

Principles and People Matter **Reflections from a Fact-Finding Visit to Cyprus**

by Terry Rempel

Refugees and displaced persons themselves should be included in the process of crafting durable solutions. Civil society can play an important role in ensuring that an agreement is both acceptable to the larger public and durable over the long-term. While it may be politically expedient to compromise certain principles to reach a peace agreement, an agreement that is not consistent with international law may not be sustainable.

These are some of the initial conclusions from a seven-day visit by Palestinian refugee activists and other researchers to the divided island of Cyprus in November 2004. The study visit focused on the human, political and legal dimension of conflict and peace efforts in Cyprus as well as civil society perspectives. Participants met with government officials, NGOs and civil society activists in the north and south of the country.

The study visit to Cyprus was the third and final of a series of three study tours to learn about refugee return and restitution around the world. Earlier study tours visited Bosnia-Herzegovina and South Africa. The fact-finding visit to Cyprus was hosted by INDEX, a Cypriot NGO working on research, policy-making and dialogue.

Background

Cyprus has suffered a long history of foreign domination, violence and civil strife. The conflict revolves around the two main ethnic/religious communities of Cyprus – Greek and Turkish Cypriots – but it also includes foreign actors, such as Great Britain, Turkey and Greece. The main elements of the conflict, according to the Minority Rights Group (MRG), include “a militant confrontation with British imperialism, a set of treaties giving a limited form of independence, the breakdown of that constitutional structure, ruthless meddling by the Greek and Turkish 'motherlands' and the major powers, a Greek coup d'etat and the Turkish invasion that divided the island as it is today, and fitful attempts to negotiate a just settlement....”(1)

One of the main products of the Cyprus conflict is displacement and dispossession. Initial displacement took place during inter-communal violence in 1964. Some 20,000 Turkish Cypriots fled their villages in the south of the country taking refuge in Turkish Cypriot enclaves. The Turkish invasion of the island in 1974 led to the displacement of some 150,000 Greek Cypriots from the north of the country which was occupied by Turkish forces. The UN estimates that half of the population lost property. Since that time Cyprus has been a divided island. In 1960 there was no regional separation between the two populations. Today there is almost complete ethnic/religious separation between the north and the south. The United Nations has recognized the right of displaced Cypriots to return to their homes.(2)

It is estimated that there are more than 200,000 internally displaced Greek Cypriots in the south and another 65,000 internally displaced Turkish Cypriots in the north today.(3) According to the UN Peacekeeping Force in Cyprus (UNFICYP) there are 165,000 displaced persons in the south and 45,000 in the north.(4) In other words internally displaced Cypriots represent approximately one-quarter of the total population of the island. In total internally displaced persons (Greek and Turkish) lost more than 70,000 housing units as a result of displacement. In the northern part of the island property was

expropriated by the Turkish Republic of Northern Cyprus (TRNC) (4) and distributed to displaced Turkish Cypriots and settlers from the Turkish mainland. Some of this property has since been sold to international buyers. In the south the property is held by the government of the Republic of Cyprus (5) but title remains with the original (Turkish Cypriot) property owner.

Turkish Cypriot demands have focused, historically, on partition as a way to protect communal rights. Few Greek Cypriot displaced persons would therefore be able to return to the north and there would be a limited if not global exchange of property. Some Turkish Cypriots refer to the displacement of the 1960s and 1970s as an international population exchange. Greek Cypriot demands, on the other hand, focus on respect for individual rights and freedoms as a step towards reunification of the island. Displaced persons on both sides of the dividing line ('Green Line') would be able to return to their homes of origin and repossess their properties.

In addition to local efforts to resolve the conflict, the international community has made numerous attempts to facilitate a peace agreement in Cyprus. These include a 1985 UN proposal based on the idea of a bizonal and bicomunal state. In other words, a single state composed of two peoples and two entities. These ideas were later formalized in UN Security Council Resolution 649 (12 March 1990). In 1992 then Secretary General Boutros Boutros-Ghali put forward a set of ideas that were also endorsed by the UN Security Council (Resolution 750, 10 April 1992). Ghali also introduced the idea, later adopted by Secretary General Kofi Annan, that displaced persons properties would not be reinstated unconditionally in order to preserve the notion of bizonality.

Recent international efforts began in 1999. Based on talks with the parties Kofi Annan submitted a comprehensive settlement proposal in November 2002. The plan was revised four times. The *Comprehensive Settlement of the Cyprus Problem* is 200 pages long and contains 9,000 pages with annexes.(6) It represents a culmination of the plans and thinking on how to resolve the Cyprus problem. This includes the 1977 and 1979 High Level Agreements between the parties outlining the vision of a non-aligned, bicomunal, federal state and respect of human rights and fundamental freedoms of all; the 1985 UN proposal formalizing the language and mentioning for the first time the idea of a bizonal state; and the 1992 Ghali set of ideas, which suggested that properties would not be reinstated unconditionally.

When the plan was put to a vote in April 2004, 65 percent of the Turkish Cypriot population voted in favor of the plan, while an overwhelming majority (76 percent) of Greek Cypriots voted against it. Greek and Turkish Cypriots offered a varied of reasons for referendum results. For Turkish Cypriots, the plan provided communal safeguards via ceilings on return and restitution that ensured that they would not become a minority in the northern part of Cyprus. If all the Greek Cypriot refugees returned to the north, said Mustafa Akinci of the Peace and Democracy Movement in northern Cyprus, there would be "two Greek Cypriot states." In addition, Turkey put it's full weight behind the plan. Resolution of the Cyprus problem is one of the stumbling blocks to Turkish membership in the EU. Some Turkish Cypriots voted against the plan, however, out of nationalistic reasons, and others due to concerns about property restitution.

International and local actors provided a number of reasons for the massive 'No' vote among Greek Cypriots. Some said that the UN had under-estimated Greek Cypriot concerns about security. The UN impression about the type of compromise acceptable to Greek Cypriots, they said, was largely based on information drawn from the political elite and not from the average man or woman on the street, including displaced Greek Cypriots. A more cynical view expressed was that the UN needed only one

'Yes' vote to pave the way for Turkey's accession to Europe, therefore, what was the point in making more generous offers to the Greek Cypriots to get their yes vote.

Others pointed to the change in the Greek Cypriot government and withdrawal of support for the plan by the main Greek Cypriot political party (AKEL) just prior to the referendum. The Greek Cypriot government argued that it rejected the plan in order to get a stronger yes vote in the future. Once the plan was adopted, moreover, it would be impossible to obtain improvements to the framework. Some felt that with EU membership for Cyprus assured there was no incentive for the government or Greek Cypriots to vote for the plan. Both government officials and civil society actors expressed concern about where money for compensation would come from given the emphasis on compensation in lieu of return and restitution.

Civil society actors and displaced persons themselves pointed to a number of additional reasons for the 'No' vote. Some said that the plan was too complex, especially on the property issue, and there was not enough time to understand and digest the plan. Enforcing the deal with percentages, parameters and figures, moreover, took away from the human aspect of the compromise. Others said that it was not just a problem of plans but one of principles. They rejected an approach which they felt compromised basic human rights just to get to a political agreement. The ability of a state that can function in the future is more important than the past, said Achilleas Emilianides, a Greek Cypriot lawyer who forfeited the opportunity to reclaim millions of dollars of property under the Annan Plan.

The Annan Plan and displaced persons

The *Comprehensive Settlement of the Cyprus Problem* includes extensive provisions for return and restitution of displaced persons. The starting point of the plan is international law and individual rights but also the notion of bizonality. The plan separates the right to return from the right to property. Only those displaced persons who originate from the area designated for territorial adjustment along the 'Green Line', which constitutes seven percent of Cyprus, will be able to exercise both rights without restriction. Only those 65 and older have an unconditional right to return.

The idea of bizonality is critical to understanding the plan. Based on the idea of a bizonal, bicomunal state, which would protect the communal rights of Turkish Cypriots in the north, not all Greek Cypriot displaced persons will be able to return and repossess homes and properties in the north of the country. In other words, the right to return and the right to property are not absolute in the Annan Plan. The option of compensation thus becomes critical to the plan's outcome.

The Annan plan contains separate provisions for displaced persons from areas along the 'Green Line' dividing northern and southern Cyprus that will be subject to a territorial adjustment and for displaced persons from the rest of Cyprus. Under the plan fifty percent of Greek Cypriot displaced persons would be able to return to their homes of origin through adjustment of the 'Green Line'. Displaced Turkish Cypriots (47,000) in this area (*see map*) would either be relocated in the zone or to the north with the exception of three villages in the northwest. They could also reclaim their property in the south, request compensation, a loan to purchase property in the north, or free reasonable accommodation.

The plan provides for a number of limitations on the right of return and right to restitution in the rest of Cyprus. The UN felt, based on discussions with local authorities, that the ceilings reflected the actual number of displaced persons who would choose to return. In this way, international officials argued that

the plan would not violate established principles of international law.(7) Concerning return, each constituent state (i.e. the Turkish Cypriot north or Greek Cypriot south) may establish a moratorium on return until the end of the fifth year after entry into force of the peace agreement. Between the 6th and 9th years after the agreement comes into force returnees may not constitute more than 6 percent of a village or municipal population, no more than 12 percent between the 10th and 14th year and no more than 18 percent of the population of the relevant state thereafter. After the second year of the moratorium these limitations would not apply to persons over the age of 65 accompanied by a spouse or sibling, nor to former inhabitants of a number of specified villages. In principle, these provisions primarily affect displaced Greek Cypriots.

As for property claims, the plan provides for reinstatement of one-third of the value and one-third of the area of a claimants total property and full and effective compensation for the remaining two-thirds. However, claimants have a right to reinstatement of a dwelling they have built, or in which they lived for at least ten years, and up to one dunum of adjacent land, even if this is more than one-third of the total value and area of their properties. Secondary occupants may apply for and receive title to the property in which they are living if they renounce title to a property of similar value in the other constituent state. Those who have made significant improvements may also apply for and receive title provided they pay for the value of the property in its original state. Secondary occupants who are required to vacate the property in which they are living are not required to do so until adequate alternative accommodation is available. Compensation is based on the value of the property at the time of dispossession adjusted to reflect appreciation of property values in comparable locations. It can be paid through guaranteed bonds and appreciation certificates.

The plan also provides for a mechanism to address property claims. Property claims are to be received and administered by an independent, impartial Property Board, governed by 2 members from each state, 3 non-Cypriots from non-Guarantors (i.e., not from Greece, Turkey or the UK).

The Loizidou Case and the Role of International Law

Ms. Tatiana Loizidou is a tourist guide and displaced person from the northern Cyprus port town of Kyrenia. Following the division of the island in 1974 Ms. Loizidou became active in a movement called 'Women Walk Home' which held regular demonstrations calling for a united Cyprus, return home and human rights for all.

In the late 1980s she decided to submit an application against Turkey to the European Commission of Human Rights based on the denial of the right to her property. After examining the merits of the case, it was referred to the European Court of Human Rights in 1993. In 1998 the Court ordered Turkey to pay Ms. Loizidou USD 640,000 in compensation for denial of access to her property.

Turkey initially refused to pay the damages stating that the issue could only be resolved in the context of final talks and through a global exchange of property. Turkish authorities decided to award payment to Ms. Loizidou at the end of 2003 in the context of Turkish efforts to join the EU. The Court is expected to issue a ruling on restitution of the property by the end of 2005.

For Ms. Loizidou the legal track has been a way to express her identity as a displaced persons and as a Cypriot, it is a way to go home. But she says it is more than just about property. She feels that it has laid the foundations for recognizing the property rights of all Cypriots and is a way to bring people together.

A number of displaced Greek Cypriots have subsequently launched law suits against foreigners who have

'purchased' their property from Turkish Cypriots in the north in order to build holiday homes. Meletis Apostolides owns property in the north on which a British couple built a home after after demolishing his citrus grove. Apostolides could ask the English High Court to confiscate the couple's property assets in the UK unless the couple destroys the home and pays compensation for damages to the property.

"I do not have anything against the British, Germans or any other nationals coming to live in Cyprus as long as they don't do it as receivers of stolen goods," Apostolides said. "A message must be given that they cannot do this sort of thing without consequences."

For more information on the Loizidou case see, www.diaspora-net.org/loizidou/chronology.htm.

Implications for Palestinian refugees

There are some similarities between the Cyprus case and Palestine, but there are also many differences. In each case the essential conflict is between two communities living in the same land. Displacement is one of the products of this conflict. The United Nations has reaffirmed the rights of refugees and displaced persons in both conflicts to return to their homes. In this context there is a similar debate about the role of communal and individual rights in resolving the conflict. In both cases the proposals on the table represent the cumulative development of peacemaking efforts since the beginning of the respective conflicts. Cypriot, Palestinian and Israeli civil society has been consulted after the fact, but not as part of the process of getting to an agreement. International discourse on displacement in Cyprus and Palestine tends to revolve around imposed notions of absolute/attainable rights. And in both cases the solution proposed by international actors is one of conflict management rather than resolution of root causes.

But there are many differences. In the case of Cyprus displaced persons are still living in their homeland while more than half of all Palestinians are displaced outside their homeland. Unlike Cypriots, most Palestinians are also stateless persons. While both cases involve settler populations, the issue of colonization and settlement is by far more prominent in the Palestinian case, and in the eyes of Palestinians, the root cause of the conflict. In Cyprus there has been a relative calm for three decades, whereas displacement and violence in Palestine has continued since 1948. Unlike Cyprus, there is no political or military symmetry in the Palestinian-Israeli conflict. While international efforts in both conflicts have focused on a solution based on ethnic/religious separation, in Cyprus this separation occurs within the framework of a single federal state. Robust mechanisms and instruments at the regional level play an important role in Cyprus (e.g. EU, European Court of Human Rights, European Convention on Human Rights), but play almost no role in the Israeli-Palestinian conflict. Civil society is fairly undeveloped in Cyprus compared to civil society in Palestine/Israel. In Cyprus there is almost total ethnic/religious separation, although the Palestinian case is increasingly moving in this direction.

Despite these differences, however, there are some interesting questions raised by the Cyprus experience. What is the role of civil society? Can international actors involved in the peacemaking process afford to rely merely on the political elite in understanding what is acceptable to the parties, in 'selling' a potential agreement to the general public and in ensuring that the agreement will be effectively implemented on the ground? In conflicts where effort and investment is required to support and enhance democratic structures and processes, does exclusion of the public from the peacemaking process retard rather than advance democracy?

What is the role of principles in a peace agreement? International law generally provides an important foundation for resolving conflicts. Is there a real danger to the viability of a peace agreement when universal principles are sacrificed for political expediency? And what happens when people feel excluded from the political process and therefore turn to the courts for affirmation of important principles? What is the impact on the peacemaking process, short- and long-term?

And finally, what kind of details should be in a peace agreement? Is it true that the more difficult the conflict the more important it is to tie up all the details in a peace agreement in advance? If that is the case, what is the best possible way to communicate the details of such an agreement to the public that will have to decide if they support the agreement and will become willing partners in its implementation?

Endnotes:

(1) *The Cyprus Conflict, An Educational Website* (www.cyprus-conflict.net) [Last visited 11/12/04].

(2) See, e.g. UNSC Resolution 361 (30 August 1974) calling upon the parties “to search for peaceful solutions of the problems of refugees, and take appropriate measures to provide for their relief and welfare and to permit persons who wish to do so to return to their homes in safety.” Also see, UNGA Resolution 3212 (XXIX) (1 November 1974) stating that “all the refugees should return to their homes in safety and calls upon the parties concerned to undertake urgent measures to that end.”

(3) Figures according to UNHCR estimates for 1999. *Profile of Internal Displacement: Cyprus*. Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 3 June 2003). Geneva: Norwegian Refugee Council/Global IDP Project, 2003, p. 6.

(4) The Turkish Republic of Northern Cyprus (TRNC) was unilaterally declared in 1983. No country other than Turkey recognizes the TRNC.

(5) Cyprus became an independent republic on 15 August 1960. The Greek Cypriot south is recognized internationally, with the exception of Turkey, as the legitimate government of Cyprus.

(6) A copy of the plan is available at, www.cyprus-un-plan.org. [Last visited 13/12/04]

(7) See, e.g., *Report of the Secretary-General on his mission of good offices in Cyprus*. UN Doc. S/2003/398, 1 April 2003, para. 99.

For more details about the BADIL study tours see, www.badil.org/Campaign/Study_Tours/study-tours.htm

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