of the state.

UN Doc. S/12323, Apr. 30, 1977, ¶ 5. Cf. Eugene K. Keefe & Eric Solsten, *Historical Setting*, in *CYPRUS: A COUNTRY STUDY*, *supra* note 3, 2 at 45 (noting that the creation of a bicommunal republic would have been a departure from the constitution of 1960).

100. *Id.* at 45.

101. See MIRBAGHERI, *supra* note 35, at 93-102.

102. See *id.*

103. See Glen D. Camp, *Island Impasse: Peacemaking on Cyprus, 1980-1994*, in VANGELIS CALOTYCHOS, *CYPRUS AND ITS PEOPLE* 135, at 142 (1998).

104. See Palmer, *supra* note 82, at 443. Turkey obligated itself under the Treaty of Guarantee not to recognize any unilateral dissolution of the bicommunal Cypriot state. Treaty of Guarantee, Aug. 16, 1960, 382 U.N.T.S. 3, art. 2.

105. See S.C. Res. 550, U.N. SCOR, 39th Sess., 2539th mtg. ¶ 2, U.N. Doc. S/RES/550 (1984) (condemning "all secessionist actions, including the purported exchange of ambassadors between Turkey and the Turkish Cypriot leadership, declar[ing] them illegal and invalid and call[ing] for their immediate withdrawal").

106. See *Greek Cypriot Meets Reagan and Praises U.S. Stand on Turks*, N.Y. TIMES, Nov. 22, 1983, at A15.

107. See Palmer, *supra* note 82, at 444; see also Wippman, *supra* note 12, at 147 (noting the Security Council denouncement of Turkey's actions).

108. See Camp, *supra* note 103, at 143.

the specific pieces of land to be returned to Turkish Cypriots.¹⁰⁹ Although Secretary-General Perez de Cuellar, a former U.N. mediator in Nicosia, ultimately solved the land problem by proposing a 29% return of unspecified land, the imminent possibility of Greco-Turkish war in 1986 prevented any immediate discussion on Cyprus.¹¹⁰

By 1988, the communities had renewed their support for negotiation.¹¹¹ Cyprus elected President Vassiliou, who established a unified Greek Cypriot position for settlement and paved the way for resumed intercommunal discussion.¹¹² Although the communities met in four rounds of negotiations over two years, they concluded in no lasting agreements.¹¹³ In 1992, U.N. Secretary-General Javier Perez de Cuellar unsuccessfully offered another proposal for reaching a political settlement.¹¹⁴ The communities met again in 1993 with U.N. Secretary-General Boutros Boutros-Ghali to begin intensified efforts to achieve settlement; however, Turkish community leaders "rejected a federal solution to the Cyprus problem and the concept of a single state."¹¹⁵ Despite these Turkish opinions, both sides have tentatively agreed to current negotiations taking place under the 1994 Security Council Resolution on Cyprus, which requires a solution:

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 . . . in a bi-communal and bi-zonal federation, and that such a settlement must exclude union in whole or in part with any other country or any form of partition or secession.¹¹⁶

109. *See id.* at 144. Greece complained that some of the specific lands to be returned had great cultural importance to the Greek and Greek Cypriot people. *See id.*

110. *See id.*

111. Vangelis Calotychos, *Interdisciplinary Perspectives: Difference at the Heart of Cypriot Identity and Its Study*, in CALOTYCHOS, *supra* note 103, at 17. Cyprus President George Vassiliou termed Greek Cypriot efforts to renew negotiations a "peace offensive." *Id.*

112. *See id.* at 144.

113. *See id.* at 145.

114. *See* De Cuellar's Ideas, reprinted in CHRYSOSTOMIDES, *supra* note 85, at 575. The allocation of sovereignty under the Set of Ideas was similar to that under the 1960 Constitution, leaving political authority divided in a bicomunal, but not bizonal, federation. *See* DODD, *supra* note 34, at 47. For a discussion of the constitutional proposals suggested by the Set of Ideas, specifically in terms of minority protections, see Andreas P. Kyriacou, *An Ethnically Based Federal and Bicameral System: The Case of Cyprus*, 20 INT'L REV. L. & ECON. 251, 253-54, 56-59 (2000).

115. Athens New Agency, Press Report from Athens via HELLAS-L (Mar. 11, 1994).

116. S.C. Res. 939, U.N. SCOR, 3412th mtg. ¶ 2, U.N. Doc. S/RES/9939 (1994). Although endorsed by the Security Council, neither Cypriot community has officially accepted this resolution.

II. Current State of the Republic of Cyprus¹¹⁷

Greek Cypriots have emerged from the partition as a prosperous urbanized society in what has been called an "economic miracle."¹¹⁸ The southern half of the island republic has a successful free market economy and acts as a western democracy.¹¹⁹ The Republic of Cyprus, governed by only Greek Cypriots, currently shares a customs union with the European Union, and is well positioned to negotiate for full membership in the European Community.¹²⁰

Despite United Nations declarations on the illegality of the Turkish Cypriot secession, Turkish Cypriots nevertheless have *de facto* control over the northern third of the island.¹²¹ In the north, 35,000 Turkish troops, supported by others on the Turkish mainland, maintain defenses along the line of demarcation.¹²² The government of Cyprus has imposed an embargo on goods coming from the TRNC and has obtained injunctive relief in European courts to block the sale of TRNC goods within the Common Market.¹²³ Although the TRNC controls over seventy percent of the resources of Cyprus, it suffers from chronic stagnation as a result of foreign embargoes and could not survive economically in the absence of Turkish aid.¹²⁴ Consequently, the Turkish government has assumed control of the TRNC.¹²⁵

117. For information regarding the current state of Greco-Turkish relations outside of Cyprus, see generally Michael N. Schmitt, *Aegean Angst: A Historical and Legal Analysis of the Greek-Turkish Dispute*, 2 ROGER WILLIAMS U. L. REV. 15 (1996).

118. Andrew Borowiec, *Greek Cypriots Balk at Four-party Talks*, WASH. TIMES, July 23, 1991, at A8; see also Eleni Meleagrou & Birol Yesilada, *The Society and Its Environment*, in CYPRUS: A COUNTRY STUDY *supra* note 3, at 49.

119. See generally Caesar V. Mavratsas, *Greek Cypriot Economic and Political Culture: The Effects of 1974*, in CALOTYCHOS, *supra* note 103, at 285 (arguing that the Turkish invasion led to an "economic intensification" by Greek Cypriots).

120. See JOSEPH, *supra* note 13, at 117; see *infra* Part IV.C.

121. See Ellen Laipson, *Government and Politics*, in CYPRUS: A COUNTRY STUDY, *supra* note 3, at 161 at 172.

122. See Amy Truesdell, *Nicosia Raises the Stakes on Cyprus*, JANE'S INTELLIGENCE REV., Jan. 4, 1997, at 166.

123. The Queen and the Minister of Agriculture, Fisheries and Food, *ex parte* Anastasious (Pissouri) Ltd and others, Case C4322/92, 100 I.L.R. [1994] ECR-I 2087. In *Ex parte Anastasious*, the Court of Justice of the European Communities held that the Republic of Cyprus is the only government competent to issue movement and phytosanitary certificates for export of agricultural products pursuant to the Association Agreement of 1972 between the European Economic Community and the Republic of Cyprus. *Id.* Specifically, the Court found that the certificates issued by the TRNC were invalid as a matter of Community Law. *Id.*

124. Per capita income in the TRNC is less than US \$3,000, compared to the US \$15,000 earned in politically-free Cyprus and similar advanced European countries. On average, the wages of Greek Cypriots are four times those of Turkish Cypriots. KYLE, *supra* note 71, at 20. The two communities disagree as to the cause of the economic downturn, with Turkish Cypriots blaming the economic blockade, whereas Greek Cypriots argue that bad management, lack of investment and corruption are the true causes. *Id.* As a result of the lack of economic development in the TRNC, Turkish Cypriots have risked punishment to smuggle goods from Southern Cyprus. See ROBERT I. ROTBERG & ERICKA A. ALBAUGH, *CYPRUS 2000: DIVIDED OR FEDERAL?* 55 (1998).

125. Because of the Turkish systematic colonization of Cyprus and stationing of the Turkish army, the Turkish Cypriots now find themselves numerically inferior to the

The United Nations continues to have an official representative in Cyprus, encouraging settlement of the conflict such that the two distinct subnational communities can coexist within a single state.¹²⁶ However, after twenty-seven years of separation, the communities are at an impasse in their reunification efforts.¹²⁷ The United Nations peacekeeping force dispatched in 1964 remains stationed and active along the line of demarcation.¹²⁸ Although Greece has actively sought peace and cooperation in its reunification efforts,¹²⁹ the Turkish government has opposed a full reunification.¹³⁰ Turkey maintains that the Guarantor Powers must have the authority under the Set of Ideas for unilateral military intervention.¹³¹ Both parties assert that the 1960 Accords are still in force,¹³² but they have been, in effect, indefinitely suspended.¹³³ Twenty-five years after the Turkish invasion, Nicosia, the capital of the Republic of Cyprus, remains divided by barbed wire.¹³⁴ The Cyprus impasse continues and is one of the most intractable disputes worldwide.

III. Possibilities for Peace

Greece and Turkey have committed themselves to peace for themselves and for Cyprus.¹³⁵ A new generation of Greek and Turkish Cypriots now control their respective communities. These Cypriots have never experienced and do not remember the past terrors of the intercommunal conflict. The wrongs of past generations can be forgiven, placing the people of Cyprus in

number of settlers and military personnel. See Camp, *supra* note 103, at 146 (noting that the TRNC uses Turkish currency, Turkish time, and Turkish education).

126. The United States also has appointed a Special Envoy to Cyprus to spur reunification efforts, and President Clinton has appointed Richard Holbrook as Special Representative to Cyprus. See Elizabeth Neuffer, *Diplomats Turn to Cyprus Question as Tensions Increase*, BOSTON GLOBE, Aug. 18, 1996, at A2. See also MIRBAGHERI, *supra* note 35, at 153 (discussing the applicability of Holbrook's successes in Bosnia to the Cyprus dispute). For more information on U.S. involvement in Greco-Turkish relations, see generally Speros Vryonis, Jr., *American Foreign Policy in the Ongoing Greco-Turkish Crisis as a Contributing Factor to Destabilization*, 2 UCLA J. INT'L L. & FOREIGN AFF. 69 (1997).

127. Rauf Denktas, President of the TRNC, has stipulated conditions under which he will return to negotiations: "The existence of [TRNC] must be recognized, even if a confederation is not. The process and the UN Secretary General's proposals for a solution have to change." Birand, *supra* note 9.

128. Wippman, *supra* note 12, at 147. The U.N. has been criticized for achieving a "peacekeeping, but not a peacemaking, success in Cyprus." Camp, *supra* note 103, at 136.

129. See Loucas Tsilas, *Greek-Turkish Relations in the Post-Cold War Era*, 20 FORDHAM INT'L L.J. 1589, at 1604 (1997).

130. See Jacovides, *supra* note 92, at 1223 (stating that "the demand from the Turkish side called for the establishment of, in effect, two separate states with separate armies, separate treaty-making capacity, and separate economies").

131. See De Cuellar's Ideas, *supra* note 114.

132. See *Opening Statement of the Secretary-General of 26 February 1990*, reprinted in ZAIM M. NECATIGIL, *THE CYPRUS QUESTION AND THE TURKISH POSITION IN INTERNATIONAL LAW* 449 (2d ed. 1993).

133. Wippman, *supra* note 12, at 164.

134. See IOANNIS D. STEFANIDIS, *ISLE OF DISCORD* vii (1999).

135. See *infra* notes 173-184 and accompanying text.

an ideal position to embrace peace.¹³⁶ Despite the failure of the 1960 Constitution and past reunification efforts, reunification in the Republic of Cyprus is legally necessary and now likely to succeed, due to improved Greek-Turkish relations and the advantages of a reunified Cyprus's acceptance into the European Union.

A. Legal Necessity of Reunification

Many Turkish Cypriots believe that Turkey solved the Cyprus problem in 1974, effectively creating the *de facto* partition that Turkish Cypriots long wanted.¹³⁷ However, the Turkish gains, obtained through an illegal use of force, cannot be permitted to become recognized boundaries, for such a recognition would undermine international law. Based upon Turkey's illegal use of force in obtaining and maintaining the current partition of Cyprus, the TRNC's lack of a right to self-determination, and unresolved private property issues, the status quo in Cyprus is clearly unacceptable under international law.

1. Use of Force

Turkey's forceful invasion and occupation of Cyprus violates international law prohibiting the use of force as a means of dispute resolution.¹³⁸ There is widespread agreement that "the uninvited use of force by one state to maintain a particular political system within another state is a violation of [a *jus cogens*] norm" of international law.¹³⁹ Article 2(4) and 51 of the U.N. Charter established this *jus cogens* norm, under which a state may not forcibly enter the territory of another state unless acting with that state's permission in self-defense.¹⁴⁰ "[T]he use of force, condemned by the Charter and renounced by all members of the United Nations, cannot be brought to an end until its instruments are withdrawn to the place from

136. *But cf.* DODD, *supra* note 32, at 49 (noting that fewer than half of Turkish Cypriots believe that a federation with Greek Cypriots will be successful).

137. *See* Calotychos, *supra* note 111, at 23.

138. *See, e.g.*, G.A. Res. 3212, 29 U.N. GAOR, 2275th plenary mtg., at 3, U.N. Doc. S/11557 (1974) (requiring "the speedy withdrawal of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus, and the cessation of all foreign interference in its affairs"); G.A. Res. 34/30, U.N. GAOR, 74th plenary mtg. (1979) (condemning "the continued presence of foreign armed forces and foreign military personnel on the territory of the Republic of Cyprus and the fact that part of its territory is still occupied by foreign forces) (emphasis added); G.A. Res. 37/253, U.N. GAOR, U.N. Doc. A/RES/37/253 (1983) (demanding "the immediate withdrawal of all occupation forces) (emphasis added).

139. Wippman, *supra* note 12, at 156. For an explanation of *jus cogens* and its status in international law, see *supra* note 94 and accompanying text.

140. U.N. CHARTER art. 2, para 4, 51. The Charter of the United Nations is universally accepted as establishing peremptory international legal norms. As stated by Sir David Hunt, former British High Commissioner in Cyprus,

[a]ll the sovereign nations of the world have voluntarily undertaken to observe the obligations which the Charter lays on them: that disputes are to be settled by peaceful means; that members undertake not to use force or the threat of force in contravention of the purposes of the United Nations; and that each member must assist the organisation in any action it takes under the Charter.

which the aggression was launched.”¹⁴¹

Although Turkey has justified its actions under article IV of the Treaty of Guarantee,¹⁴² article 53 of the UN Charter prohibits action “under regional arrangements or by regional agencies without the authorization of the Security Council.”¹⁴³ Further, the Turkish interpretation of article IV of the Treaty of Guarantee conflicts with the fundamental prohibition of the use of force.¹⁴⁴ In this situation, treaty-based intervention is not permissible because such forceful intervention conflicts with an overriding *jus cogens* norm, namely the prohibition on the use of force outlined in article 2(4) of the U.N. Charter.¹⁴⁵

Turkey’s presence in Cyprus cannot be justified either as self-defense or collective self-defense.¹⁴⁶ Self-defense, pursuant to article 51 of the UN Charter, requires that the state using military force be under attack. Turkey clearly was not under attack or threat of attack from Cyprus. Furthermore, collective self-defense exists only “to aid third states which have become the object of an unlawful use of force;”¹⁴⁷ it does not permit the defense of foreign nationals alone.¹⁴⁸

Because Turkish forces are forcefully present in Cyprus without legal justification, Turkey’s infringement of the territorial integrity of Cyprus violates international law.

SIR DAVID HUNT, *CYPRUS: A STUDY IN INTERNATIONAL RELATIONS* 10 (1980).

141. *Id.* at 12; see ROBERT JENNINGS & ARTHUR WATTS, *OPPENHEIM’S INTERNATIONAL LAW* 686 (1992) (noting that “an occupation ends when the occupant withdraws from a territory or is evicted from it”).

142. See Treaty of Guarantee, Aug. 16, 1960, 382 U.N.T.S. 3, art. IV (providing that “[i]n so far as common or concerted action may not prove possible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty”).

143. U.N. CHARTER art. 53, para 1. Cf. Rossides, *supra* note 67, at 57 (arguing that the Treaty of Guarantee is not a regional arrangement).

144. Eugene Rossides criticized the Turkish interpretation because, *inter alia*:

(1) Article IV of the Treaty of Guarantee did not authorize “force” when it authorized “action.” There is no mention of the word “force” in the Treaty.

(2) When Cyprus became a member of the United Nations in 1960, all provisions of the London-Zurich Agreements in conflict with or inconsistent with the Charter of the United Nations became null and void pursuant to article 103 of the United Nations Charter . . .

(3) On its face, the Treaty of Guarantee only authorized action to restore the status *quo ante*

Id. at 56-59.

145. See HENKIN, *supra* note 94, at 301 (explaining that *jus cogens* norms “prevail over and invalidate international agreements and other rules of international law in conflict with them”).

146. Neither can the Turkish invasion and occupation be justified as a humanitarian intervention. CHRYSOSTOMIDES, *supra* note 85, at 131. During the coup immediately preceding the Turkish invasion, Greek Cypriots did not violate any fundamental human rights of members of the Turkish Cypriot population. *Id.*

147. IAN BROWNLIE, *INTERNATIONAL LAW AND THE USE OF FORCE BY STATES* 330 (1963) (emphasis added).

148. Rossides, *supra* note 67, at 48.

2. Self-Determination

The Turkish Cypriot people have no independent right of self-determination to permit their independence from Cyprus. Although the Turkish Cypriot government justifies the existence of the TRNC under the right of self-determination found in Article 1 (2) of the Charter of the United Nations,¹⁴⁹ this right belongs to the people of Cyprus as a whole, not a single community.¹⁵⁰ Article 1(2) provides for “the principle of . . . self-determination of people.”¹⁵¹ Because there is no internationally agreed upon definition of the “people” to whom the right of self-determination belongs, the principle of self-determination has been confined to the context of colonialism.¹⁵² It was this internationally accepted use of the right that was exercised and exhausted by the people of both ethnic communities in the framework agreements of 1960.¹⁵³ This right may not again be exercised unilaterally to divide the state further.¹⁵⁴

Additionally, there exists no internationally-recognized legal right of self-determination to justify a right of forceful secession in violation of the fundamental principle of territorial integrity. UN Resolution 1514 limits exercise of the right to self-determination, providing that “[a]ny attempt aimed at partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.”¹⁵⁵ This territorial integrity exception to self-determination finds firm root in the customary international law binding all nations.¹⁵⁶ No Greek Cypriot actions have abrogated the legal integrity of the Republic of Cyprus to permit the derogation of its territo-

149. See M. NECATI MUNIR ERTEKUN & ZAIM M. NECATIGIL, *THE RIGHT OF THE TURKISH CYPRIOT PEOPLE TO SELF-DETERMINATION* 3 (1996). Article 1(2) states that the purpose of the United Nations is “[t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.” U.N. CHARTER art. 1, para 2. Self-determination allows a population to be “free to choose independence and statehood.” HENKIN ET AL., *supra* note 94, at 88. For an analysis of the origins of self-determination, see JORRI DUURSMA, *FRAGMENTATION AND THE INTERNATIONAL RELATIONS OF MICRO-STATES: SELF-DETERMINATION AND STATEHOOD* 7-109 (1996).

150. See Reference re Secession of Quebec, 2 S.C.R. 217 (Feb. 17, 1998) available at http://www.lexum.umontreal.ca/csc-scc/en/pub/1998/vol2/html/1998scr2_0217.html.

151. U.N. CHARTER, art. 1, para 2.

152. See G.A. Res. 1514, U.N. GAOR, ¶ 1 (1960) (recognizing the right of self-determination only where peoples are subject to “alien subjugation, domination and exploitation”); HENKIN ET AL., *supra* note 94, at 88 (“It is accepted that the right to self-determination was enjoyed by the populations of the areas that had been subject to European colonialism.”).

153. Sovereignty over the island was transferred from Great Britain to the Republic of Cyprus, not to either or both of the ethnic communities. See *supra* notes 39-50 and accompanying text.

154. HENKIN ET AL., *supra* note 94, at 88 (noting that “a right to secede from an existing state . . . has not been generally accepted”).

155. G.A. Res. 1514, U.N. GAOR, ¶ 6 (1960).

156. The Badinter Commission, an arbitration committee formed in the aftermath of fighting in the former Yugoslavia, held that “it is well established that, whatever the circumstances, the right to self-determination must not involve changes to existing frontiers at the time of independence (*uti possidetis juris*) except where the States concerned agree otherwise.” Conference on Yugoslavia Arbitration Commission: Opinions on

rial sovereignty.¹⁵⁷ The Security Council confirmed this through resolutions declaring that Turkish Cypriots have no right to self-determination that would justify declaring the TRNC.¹⁵⁸

3. Property Rights

The continued separation of the two communities infringes the private property rights of refugees and displaced persons. Legal Cypriot inhabitants who were expelled from their homes have not abandoned their right of return. The continued existence of refugees and displaced persons violates the European Convention on Human Rights (ECHR).¹⁵⁹ The right of all refugees and displaced persons to return to their homes mandates that their pre-1974 property be returned.¹⁶⁰

In 1996, The European Court of Human Rights (the Court) declared for the first time that Greek Cypriots have a valid claim against Turkey under the ECHR for continuous unjustified interference with their private property rights.¹⁶¹ In *Loizidou v. Turkey*, the applicant, a Greek Cypriot, brought a claim against Turkey for preventing her from returning to her land in the TRNC.¹⁶² The Court held that the applicant has ownership rights to her property, despite the fact that she had not resided on the property for twenty-two years.¹⁶³ The applicant based her claim on Article 1 of Protocol 1 of the ECHR, which provides that “[e]very natural or legal person is entitled to the peaceful enjoyment of his possessions.”¹⁶⁴ The

Questions Arising from the Dissolution of Yugoslavia (Jan. 11, 1992), in 31 I.L.M. 1488, 1498 (1992).

157. See Camp, *supra* note 103, at 142.

158. See, e.g., S.C. Res. 541, U.N. SCOR, 2500th mtg., U.N. Doc. S/RES/541 (1983); S.C. Res. 550, U.N. SCOR, 39th Sess., 2539th mtg. ¶ 2 U.N. Doc. S/RES/550 (1984).

159. See European Convention on Human Rights, art. 8.

160. The international community has taken great interest in implementing the right of return declared in the General Framework Agreement for Peace, signed by the representatives of the Bosniaks, Bosnian-Serbs, and Bosnian-Croats in the aftermath of the war in Bosnia. General Framework Agreement for Peace in Bosnia and Herzegovina with Annexes, Dec. 14, 1995, Bosn.-Herz.-Croat.-Yugo., 35 I.L.M. 75, 138; see U.N. High Commissioner for Refugees, A Regional Strategy for Sustainable Return on the Former Yugoslavia 3.4 (1998), cited in Eric Rosand, *The Right to Compensation in Bosnia: An Unfulfilled Promise and a Challenge to International Law*, 33 CORNELL INT’L L.J. 113, 122 n.33. (declaring the right of return to be fundamental to any peace agreement in Bosnia); cf. Rosand, *supra* note 89, at 138-41 (arguing that compensation is more practical than a right of return).

161. See *Loizidou v. Turkey*, 28 Eur. Ct. H.R. 2216 (1996). Although several thousand additional lawsuits have been filed, the precedential value of the *Loizidou* decision has not yet been proven.

162. The applicant was a member of “Women Walk Home,” a Greek Cypriot group whose members were arrested and subsequently released to United Nations officials when they crossed into Northern Cyprus to reclaim their property in March 1989. See Registrar of the European Court of Human Rights, *Press Release by the European Court of Human Rights* (Dec. 18, 1996), available at <http://www.hir.org/news/cyprus/other/96-12-18.cyo.html> [hereinafter ECHR Press Release].

163. The Court later held that the applicant was entitled to additional compensation for Turkey’s continuing violation. *Loizidou v. Turkey*, 81 Eur. Ct. H.R. 1807 (1998).

164. Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, May 18, 1954, 213 U.N.T.S. 262, art. 1. Although the applicant also argued

Court ruled that the ECHR applied to Turkey's extraterritorial actions,¹⁶⁵ and Turkish military actions in Cyprus were therefore imputable to Turkey.¹⁶⁶ In addition, the Court ruled that Turkey bears responsibility for the actions of the TRNC in its continued denial of property rights to Greek Cypriots.¹⁶⁷ Although Turkey argued that the TRNC Constitution had expropriated the applicant's property, the Court, based on a lack of international recognition of the TRNC, declared both the TRNC and its Constitution invalid.¹⁶⁸ The Court concluded that the "applicant was entitled to be fully compensated for loss of access to and control of her property."¹⁶⁹

Therefore, continued *de facto* partition of the Republic of Cyprus violates international law, and the international community can only recognize the Turkish Cypriot leadership if it is part of the legitimate Cypriot government. Turkey and the Turkish Cypriot government are under an international legal obligation to cease and desist from all violations of the sovereignty, territorial integrity, and political independence of the Republic of Cyprus in accordance with the United Nations Charter and numerous Security Council resolutions. International law mandates a peaceful resolution of the Turkish occupation and partition of Cyprus.

B. Improved Greek-Turkish Relations

The Cypriot communities look to Greece and Turkey for "ethnic identification, belonging, and protection."¹⁷⁰ Overarching loyalties to the perceived motherland were at the root of the *enosis* and partition movements and the

that Turkey had unjustifiably interfered with her family and home life, in violation of article 8 of the ECHR, the Court ultimately rejected this argument because the applicant had never considered the property her home. ECHR Press Release, *supra* note 162. The author notes that under circumstances of an applicant expelled from his or her actual home, the Court may find both an article 1 of protocol 1 and an article 8 violation.

165. Although the ECHR does not regularly apply to a state's extraterritorial actions, Turkey's "effective overall control over that territory" made it responsible for its actions there. See Beate Rudolf, *European Convention on Human Rights—Continuing Violation—Effective Control Exercised by Turkey over Territory of Northern Cyprus—Attribution of Human Rights Violations to Controlling Power—Effect of Nonrecognition as a State*, 91 AM. J. INT'L L. 532, 532 (1997).

166. ECHR Press Release, *supra* note 162. This ruling marked the first time that an international tribunal has held Turkey responsible under international law for its invasion of Cyprus. Charles Spies, *European Court of Human Rights Rules Turkey Responsible for Refugee Property in Turkish-Occupied Northern Cyprus*, 11 GEO. IMMIGR. L.J. 663, 665 (1997).

167. See *Loizidou v. Turkey*, 81 Eur. Ct. H.R. 1807 (1998); see also John Quigley, *State Responsibility for Ethnic Cleansing*, 32 U.C. Davis L. Rev. 341, 354 (1999) ("A state that occupies foreign territory is not at liberty to establish such a government, and if it does so, it does not thereby evade responsibility for the conduct of the occupation.").

168. ECHR Press Release, *supra* note 162.

169. *Loizidou v. Turkey*, 81 Eur. Ct. H.R. 1807, 1817 (1998). International law obligates a state that has breached an international obligation to make reparations. See Covey T. Oliver, *Legal Remedies and Sanctions*, in INTERNATIONAL LAW OF STATE RESPONSIBILITY FOR INJURIES TO ALIENS 61, 61 (Richard B. Lillich ed., 1983).

170. JOSEPH, *supra* note 27, at 243. The actions of Greece and Turkey "revived old ethnic enmity, antagonism, fear, and suspicion that were reflected in official government policies and mass manifestations." *Id.* at 244.

resulting collapse of the biethnic Cypriot state.¹⁷¹ Cross-boundary ethnic ties, preserved through common language, religion, and education, have created an ethnic-based animosity, dividing the communities in Cyprus and preventing peace.¹⁷²

Although Cyprus is still somewhat affected by the nationalistic feelings of both mainland states,¹⁷³ the Cypriot communities now have distanced themselves from Greece and Turkey.¹⁷⁴ This psychological distance from Greece and Turkey has led to the rise of Cypriotism, a new national identity that “foregrounds citizenship of a Cypriot state over the ethnic demands of the respective motherland.”¹⁷⁵ Without the nationalist attitudes of their motherlands, the Cypriot communities may see each other, not as enemies, but as fellow citizens.

Additionally, the underlying Greek-Turkish antagonism that was transplanted to Cyprus has since waned. Following World War II, Turkey’s primary interest in Cyprus was security from Greek expansionism.¹⁷⁶ Greece, in turn, feared that Turkish expansionism would threaten the security of Greek Cypriots.¹⁷⁷ This security threat no longer exists, and, as a result, both Greece and Turkey have cut arms spending in 2001.¹⁷⁸ Although some security fears remain throughout Europe, the present stability and strength of NATO and the U.N. Security Council serve as an adequate protection from such possibilities.¹⁷⁹

Lastly, and most importantly, the Greek and Turkish motherlands are making strides toward a lasting peace with each other. On January 21, 2000, George Papandreou, the Greek Foreign Minister, became the first Greek Minister to visit Turkey in thirty-eight years.¹⁸⁰ More than two

171. See *supra* notes 22-28 and accompanying text.

172. See generally Vamik D. Volkan, *Turks and Greeks of Cyprus: Psychopolitical Considerations*, in CALOTYCHOS, *supra* note 103, at 277 (discussing the Turkish Cypriot separatist mentality); MIRBAGHERI, *supra* note 35, at 94-98 (discussing the Greek Cypriot attitude to international peacemaking).

173. See Peter Loizos, *How Might Turkish and Greek Cypriots See Each Other More Clearly?*, in CALOTYCHOS, *supra* note 103, 35 at 36.

174. See Calotychos, *supra* note 111, at 16 (noting that “Greek Cypriot nationalism no longer aspires to union with Greece”). But see CHRYSOSTOMIDES, *supra* note 85, at 272-75 (arguing that the TRNC is merely a “puppet state” of Turkey); but cf. JOSEPH, *supra* note 13, at 130 (acknowledging that a modern Cyprus conflict could have a “spill-over” effect on Greco-Turk relations).

175. Calotychos, *supra* note 111, at 16. But see Loizos, *supra* note 173, at 36 (noting that “any future settlements are subject to mainland consent”).

176. See STEPHENS, *supra* note 22, at 139. This original position contradicted the relationship of Greece and Turkey as allies in NATO. See *id.* at 140.

177. See Yiannis Papadakis, *Enosis and Turkish Expansionism: Real Myths or Mythical Realities?*, in CALOTYCHOS, *supra* note 103, at 69.

178. Andrew Borowiec, *Greece, Turkey Agree to Arms Cuts. Flagging Economies Make Astronomical Defense Spending Impractical*, WASH. TIMES, Apr. 25, 2001, at A14 (“According to one Western assessment, at this stage neither Turkey nor Greece believes that the other wants war, and ‘it is up to the diplomats to maintain the momentum of the unprecedented opportunity and seek new avenues of compromise.’”).

179. See MIRBAGHERI, *supra* note 35, at 151 (noting the “disappearance of bipolarity from the international scene and its replacement by a unipolar system”).

180. *When Greek Meets Turk*, TIMES (LONDON), Jan. 22, 2000, at 23.

decades after the invasion of Cyprus, Greece and Turkey have begun signing accords to renew peace in the Aegean.¹⁸¹ Regulating double taxation, organized crime, illegal immigration, tourism and the Aegean environment, the accords provide a forum in which the nations can pledge themselves to peace.¹⁸² The former warring nations have also begun planning future accords, visits to each other's nations, and joint hosting of the 2008 European Soccer Championships.¹⁸³ To ease tensions further, Greece recognized Turkey as a candidate for EU membership.¹⁸⁴ Without the underlying Greco-Turkish animosity, a unified international community may pressure the Turkish Cypriot leadership to soften its anti-Greek tone and return to discussions of reunification.¹⁸⁵

C. Cyprus's Role in the European Union

In 1990, President Vassiliou applied for Cypriot membership in the European Union.¹⁸⁶ Although the EU Commission recommended that the Council of Ministers deny Cyprus entrance into the European Union in 1993, the Council decided in 1995 to approve renewed accession negotiations.¹⁸⁷ Given that Cyprus's legal system is based on internationally accepted principles of jurisprudence, few changes would be necessary for Cyprus to join the European Union.¹⁸⁸ Cyprus was entitled, in principle, to seek accession to the EU.¹⁸⁹ However, under its present partition, Cyprus cannot become a member of the European Union.

Although legally and economically developed, Cyprus currently lacks the political development necessary for its inclusion in the European Union.¹⁹⁰ The European Commission recognizes the existence of only one state, the Republic of Cyprus, on the island.¹⁹¹ Turkey and Turkish Cypri-

181. *See id.*

182. *See* Stephen Kinzer, *Greeks, Turks OK Cooperative 'New Era,'* CHI. TRIB., Jan. 21, 2000, at 18.

183. *See id.*

184. *See* Richard Boudreaux, *Turkey and Greece Enter 'New Era' With Accords,* L.A. TIMES, Jan. 21, 2000, at A12.

185. Both Turkey and Greece's Foreign Ministers now support U.N. efforts to resume Cypriot negotiations. *Id.*

186. KYLE, *supra* note 71, at 30.

187. *See* European Council, Brussels Agreement, Mar. 6, 1995.

188. *See* JOSEPH, *supra* note 13, at 124.

189. Certain conditions for seeking accession have materialized over time. A state seeking accession must be: recognized as a European state under international law, governed through a democracy, respectful of human rights and fundamental freedoms, developed comparable to that of existing Member States, and not affiliated with any alliance whose interests are contrary to those of the EU. CHRYSOSTOMIDES, *supra* note 85, at 452. Further, the discretionary power of the EU in providing additional unwritten conditions for admitting new members is almost limitless. *Id.* at 453-54.

190. *See* M. Ergun Olgun, *European Union for "Cyprus"? Pros and Cons,* in CYPRUS AND THE EUROPEAN UNION: THE TURKISH CYPRIOT VIEW AND SOME SELECTED ARTICLES 25 (1996). The European Union has developed political criteria for membership, including "a cultural orientation of tolerance, empathy, respect for the other, multiculturalism, and a willingness to cooperate with the other as equals." *Id.*

191. Opinion of the ED Commission on the Application of Cyprus for Membership, ¶ 8, *reprinted in* JOSEPH, *supra* note 13 [hereinafter Commission's Opinion]. The European

ots have protested EU accession, contending that the Greek Cypriots have no right, under the 1960 Constitution, to act on behalf of the whole island.¹⁹² The EU, although it has negotiated exclusively with the Greek Cypriot government, somewhat agrees with the Turks.¹⁹³ Cyprus must be reunited if it is to join the EU,¹⁹⁴ as the EU is unwilling to admit an occupied Cyprus as a member, where membership would import the consequences of the Turkish occupation into the European Community.¹⁹⁵

Despite Turkish protest,¹⁹⁶ Turkish and Greek Cypriots share the same overall vision that reunification and accession to the EU would be economically beneficial for all of Cyprus.¹⁹⁷ Under present embargoes, the TRNC has limited trade capabilities and will require bicommunal business ventures to survive economically.¹⁹⁸ However, cross-community trade requires either recognition of the TRNC or unification of Cyprus. As the Cypriot government is unwilling to accept the former option,¹⁹⁹ the latter proves to be the only possible solution to the widening economic gap in Cyprus. As stated by the European Commission, “[a] political settlement of the Cyprus question would serve only to reinforce this vocation and strengthen the ties which link Cyprus to Europe.”²⁰⁰

Further, Cyprus’s admission into the EU would greatly benefit Turkey itself, opening the door to its own admission into the EU. Turkey became a candidate for E.U. membership in December 1999 and has taken many

Union has never established formal relations with the TRNC. CHRYSOSTOMIDES, *supra* note 85, at 456.

192. KYLE, *supra* note 71, at 31. Turkish Cypriots argue that under the 1960 Constitution, the Turkish Vice-President had veto power over any decisions concerning foreign affairs. *Id.*

193. *See id.* “[T]he Union considers the island to be a single entity, with a legitimate and internationally recognized government, and that the status quo is unacceptable.” European Parliament Resolution on Cyprus’ Application for Membership of the European Union, *reprinted in* JOSEPH, *supra* note 13.

194. The European Commission stated that

Cyprus’s integration with the Community implies a peaceful, balanced and lasting settlement of the Cyprus question – a settlement which will make it possible for the two communities to be reconciled, for confidence to be re-established and for their respective leaders to work together . . . [A]s soon as the prospect of a settlement is surer, the Community is ready to start the process with Cyprus that should eventually lead to its accession.

Commission’s Opinion, *supra* note 191, ¶¶ 47-48. *But cf.* CHRYSOSTOMIDES, *supra* note 85, at 465 (“The fact of the Republic’s inability to exercise sovereignty over the occupied areas does not really affect the possibility of Cyprus becoming a member of the EU.”).

195. *See* MIRBAGHERI, *supra* note 35, at 152; *see also* Birand, *supra* note 9 (“[I]f the EU makes Cyprus a full member without first finding a solution to the Cyprus question, the Greek Cypriots will be able to say that Turkey is occupying EU soil and demand the withdrawal of Turkish forces.”).

196. Turkey and the TRNC signed a joint declaration on December 28, 1995 stating that European Union accession negotiations with Cyprus should be taken up only with simultaneous Turkish accession. KYLE, *supra* note 71, at 31.

197. *See id.*

198. *See id.*

199. *See* ROTBERG & ALBAUGH, *supra* note 124, at 57.

200. Commission’s Opinion, *supra* note 191, ¶ 45.

steps since then to further its candidacy.²⁰¹ However, Greece has both the ability²⁰² and the propensity²⁰³ to prevent any Turkish accession attempts. This need not happen. Both Greece and the Greek Cypriot government have indicated that they would be willing to support Turkish membership in the EU once Cyprus is reunited.²⁰⁴ Turkey's own future will depend on the reunification of Cyprus.

A unified Cyprus would be an asset to the European Union. As Europe's most eastern outpost in the Mediterranean, Cyprus has extreme strategic importance to the security of the EU,²⁰⁵ and the EU has suggested deploying the proposed European Defense Force in Cyprus.²⁰⁶ From a corporate standpoint, Cyprus has value to multinational firms, who could rely on Cyprus's developed infrastructure in conducting their regional activities.²⁰⁷ With strong ties to Middle East business interests,²⁰⁸ Cyprus's membership could serve as a sign of peaceful cooperation between the peoples of Europe and the Middle East. For these reasons, the EU has taken an active role in Cyprus, encouraging and promoting its reunification.²⁰⁹ In 1994, the EU appointed an observer to Cyprus.²¹⁰ The observer, Serge Abou, has repeatedly called for "the prompt elimination of the obstacles that are preventing the pursuit of effective intercommunal talks aimed at a just and viable solution to the question of Cyprus."²¹¹ The EU's role

201. Amberin Zaman, *Turkey Offers Reform Plan in Hopes of EU Admission*, L.A. TIMES, Mar. 20, 2001, at A6 (noting the Turkish Cabinet's approval of a program of political, economic, and legal reforms aimed at securing Turkey's place in the European Union).

202. As a current member of the EU, Greece has a veto power over any accession decision. Treaty of the European Union, art. O.

203. In the past, Greece has on several occasions taken action to prevent ties between the EU and Turkey. Thomas D. Grant, *Hallstein Revisited: Unilateral Enforcement of Regimes of Nonrecognition Since the Two Germanies*, 36 STAN. J. INT'L L. 221, 232-33 (2000).

204. Erato Kozakou-Marcouillis, Cyprus's ambassador to the United States, has stated that "[i]f the Cyprus issue could be solved, we could be one strongest proponents of Turkish membership." Harry Levins, *Cyprus' Ambassador Will Discuss Reunification in Speech Here*, ST. LOUIS POST-DISPATCH, May 19, 2001, at 20. However, Ambassador Kozakou-Marcouillis cautions that "[i]f Cyprus becomes a member of the European Union as a divided country, we wouldn't support membership for Turkey." *Id.*

205. The common security of EU nations is included in the Maastricht Treaty, which provides for the "implementation of a common foreign and security policy including the eventual framing of a common defence [sic] policy." Treaty on the European Union, art. B, in 31 I.L.M. 247 (1992). Cyprus's importance in securing a peaceful Europe was seen in World War II, when Allied Forces used the island as a base for commando raids on German and Italian forces in the Aegean Islands and the Dodecanese. See STEPHENS, *supra* note 22, at 118.

206. See Erol Manisali, *Contradictions in Our Cyprus Policy*, TURKISH DAILY NEWS, Jan. 26, 2001, at A4.

207. See JOSEPH, *supra* note 13, at 124.

208. See *id.* at 123.

209. See generally *id.* at 124-126 (discussing various EU efforts to resolve the "Cyprus question").

210. See KYLE, *supra* note 71, at 30. The European Commission has based an ambassador in Nicosia to educate Turkish Cypriots on the benefits of a united Cyprus in the EU. See MIRBAGHERI, *supra* note 35, at 152.

211. Declaration on Cyprus adopted by the European Council at its meeting in Dublin, 26 June 1990.

reflects the belief that Cyprus would be a strong future link in the burgeoning European Community.²¹²

Conclusion

Although past efforts to reunify Cyprus have failed, Cypriots, both Turkish and Greek, have never before had so little to lose and so much to gain from reunification. Continued partition of Cyprus exists in direct violation of international law. The communities must reach a resolution soon, for any further widening of the gap between the communities could lead the TRNC into a forced integration with Turkey, which would undoubtedly exacerbate international legal difficulties and possibly lead to a full-scale Aegean war.

A current peace settlement can succeed where these past attempts have failed. An end to this *de facto* partition of Cyprus will require all sides—in Ankara, Athens, Nicosia and the TRNC—to see the errors in past accords and find common ground from which to rebuild the ties between their communities. This will require communication in Cyprus, for only when the two communities meet can they reach mutually agreeable terms. Greece and Turkey have found common ground from which to resolve their differences. The improved Greek-Turkish relations and the promise of E.U. accession provides the Cypriot communities with similar incentive for cooperation.

A stumbling block of past accords was that the communities attempted to regain the same Republic that was created under the constitution of 1960. That constitution did not succeed, and future attempts to reenact that constitution would be destined to fail. The Republic of Cyprus must find a mutually agreeable mixture of federation and confederation, under which there still exists a strong central government. To do this, neither *enosis* nor *taksim* can occur. By avoiding the creation of new external boundaries, the Cypriots can avoid violent demands for territorial change. Peaceful settlement in Cyprus will require sacrifices by both communities.

Current efforts emphasize a bizonal, bicommunal federation on Cyprus, under which there would be separate Greek and Turkish communities, but the Republic would nonetheless be recognized as one nation. The international community would benefit from such a reunification, renewing faith in the U.N. as a means of ending domestic ethnic conflict and bringing a lasting peace to a region so long torn by hatred.²¹³

212. Cf. Ehrlich, *supra* note 44, at 1089 ("If the crisis is to be permanently resolved, substantial cohesive pressures must be brought to bear from outside the Island, for they will not develop within it.")

213. As stated by U.S. President George H.W. Bush in his State of the Union Address: We have before us the opportunity to forge for ourselves and for future generations a new world order, a world where the rule of law, not the law of the jungle, governs the conduct of nations. When we are successful, and we will be, we have a real chance at this new world order, an order in which a credible United

Nations can use its peacekeeping role to fulfill the promise envisioned of the U.N.'s founders.

President Bush Answers American People: We Will Not Fail, WASH. POST, Jan. 17, 1991, at A29.