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Policy Brief

Suing for Sovereignty: Property, Territory, and the EU's Cyprus Problem

Rebecca Bryant (*George Mason University*) & Mete Hatay (*PRIO Cyprus Centre*)

Abstract: *This article explores the actual and potential effects of recent European legal judgments on ongoing reunification negotiations in Cyprus. In particular, we argue that the European Union's failure to formulate a policy regarding the position of Turkish Cypriots in Europe has had increasingly negative consequences both for negotiations between the island's leaders and for relations between the Turkish Cypriot and Greek Cypriot communities. The EU has chosen to ignore the suspension of constitutional order in the Republic of Cyprus, in the process refusing to acknowledge the legal and political effects of the RoC's EU entry on Turkish Cypriots. We use a recent European Court of Justice judgment to illustrate the substantive effects of this hands-off approach, showing how the political use of transnational courts threatens to undermine what many have called the island's "last chance" at reunification.*

Less than ten days after recent elections in north Cyprus, the European Court of Justice (ECJ) announced a decision that may have serious effects for ongoing peace negotiations. Turkish Cypriot parliamentary elections on 19 April brought a conservative party back to power, and European commentators have begun to speculate about the new government's potential to interfere in negotiations. Cast as anti-solution, the new government is seen in some circles in Europe as a potential obstacle to the island's reunification. However, warnings about the impending disaster should negotiations fail only reveal the weakness of the EU's position in Cyprus, where it has neglected to implement or even to formulate a consistent policy on the position of Turkish Cypriots within Europe. Turkish Cypriots now possess EU pass-

ports but live in a state outside the EU *acquis communautaire*, and they are engaged in negotiations with a community that effectively controls the Republic of Cyprus, the state that represents Turkish Cypriots according to international law, even though they have no representation within it. Moreover, recent lawsuits over property reveal that Europe has been unable to formulate a position on the legal and political status of what are usually called "the areas not controlled by the government of Cyprus." Indeed, European diplomats admit that the union has taken a hands-off approach to the Cyprus Problem and that it has no backup plan should negotiations fail.

This paper argues that recent election results in north Cyprus and the current indifference to negotiations throughout the island may be attributed to changes brought about by the EU's bumbling entry into the Cyprus conflict. Although EU diplomats concede their mistake in admitting the RoC as a member state before the island's reunification, the EU has made no substantive attempt since that time to correct its error or to rectify the dynamics set in motion by the RoC's EU entry. Instead, it appears that certain EU member states find the RoC's presence in the union convenient for their own purposes, since the RoC is always prepared to wield its veto to block negotiations with Turkey. Equally importantly, the Cyprus Problem itself is a handy tool, since its non-resolution has become an additional stumbling-block on the road to Turkey's EU entry.

In the current round of negotiations, the EU has taken a hands-off approach. At the beginning of negotiations, Greek Cypriot president Dimitris Christofias called for a "Cypriot Solution," a plan to be negotiated behind closed doors and without the mediation or interference of foreign bodies. This was to be a solution without a time-table and without pressure, and the EU consequently has tried to prevent the appearance of interference. At the same time, however, Christofias has touted the "Cypriot Solution" as a "European solution," a slogan that in the south has meant adherence to certain select rights and norms of the EU, as well as the capacity to use their EU member status to speak for the entirety of the island, including Turkish Cypriots, and to put pressure on Turkey. A combination of closed-door negotiation and pressure on EU representatives not to deal officially with Talat has meant that the leader whose voice only five years ago most represented Turkish Cypriot desires for a European future has become like a

figure in a silent movie, in which he speaks and gestures without making an audible sound.

Moreover, the inability of Turkish Cypriots to gain a voice in international politics has continuously pushed the north into further reliance on Turkey, weakening Turkish Cypriots' hands in any sort of negotiations. Turkish Cypriots have become unrecognized pawns in legal and political games played by recognized powers. And paradoxically, the 2003 opening of the checkpoints dividing the island only worsened this position, as Turkish Cypriots became increasingly squeezed into their unrecognized space. Although the EU recognizes Turkish Cypriots as its citizens, all privileges of EU citizenship are funneled through the RoC, a government that does not have control over the area in which Turkish Cypriots live. As a result, the RoC has been handed the opportunity to press Turkish Cypriots economically and politically both in the island and via ongoing EU negotiations with Turkey. While slogans of "becoming tied to the world" and "masters in our own country" fired Turkish Cypriots to revolt in 2002, it has now become increasingly clear that their links to the world will have to go through one of two gates: either the one guarded by Turkey, or that controlled by the Republic of Cyprus. The question is, will the path beyond either of these gates lead Turkish Cypriots closer to Europe?

One door or two?

Since the division of the island in 1974, the unrecognized state that developed in Cyprus' north has had a single door to the world. That door opens onto Turkey, and the door swings both ways: while Turkey has poured money, military might, and political clout into the island, Turkish Cypriots have gone to Turkey to study,

work, and live. Tourists entering Cyprus' north must do so via Turkey's ports, while Turkish Cypriots wishing to travel abroad often had to use Turkish passports, their own remaining unrecognized. Turkish Cypriots were citizens of a state that technically did not exist, and as a result they had to funnel their hopes and dreams through a state that quickly began to treat Cyprus' north as a de facto province. Gradually, some Turkish Cypriots, and especially the youth, began to see Turkey, their single door onto the world, not as their protector but as the guardian of their prison.

What often goes unnoticed in current discussions of the Turkish Cypriot community, however, is that Turkish Cypriot isolation did not begin with the division of the island in 1974. As with most aspects of the current impasse, Turkish Cypriot isolation may be traced to 1963, when the Republic of Cyprus, founded only three years earlier, began to break down. In that year, President Makarios proposed fundamental changes to the constitution, including abolishing veto powers, changing the quotas of Turkish Cypriots employed in the civil service, and eliminating other communal rights. Turkish Cypriots walked out of the parliament in protest, leading to the first post-independence period of intercommunal conflict. During this period, approximately 25% of the Turkish Cypriot population fled their villages for armed enclaves, while others sandbagged Turkish neighborhoods and villages against the attack of Greek and Greek Cypriot paramilitary units. Between 1963 and 1974, almost 80% of Turkish Cypriots lived in militarized ghettos, where they established their own state within a state, complete with their own administration and standing army. In negotiations at the time, Turkish Cypriots argued that any solution to the impasse would have to include a zone of safety over which they had some

form of communal control.

Importantly, the parliament was left without Turkish Cypriot representatives, and the remaining Greek Cypriot members of parliament passed acts impeding the Turkish members' return.¹ Moreover, in 1964 the Greek Cypriot leadership refused to allow UN peacekeeping troops to enter the island unless the UN received the permission of the Cyprus government, which at this point was controlled solely by Greek Cypriots. While questions were raised about what the "Cyprus government" meant at this point, or how it was constituted, Turkish Cypriot protests that they should be consulted as partners in the republic were disregarded. Although Britain gave assurances to Turkey and to Turkish Cypriots that "the government" in this instance meant the bi-communal government, the UN later ignored Vice-President Dr. Küçük's attempts to use his veto power, thereby de facto accepting the Greek Cypriot-controlled government as the "Cyprus government." The effect of this was that the UN was able to protect Turkish Cypriots only by delegitimizing their political voice.

¹According to investigative journalist Makarios Droushiotis, in July 1965 "the Council of Ministers approved draft legislation extending the term of the President and House of Representatives for a year. It also approved a revision of the electoral law, abolishing the Turkish Cypriots' right separately to elect the Vice President and the members of the House of Representatives from their community." Moreover, when Turkish Cypriot parliamentarians requested protection to return to the Parliament to discuss the issue, then Speaker of the House Glafcos Clerides "imposed such conditions on its acceptance as would be tantamount to an acceptance of minority status by the Turkish Cypriots." Three years later, when the Turkish Cypriot community elected Dr. Fazıl Küçük as Vice-President and requested that he be allowed to take the oath of office along with the elected President, Archbishop Makarios, they were told that the election itself was illegal, as elections could be conducted only by the state, not by a community (Makarios Droushiotis, "Zurich-from curse to blessing in disguise," Cyprus Mail, 1 October 2008).

This move became the basis for the continuing recognition of a Greek Cypriot-controlled Republic of Cyprus as the island's only government. Following a Greek-sponsored coup and Turkish military intervention in 1974, Turkish Cypriots created a state in the island's north that subsequently was recognized only by Turkey. Approximately 142,000 Greek Cypriots originally from the north became refugees in the south, and many were settled in empty Turkish Cypriot houses or in refugee housing built on Turkish Cypriot land. Around 55,000 Turkish Cypriots left their own homes in the south and fled to the north, where they settled in Greek Cypriot property. The use of property belonging to members of the other community and which had been unwillingly abandoned during conflict laid the groundwork for what was to become the island's contentious property issue.

For twenty years, Turkish Cypriots got by in their zone of safety, protected by the Turkish military and unnoticed by much of the world. Greek Cypriots continued their status as the sole recognized government in the island, despite their de facto suspension of the 1960 constitution. After 1974, their position as sole recognized authority gave them a voice in international forums that was denied to their Turkish Cypriot counterparts. As a result, foreign aid and investment flowed into the south, while the north depended on the ever-fluctuating fortunes of Turkey. Without direct flights to the north, the Turkish Cypriot economy relied for two decades on a few wealthy tourists who appreciated its pristine isolation, and the export of a handful of products, but especially textiles and citrus.

In 1994, sleepy northern Cyprus began to wake up, when an ECJ judgment forbade the export to

Europe of north Cyprus' products, such as textiles and citrus fruits, that bore the official stamp of the unrecognized Turkish Republic of Northern Cyprus. This was followed only two years later by a European Court of Human Rights decision in favor of the plaintiff in a case brought by a Greek Cypriot woman against Turkey for loss of use of her property in the north. The effect of these two cases on Turkish Cypriots was immediate, as the textile sector cut more than five thousand jobs, while citrus producers began to let their orchards dry up. Suddenly, the isolation that Turkish Cypriots had endured for so long appeared strangling, as even the houses in which they lived lost their legitimacy.

Although they had lived in a quasi-state for two decades, the fantastic nature of that existence came to the fore in the late 1990's. It was in this period that Turkish Cypriots sought other sources of income, developing "off-shore education" through semi-recognized universities and using the grey nature of their state to open casinos. An attempt in the 1990's to increase tourism from Europe failed because of lack of direct flights, and instead the casino-based tourist trade from Turkey boomed. Their options restricted, Turkish Cypriots began further economic integration with Turkey during this period, including developing partnerships with Turkish businesses. The tenuousness of the economy also meant that they were especially hard hit by a banking crisis at the turn of the millennium, followed only a year later by an economic crash in Turkey.

While Turkish Cypriots' economic security was eroding, the RoC and its Greek Cypriot citizens had been promised EU entry. Turkish Cypriots soon began pressuring their leaders to negotiate with Greek Cypriots for a reunification that would guarantee them the benefits of EU citizenship. Thousands of Turkish Cypriots flooded into

the streets in late 2002 to call for an end to their leaders' intransigence, demanding something that they labeled "peace" but which for many people signaled prosperity.

In response to these widespread protests, the Turkish Cypriot leadership surprised everyone when in April 2003 it opened the checkpoints that divide the island, allowing free movement for the first time in 29 years. This led to a period of high hopes and emotions, as Cypriots returned to visit homes and villages that they had not seen in almost three decades. For many Greek Cypriots, it was a time of disappointment, as they returned to find that the villages they had remembered had irrevocably changed. Turkish Cypriots also returned to their villages and often found them destroyed, in some cases inundated for dams or bulldozed for parking lots. It was a period when the visceral realization of the passage of time forced many Cypriots to come to terms with a past that for some had remained unreconciled and even unexamined for almost thirty years.²

For Turkish Cypriots, though, the opening also had another effect, which was that it finally opened a second door onto the world. Suddenly, Turkish Cypriots flooded the supermarkets and shopping malls of the south, and several thousand found jobs there. More than a hundred thousand Turkish Cypriots acquired identity cards from the RoC during this period, while another fifty thousand acquired passports, allowing them to travel without impediment. This gave them an unprecedented freedom, but they were soon to see that it was not without cost. For only a year later, Greek Cypriots defeated a reunification plan at referendum and joined the EU

²This is a theme that Bryant explores in detail in her forthcoming *The Past in Pieces: Belonging in the New Cyprus* (Philadelphia:

without their Turkish partners. Greek Cypriots retained their status as recognized government of the entire island, and as a result they became a new gatekeeper for Turkish Cypriots wishing to do business, study, or travel. Turkish Cypriots soon discovered that this second door provided them more options, but they were options that still required that they calculate the costs. If the guardian of their prison in the north was Turkey, their guardian in the south soon became the Greek Cypriot government.

Today, the RoC acts and decides on behalf of Turkish Cypriots in the EU while at the same time denying them the right to their own representation within the RoC or even within Europe. Turkish Cypriots are allowed to possess passports of the RoC in order to travel as EU citizens, but the RoC denies passports to children of mixed marriages between Turkish Cypriots and citizens of Turkey. The RoC has blocked EU attempts to develop direct trade to the north, while regulations aimed at increasing trade across the Green Line dividing the island have largely failed due to bureaucratic impediments, as well as social and political pressure put on those who would dare to trade.³ In a recent case, the owner of the only Turkish Cypriot company established in the south after the checkpoints' opening reported that his success in selling potatoes to Europe through the RoC's ports has led Greek Cypriot officials and political parties to put pressure both on him and his buyers.⁴ As one farmer said to us when complaining about the regulations for trade, "If I go to Germany or somewhere, I present my passport, and they treat me as an EU citizen. But they don't treat me that way when I'm at home, here in the island."

³Mete Hatay, Fiona Mullen, and Julia Kalimeri, *Intra-island trade in Cyprus: Obstacles, oppositions and psychological barriers*, PRIO Cyprus Centre Paper 2/2008.

⁴"Haçlı zihniyeti," *Kıbrıs Gazetesi*, 17 May 2009.

Since the opening of the checkpoints, then, Turkish Cypriots have been increasingly squeezed between the two options available to them—either reliance on a Turkey that many Turkish Cypriots have begun to view as a colonial power, or reliance on Greek Cypriots who have occupied the state that they once shared and who now dole out rights as though they were favors. Under such circumstances, it should not be surprising that Turkish Cypriots are increasingly skeptical about the possibility of a negotiated solution and had become indifferent to the claims of the previous CTP government that they would solve the problems of north Cyprus through the reunification of the island under a federal system. In a Voice of America interview a day after the ECJ judgment was announced, the new Turkish Cypriot prime minister Derviş Eroğlu remarked that “[t]his is probably the last chance, Turkish Cypriots are starting to get fed up with this whole negotiating process, and they are losing their interest. People are more bothered about economic problems, their daily life. They don’t ask anymore about the talks. If we can’t use this last chance, Turkish Cypriots will start to think only about their own state.”⁵

The problem of property

Not long after the opening of the checkpoints, a Greek Cypriot by the name of Meletis Apostolides returned to visit his home in the northern town of Lapithos (in Turkish, Lapta) and found that a British couple had built a villa in what used to be his family’s orchard. This was part of a development explosion in the north that began at the turn of the millennium, as a global property boom combined with hope for the island’s reunification. This was a process that would accelerate

⁵“Orams case could spell end of Cyprus talks,” Nathan Morley, *Cyprus Mail*, 1 May 2009.

dramatically not long after the checkpoints’ opening. In late 2003, Turkish Cypriots became aware of a clause in the UN reunification plan that would have allowed persons who “significantly improved” a property to pay compensation and keep it. Many Turkish Cypriots “owned” Greek land that they had traded unilaterally for their own land in the south, whose titles they gave to their government for safe-keeping in the event of a solution. Soon, Turkish Cypriots who had once exported citrus and olives resorted to selling the land on which they had once cultivated orchards. Others simply saw it as an opportunity. Riding on a wave of global property speculation, developers in the north soon cluttered the coastline with cheap villas and bungalow complexes.

This was to become one of the most rancorous issues dividing Greek and Turkish Cypriots after the 2003 opening of the checkpoints. With the failure of the 2004 referendum, Apostolides decided to take the matter of his property into his own hands, instituting a lawsuit against the British couple, Linda and David Orams, in the courts of the south. With the open checkpoints, he was even able to have a summons delivered to their door. Although the Orams had bought the villa half-finished from a Turkish Cypriot, Apostolides has repeatedly emphasized that the suit is not intended to affect Turkish Cypriots but only foreigners who speculate on Greek Cypriot property. He has also repeatedly said that in the event of a solution, he intends to return to Lapithos and so hopes that the lawsuit will impede further development.

But while Apostolides has emphasized in interviews that he voted in favor of the reunification plan and wants peace in the island, the property tangle that his lawsuit has further knotted may represent one of the greatest

impediments to achieving it. The judgment in the case in the RoC's courts ordered that the Orams demolish the villa and pay Apostolides compensation. When Apostolides was unable to enforce this judgment in the north, he used the RoC's entry into the EU and sought to have the judgment enforced in the United Kingdom by seizing the couple's properties there. The case was remanded to the UK Court of Appeal, which subsequently asked the ECJ for clarification about the suspension of EU law (the *acquis*) in north Cyprus and about certain provisions of EU regulations.

The ECJ judgment is worth examination for what it says about the EU's attempts to navigate the issue of Cyprus' division. While the court acknowledges that the house is located in areas not controlled by the government of the RoC, it notes that "the land is situated in the territory of the Republic of Cyprus and, therefore, the Cypriot court had jurisdiction to decide the case." In other words, although the RoC government does not control the area, the area still falls within its territory and therefore within its domestic jurisdiction. Moreover, the court notes that, "[a]ccording to national legislation, the real property rights relating to those areas of the Republic of Cyprus in which the Government of that Member State does not exercise effective control ('the northern area') subsist and remain valid in spite of the invasion of Cypriot territory in 1974 by the Turkish army and the ensuing military occupation of part of Cyprus."⁶ As a result, the ECJ acknowledges the jurisdiction of courts in the south over property in the island's north.

⁶<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-420/07>

The lawyer handling the case for Apostolides noted in a press conference the day after the decision was announced that the view that Turkey had invaded the island and that the north is under military occupation had not been expressed before in any other decision, whether by the UN, the ECHR, or any other European institution. He remarked that this judgment, then, carried important political significance.⁷ And indeed, it is the recognition that the decisions of international law are ultimately based on history and politics that has made the judgment especially dismaying to Turkish Cypriots. Because for most Turkish Cypriots, the Cyprus Problem is not only one of Turkish intervention and military presence, as both official Greek Cypriot rhetoric and now the ECJ claim. Rather, it is one of dual occupation by Turkish Cypriots and Turkey of the island's north, and occupation by Greek Cypriots of the state that all Cypriots were to have shared. The suspension of constitutional order was not the result of 1974 but rather its prelude and foundation. And it has been the failure of EU institutions explicitly to recognize this anomalous state of affairs that has led, in the end, to the island's current impasse.

Since the judgment's announcement, lawyers, academics, and media commentators in the south have stressed that the decision vindicates Greek Cypriot rights and reaffirms the justice of their cause. On both sides of the island, finger-pointing is rife, as Turkish Cypriots assert that lawsuits endanger ongoing negotiations, while Greek Cypriots claim that simply affirming their rights in a transnational court and opening the door to further lawsuits should not have such an

⁷"Orams'a benzer yeni davalar yolda," Aysu Basri Akter, *Yenidüzen Gazetesi*, 1 May 2009.

effect. In all such discussions in the south, the law is seen as an impartial body of rules, not as a set of regulations tied up with the history of private property and state-building in Europe. In such discussions, there is the law, which should secure something known as “justice,” and then there is politics. The fact that one’s idea of justice is inevitably tied up with politically contested histories is a point never discussed.

So, one commentator in Cyprus’ Sunday Mail asked, “Did Messrs Talat and Eroglu really expect the European Court of Justice to issue a political judgment, one that would suspend the rule of law in the name of realpolitik? Perhaps they did, much in the same way as Turkey often seems to see its harmonisation process with the European Union as a game of give and take where its strategic weight bears heavily on the scales, rather than as the wholesale adoption – without negotiation – of a body of Community law.”⁸ This interesting failure to acknowledge that the process of EU accession is a thoroughly political one, and that certain areas of the harmonization process may be indefinitely suspended when particular interests are at stake, is especially ironic in Cyprus, where the suspension of constitutional order was not an impediment to the RoC’s accession.

Of course, the case itself, as well as any decision that may be taken on it, is an instance neither of “justice” through law nor of realpolitik strictly speaking. Rather, the case is one of the clearest instances of a phenomenon that has come to be known as “lawfare,” or the continuation of conflict by legal means. This is a phenomenon that has emerged in a globalized era, when transnational courts may infringe on and even erode the sovereignty of nation-states in the name of

⁸“Greek property rights must be recognized,” *Cyprus Mail*, 3 May 2009.

human rights or international law. In the case of sovereign nation-states recognized as such, this may have the effect of forcing those states to bring wanted criminals to justice, or to conform to human rights norms. Often, citizens of those very states may use transnational mechanisms to force the state to enforce human rights norms, as in cases against Russia and Turkey, or to come to terms with the crimes of the past, as in the cases of Chile and Argentina. In such cases, citizens are able to employ the threat of international sanctions to improve their own lives in states where rule may be less than fully democratic.

The case of north Cyprus, however, is clearly different, for the TRNC is not a recognized state and therefore is not considered sovereign over its territory. And the question of sovereignty brings us to the crux of the issue, since sovereignty itself is about control over territory, enshrined in international law through the recognition of borders that a state has the right to control. Northern Cyprus is now depicted on maps as “the area not controlled by the government of Cyprus,” simultaneously implying that the ceasefire line dividing the island is not recognized as a border, and that the RoC may have *de jure* but does not have *de facto* sovereignty over the north. What the recent judgment affirms is that the recognition of RoC sovereignty over the entirety of the island means that RoC courts have the capacity to rule on matters in the north, even if the RoC is unable to enforce those judgments. This is, one might say, the difference between the rule of law and the force of law.

The importance of the Orams case, then, is that unlike cases involving recognized states, this case is not simply one in which international laws and norms may restrict or constrain the rights of the sovereign. Rather, it presents a challenge to the Turkish Cypriot administration’s *de facto*

sovereignty in the north, in that it uses individual means to challenge that state's claims to control its territory. Individuals who buy property under north Cyprus' laws risk being arrested or having their property abroad confiscated. As with states that harbor wanted criminals, the legal implication of this judgment is that the laws regulating property in the north are themselves illegal. In this case, then, the challenge presented to Turkish Cypriot leaders is that the judgment does not simply erode claims to sovereignty that many Turkish Cypriots have already begun to see as empty. Rather, the danger is that it attempts to impose the laws of the RoC on the north even as the scope of a future state that would encompass all of Cyprus is being negotiated.

To be more specific, negotiations over property have heretofore recognized that Greek Cypriots are owners of land in the north, just as they have recognized Turkish Cypriot ownership in the south. However, ownership rights, and specifically the right to occupy and use one's property, are gained through a property regime. That property regime is established through the recognition of territory, and of a state's right to establish a property regime within its territory. This may mean, for instance, that a state may confiscate property when it is for the public benefit. This has happened frequently in the south, where thousands of acres of Turkish Cypriot land have been expropriated to build refugee housing, dams, parking lots, and even an international airport. Greek Cypriot leaders often comment that this is to be expected, and that every government may do this, failing to address the fact that much of the land expropriated in the south since 1974 has been Turkish Cypriot.

Where discussions have foundered, then, is on how to negotiate the gap between ownership and right. Turkish Cypriot negotiators have argued

that if individual property rights may be sacrificed for the public benefit, and if Greek Cypriots have accepted this as a principle through expropriation of Turkish Cypriot property, then there is surely no greater public benefit than peace. In other words, they have argued that in negotiating a new property regime, not everyone will be able to exercise their ownership rights, and that this will be for the public good, in that it will be fundamental to establishing the bicomunal, bizonal, federal system upon which all have, in principle, agreed. Negotiations, then, should lead to the establishment of a property regime that would recognize the ownership of all Cypriots while determining the parameters of their rights to use their property. In some cases—as with Turkish Cypriot properties in the south—that would presumably mean that some Greek Cypriot owners will have to accept compensation in the name of the public good. What has been upsetting for Turkish Cypriot leaders about the Orams case is that, even as negotiations continue aimed at establishing such a property regime, this case aims to impose a property regime: namely, a property regime based solely on the RoC's status as the recognized government of the island. What the decision of the European court ultimately represents, then, is the legal equivalent of military victory.

Under these circumstances, further polarization seems on the horizon. Indeed, the last five years have witnessed distrust growing on both sides of the island. In the north, that has taken the further form of a growing distrust of Europe, which has taken no steps to solve the legal and political tangles that the RoC's entry has created for Cyprus' north. The recent election in the north is one sign of this polarization, which has taken the form not of a revived Turkish nationalism, but of a growing Turkish Cypriot nationalism. Feeling the threat of being crushed

by Greek Cypriot legal and political hegemony or swamped by potential Turkish investment and immigration, Turkish Cypriots have turned inward. This inwardness has taken many forms, including extreme self-criticism, but one of its symptoms is a return to a populist party that many see as less likely to surrender everything in the name of a “peace” that has become increasingly abstract and elusive.

Whither a “Cypriot solution”?

For almost four years after the referendum, former Greek Cypriot president Tassos Papadopoulos refused to negotiate with his Turkish Cypriot counterpart, instead preferring to use the stick of the EU veto against a Turkey trying to get in the door. He was the first to promise Greek Cypriots a “European solution” through the abandonment of the Annan Plan, a promise that his successor Christofias has sworn to keep. One of the primary sticking points in the plan was its property regime, which Papadopoulos characterized as “unjust” and “un-European” in that it did not ensure the universal return of all Greek Cypriots to their homes. What has become increasingly clear is that the federalism to which Greek Cypriot leaders have paid lip service for so long remains vague in their minds, in that it is impossible to reconcile such positions on property with the future establishment of a bicomunal, bizonal, federal state to which they have in principle agreed.

Turkish Cypriots, on the other hand, had gone a long way towards overcoming their leaders’ past intransigence in their acceptance of the Annan Plan, though the subsequent years of increased polarization have eroded much of their previous hope. After all, for more than two decades the old, nationalist leaders of the Turkish Cypriot

community had tried to convince them that the property problem in Cyprus would be solved by a global exchange: Turkish Cypriots who had left behind property in the south would give it up for Greek Cypriot property in the north, and vice versa. The 1996 ECHR decision against Turkey showed that this would not be possible, and by the time of the checkpoints’ opening in 2003, Turkish Cypriots had already accepted that any future property regime would have to allow certain numbers of Greek Cypriots to repossess and return to their property. The Annan Plan took this into account, creating a complicated compromise that would ensure the return of the majority of Greek Cypriots to their homes in the north while maintaining that area as a Turkish-majority constituent state.

A “Cypriot solution” has meant scratching this carefully crafted compromise and returning to maximalist positions, especially in the case of Greek Cypriot negotiators, who insist that all Greek Cypriot owners must at least have the right to choose what to do with their properties. While this might be an ideal solution, it does not realistically take into account the compromises necessary to construct a federal system. What the Orams case shows, however, is that one doesn’t always need to be realistic to get one’s way. Although the case was initiated against a non-Cypriot, it presents the possibility of Greek Cypriots individually using the courts to sue any current occupant of their property in the north, and of having that judgment enforced in Europe in the case of those with investments or business there. And this, perhaps, is the truly “European solution,” in which Cypriots may fight the last of their battles in courts of law. Whether it is also a “Cypriot solution” may depend on whether its result resembles anything like peace.

Rebecca Bryant

Rebecca Bryant is Associate Professor of Anthropology at George Mason University and an associate faculty member of the Middle East Studies Program and the Center for Global Studies. Her work has examined colonialism, the state, education and nationalism on both sides of Cyprus' Green Line, as well as in Greece and Turkey. She received her Ph.D. in anthropology from the University of Chicago and previously taught at the American University in Cairo, Boğaziçi University and Cornell University. Her first book, *Imagining the Modern: The Cultures of Nationalism in Cyprus* (I.B. Tauris, 2004) examines the way that a colonial modernity and the liberal reason that accompanied it overturned old hierarchies and created paradoxes for Cypriots that were only resolved through a resort to nationalism. This work has been translated into Turkish as *Tebaadan Vatandaşa: Kıbrıs'ta Modernite ve Milliyetçilik* (İletişim Yayınevi, 2007) and is forthcoming in Greek. After the opening of the Cyprus checkpoints in 2003, she returned to the island to research her second book, *The Past in Pieces: Belonging in the New Cyprus* (University of Pennsylvania Press, forthcoming Spring 2010), which describes the ways that Cypriots have been rethinking the past and their relationships to place since the opening. She is also co-editor of the volume *Aftermaths of Violence: Institutions of Truth and Memory* (University of Pennsylvania Press, forthcoming 2010). Currently, Bryant and Hatay are working on a co-authored book project, *The Jasmine Scent of Nicosia: Global Longings in an Unrecognized State*, which examines the transformation of the Turkish Cypriot militarized enclaves of 1963-74 into an unrecognized state. She is the recipient of many awards and fellowships, including several Fulbrights, two grants from the John D. and Catherine T. MacArthur Foundation, and funding from the Social Science Research Council and the National Endowment for the Humanities, among others. She has been a postdoctoral fellow at Cornell University's Society for the Humanities and a Member of the Institute for Advanced Study in Princeton.

Mete Hatay

Mete Hatay has been a freelance writer since 1985, primarily researching and writing on the Cyprus conflict, Cypriot cultural history, immigration, Islam, and ethnic and religious minorities in Cyprus. He is also a peace and human rights activist who has been active in bicomunal workshops and activities since the early 1990's. Before joining the Cyprus office of the International Peace Research Institute, Oslo (PRIO), he worked as co-director of a consultancy firm that provided media monitoring, social and commercial research, and public relations and communication strategy services for international organizations, including the EC Representation in Cyprus. Between the years of 2003-2004, he worked as a project development officer at the PRIO Cyprus office as part of the 'Public Information Project' on the Annan Plan, the last United Nations proposal to reunify the island. From 2003 to 2005, he was also part of the Turkish Economic and Social Studies Foundation's Cyprus monitoring team, which was responsible for informing the Turkish public about developments in the Cyprus conflict and their effect on Turkey's European Union accession negotiations. Since January 2005, he has led the PRIO Cyprus Centre's project on immigration in Cyprus. Much of his work has concentrated on immigrants and settlers in the north of the island. His monographs *Beyond Numbers* and *Is the Turkish Cypriot Population Shrinking?* were published as PRIO reports, and a third PRIO report on psychological barriers to intra-island trade, co-authored with Fiona Mullen, was published in 2008. Currently, he is part of a four-year project, "Identity and Conflict: Cultural Heritage and the Re-Construction of Identities after Conflict," based in Cambridge University and funded by the European Union. This project investigates the ways that destruction and selective reconstruction of cultural heritage after conflict impact the formation of national and regional identities.

About GPoT

Global Political Trends Center (GPoT) was established as a research unit under the auspices of Istanbul Kultur University in 2008.

GPoT Center aims to produce innovative and distinctive policy recommendations by analyzing the contemporary trends in regional and international politics.

GPoT Hakkında

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