



Munich Personal RePEc Archive

A ‘Just and Lasting Solution’ to the Cyprus Problem: In Search of Institutional Viability

Kyriacou, Andreas

1 June 2000

Online at <https://mpra.ub.uni-muenchen.de/116308/>
MPRA Paper No. 116308, posted 15 Feb 2023 07:44 UTC

**A 'Just and Lasting Solution' to the Cyprus Problem:
In Search of Institutional Viability**

ANDREAS P. KYRIACOU

Summary. *This paper examines the possible nature of a 'just and lasting solution' to the Cyprus Problem. Four factors are seen to affect the viability of a solution namely, the relative capacity of the Greek and Turkish Cypriot sides to impose costs in the event of either breaking off from inter-ethnic co-operation, the extent to which each party perceives the solution to be fair, the continuous influence of informal rules which may promote ethnic identification and finally, the judicial enforcement and legislative maintenance of the agreed solution. The discussion generates a number of insights into several aspects of the dispute including, security guarantees, territorial adjustments, the freedom of movement and establishment and the right of property, a federal versus a confederal solution and finally, the desirable nature of the constitution of a multi-ethnic Cyprus.*

Introduction

The origins of the Cyprus Problem lie in the second half of the 1950s when the Greek Cypriot majority (80 per cent of the total population), in tune with the decolonising and self-determination tendencies of the times fought to overthrow the colonial rule of the United Kingdom and unite Cyprus with Greece (*enosis*)¹. This led to a nationalist reaction on the part the Turkish Cypriot minority (18 per cent of the total population) which started to call for the partition of the island (*taksim*) and the unification of the resultant parts with Greece and Turkey respectively. This required the physical separation of the Greek and Turkish Cypriot communities on the island which at that point lived in mixed towns and villages.

In 1960 the independent Republic of Cyprus was founded based on a consociationalist or power sharing constitution. The 1960s were characterised by conflict - initially democratic but soon violent – which led to the breakdown of the constitutional order, polarised the two communities even further and led to their gradual physical separation. A coup by the Greek military junta (exploiting divisions within the Greek Cypriot community) led to the Turkish invasion and war, cutting the island into two and completing the ideological and physical separation between the two ethnic groups. In the late 1970s the idea of an independent federal bizonal and bicomunal republic was adopted by both sides but the Turkish Cypriot side began to settle mainland Turks in occupied Cyprus and in the early 1980s, unilaterally declared the creation first of the “Turkish Federated State of Cyprus” (“TFSC”) and then of the “Turkish Republic of Northern Cyprus” (“TRNC”) which is denied international recognition. The invasion, the subsequent settlement program and the above unilateral declarations have been repeatedly condemned by the international community for contravening international law.

The second half of the 1980s brought a concerted mediation effort on behalf of the UN which crystallised in the form of the “Set of ideas on an overall framework agreement on Cyprus”, submitted to the two communities in the summer of 1992. Among other things, these ideas envisage a loose bizonal and bicomunal federation with constitutional checks on majority rule and qualifications to the freedoms of movement and establishment and the right of property. The ideas also envisage that around 29 per cent of the island would be placed under Turkish Cypriot administration.

The attitude of the two communities to the Set of ideas are diametrically opposed. In particular, the Greek Cypriots prefer a strong federal arrangement with fewer checks and balances, the unrestricted enjoyment of the freedom of movement and settlement and the right of property in the long run, 20 to 25 per cent of the land under Turkish Cypriot administration and the complete demilitarisation of the island with a security guarantee provided by the international community. Alternatively, the Turkish Cypriots prefer a confederal arrangement with numerous checks and balances, a permanently limited enjoyment of the freedom of movement and settlement and the right of property, 29+ to 37 per cent of the island under Turkish Cypriot administration and, finally, a continued Turkish troop presence on the island and a legal right of unilateral intervention by Turkish armed forces. This stance seems to have been exacerbated by Cyprus’s European Union accession course given that it has led – contrary to all relevant UN resolutions - to the official “partial integration” of the occupied part of Cyprus with Turkey and to increasingly vocal calls for international recognition of the sovereignty of the “TRNC”.

The attainment of a ‘just and lasting solution’ to the Cyprus Problem has been the declared objective of many of those engaged with the problem over the years including the government of the Republic of Cyprus, foreign governments and international organisations. In this paper we examine the possible nature of a ‘just and lasting’ solution to the Cyprus conflict. To do so we rely on the theoretical literature dealing with the issue

institutional viability or maintenance. For the most part, this literature springs from the Constitutional Economics research program whose normative purpose is the search for mutually agreed-upon rules for social interaction something which requires the analysis of the workability of alternative sets of rules [Buchanan, 1990]. Our analysis of the factors which may effect the viability of rules or institutions aims to inform the people of Cyprus in their search for those rules which would allow them to live together in a lasting and durable peace.

A reading of this literature has brought to light at least four factors which may determine the viability of any solution to the conflict namely, the relative strength of each community in the non co-operative setting, the perceived fairness of the co-operative solution, the influence of informal rules and finally, the judicial enforcement and legislative maintenance of the terms of co-operation. Each of these factors has important implications for the nature of the solution to the problem and will be discussed both in the historical context of the dispute and mainly by reference to the 1992 Set of ideas proposed by the United Nations as an overall framework agreement for the resolution of the conflict [UN, 1992a]. The paper will close by summarising the nature of a 'just and viable' solution suggested by the analysis.

The Relative Capacity to Impose Costs in the Non Co-operative Setting

The viability of inter-ethnic co-operation (the co-operative setting) is enhanced given one ethnic group fears the costs which the other group may impose upon it in the event of a breakdown of such co-operation (the non co-operative setting). Costs may emerge when ethnic groups respond to non co-operative behaviour by other groups by either defecting themselves (*reciprocity*) or breaking off interactions completely (*exit*).

Costs from Reciprocity

In a simple two person interaction over time, each rational person will adhere to the initial terms of co-operation since, "Each person will recognise that unilateral defection cannot succeed and that any attempt to accomplish this would plunge the system back into a position that is less desirable for everyone than that which is attained upon adherence to contract." [Buchanan, 1975: 65]

Thus, the possibility of reciprocal reactions of one ethnic group to non co-operative behaviour by the other may enhance the viability of co-operation. An ethnic group that defects may expect to be punished by likewise behaviour by the other group and as a result may refrain from doing so. The threat of reciprocity can make the co-operative solution self-enforcing insofar as it generates a set of stable and self-generating expectations, which are common knowledge [Ordeshook, 1992]².

Insofar as the Cyprus Problem is concerned, the disciplining effects of reciprocity are related to the issue of security guarantees. Recall that the Turkish Cypriots call for a continued Turkish troop presence on the island and a legal right of unilateral intervention by Turkish armed forces. By and large, this reflects a feeling of insecurity of the Turkish Cypriot minority, a feeling which is intensified in light of the violent inter-ethnic conflict of the 1960s [Loizos, 1995: 116] and in particular, the inability of a multinational UN force to protect Turkish Cypriots during this period [Güven-Lisaniler and Warner, 1998: 96]. The Turkish Cypriots put a premium on the security considerations relative to the economic benefits that would flow from reunification. Non co-operative behaviour may be avoided given the threat of unilateral military intervention by adjacent states [Niskanen, 1990]. The problem with this reasoning is that it assumes that the mechanism of reciprocal punishment by the "mother country" in the case of non co-operative behaviour is perfect. There are several reasons that cast doubt on this assumption.

First, the threat of intervention must be a credible one so that it generates a set of stable and self-generating expectations something that was arguably not the case in Cyprus in the pre-invasion period. The Greek Junta which staged the coup in Cyprus in July 1974 assumed that the U.S and NATO would not allow Turkey to invade Cyprus, despite the fact that the Turkish Prime-minister of the time presided over a fragile coalition and the likelihood that the Turkish General Staff felt humiliated by previous stand-downs and wanted to get its way [McDonald, 1989].

Second, the sustainability enhancing capacity of a threat of unilateral intervention in response to non co-operative behaviour by one ethnic group may be compromised by the very existence of such expectations or in other words by the credibility of the threat. This would be the case in the presence of extremist individuals in either ethnic group. Armed with the expectation of likely reciprocal reactions to non co-operative behaviour on their part, such individuals may choose to defect (through relatively cheap terrorist acts) so as to provoke a widening spiral of violence, the intervention of one or both of the mother countries and ultimately as a result, the breakdown of co-operation.

Third, the ability of this mechanism to enhance co-operation between the two groups may be distorted by the wider interests of one or both the “mother countries”. In this vein consider that beyond its natural interest to protect the Turkish Cypriot minority on the island, Turkey had the strategic interests of neutralising the threat of a predominantly Greek island so close to its shores and obtaining added leverage in the context of the Greek-Turkish disputes in the Aegean [Papasotiriou, 1998: 17]. Its continuing occupation of the North serves these interests and arguably, has exercised a negative influence on efforts to reunify the island over the years.

A final and related rationale for why the reciprocity mechanism may be imperfect concerns the possible incentive on the part of political representatives to mobilise ethnic loyalty so as to gain office. This could be the case also for politicians in the “mother

country” who may manipulate the presence of own troops and the right of unilateral intervention to shore up domestic support at home. This dynamic arguably emerged during the 1974 Turkish invasion which gave a fillip to a Turkish government threatened by a loss of coalition support [McDonald, 1989].

The possible failure of the reciprocity mechanism tends to lend support to the refusal by the Greek Cypriot side of a continuing right of unilateral intervention by the mother countries. The question is whether this provides support for their calls for the provision of a security guarantee provided by the international community.

Compared to a right of unilateral intervention under regional security arrangements, the use of force must be a result of decisions that are made by political processes involving checks and balances increasing the likelihood that the outcome will reflect considered judgement and broad consensus [Ehrlich, 1974]. Arguably however, the real danger exists that the particular and divergent interests of the members to the regional security arrangements, may distort their effectiveness much in the same way that the particular interests of the mother countries may distort the effectiveness of a unilateral intervention right.

This possibility must play a big part in the Turkish Cypriot refusal to accept such guarantees. It points to the need to set up such guarantees made up of processes which minimise the capability of any one member to manipulate them for partisan interests. One way of doing this is by endowing an international security force with a clear mandate to respond decisively (credibly) to violent non co-operative behaviour by either ethnic group, subject to the decision of a simple majority of those who are members to the arrangement. By eliminating the need for a Greek military presence on the island, such an arrangement would moreover tend to be consistent with Turkey’s strategic concerns thereby removing at least one geopolitical impediment in the search for a viable solution [Papasotiriou, 1998: 17].

Costs from Exit

Rather than respond to defection by doing likewise, a cheated ethnic group may instead choose to withdraw completely from interactions with the cheating group and to seek to establish interactions with other players. The possibility of completely withdrawing from interactions with the other ethnic group increases the cost of non co-operative behaviour since “If you choose the non-cooperative solution, you may find that you have no one to co-operate with.” [Tullock, 1985: 1081]. The threat of secession by a disaffected minority is a factor promoting constitutional maintenance [Niskanen, 1990]. However, while the availability of exit may make constitutions “self-enforcing”, it may also reduce the credibility of the commitment to the contract agreed to [Lowenberg and Yu, 1992]. This is especially so within the context of multi-ethnic states for at least three reasons.

First, recall that the expectation of likely reciprocal reactions to non co-operative behaviour may provide an incentive for extremist members of an ethnic group to defect through acts of terrorism and thus bring co-operation between ethnic groups to an end. In the context of an exit option, if now these extremist groups are also separatists, they may ultimately do so to precipitate a complete break in interactions between “their” group and the “other” or, in other words, to provoke the eventual exercise by their group of an exit option.

Second, an exit option may be manipulated by political representatives in the pursuit of electoral success. Given electoral competition, the availability of a viable exit option may inevitably lead to calls for it to be exercised. The democratic institutions of potentially divided multi-ethnic states may have an in-built bias towards secession. The likelihood that politicians being successful in their efforts depends on the viability of the exit option, this being increasingly likely if they can secure the economic association of their

ethnic group within a larger trading network such as a regional or international trade regime [Meadwell, 1993: 203].

Third, a group can strategically employ a right of exit as a way of renegotiating the terms of co-operation and in particular the distribution of costs and benefits, in its favour [Sunstein, 1991; Mueller, 1996]. Again, this is more likely the more viable or credible is the threat of exit. The availability of a credible exit option is not, in itself, inimical to the viability of co-operation. Indeed, insofar as the original terms of co-operation were biased in favour of one of the parties it may positively effect the viability of co-operation by enhancing the perceived legitimacy of the terms of co-operation. On the other hand, if the original terms of co-operation were perceived to be fair by all parties to the agreement, their alteration via the strategic use of an exit option by one of the parties may reduce this perception and consequently have a negative effect on the viability of co-operation (the effect of perceived fairness on the viability of the co-operative solution is discussed more fully below).

The Perceived Fairness of the Terms of Co-operation

The viability of co-operation may be seen to be affected by the *perceived fairness* of the terms of co-operation. Beyond the disciplining effects of reciprocity, the higher the perceived fairness of an agreement the less likely people are to defect from it once set up and so the lower the costs of maintaining or enforcing it [North, 1981]. Indeed, the more unfair or unjust an individual's perception of the system, the higher the private cost he/she is likely to incur in attempting to change it. With this in mind consider two factors which may affect individuals' perceptions of fairness and thus, their willingness to comply with the system. Firstly, the degree of voluntariness when entering into the co-operative agreement and secondly, the ideologies of the individuals involved.

The Degree of Voluntariness

Individual perceptions of fairness may be affected by the extent to which the terms of co-operation were entered into *voluntarily*, or in other words, in the absence of coercion. Insofar as an individual considers any agreement which is coercively imposed to be unfair he/she would be less likely to comply with its provisions. This concept of fairness is in step with the Lockean vision that considers illegitimate any non-consensual crossing of “natural boundaries” to individual rights that are assumed to be definitive and well understood.

A constitution which is voluntarily agreed upon by all the parties involved and which moreover is so openly and explicitly, will induce greater compliance because “[k]eeping promises is dictated undoubtedly by all moral codes ...” [Mueller, 1996: 69]. Overt agreement to the constitution enhances compliance with its provisions and enhances both its effectiveness and its durability. More generally, “promise keeping” may be seen in terms of an external ethical constraint which may limit defections from the co-operative agreement even in large number groups [Buchanan, 1975].

Insofar as a general relationship between voluntary agreement and compliance is concerned, it is instructive to consider the 1960 Agreements which gave birth to the Republic of Cyprus and which failed shortly afterwards. The Greek and Turkish Cypriot representatives had no negotiating role in the Zurich conference where the basic structure of the accords was established [Ehrlich, 1974]. They were present at the London conference where the details were worked out but, they had not been elected to this position. Moreover, the negotiators were offered a take it or leave it choice³. It is indicative that the 1960 constitution does not include any statement that the people are the source of (constitutional or state) authority⁴.

The imposition of the agreements by outside powers without Cypriot participation, contributed to a view of them as illegitimate by the Greek Cypriot majority [Tornaritis, 1969;

Markides, 1977]. Surely, this perceived illegitimacy must have negatively affected compliance with the agreements. In contrast to the 1960 Accords, the 1992 UN Set of ideas explicitly state that “The overall framework agreement will be submitted to the two communities in separate referendums within 30 days of its completion by the two leaders at a high-level international meeting” (Paragraph 1). This implicitly recognises the importance of open and explicit agreement with the terms of the settlement, which if eventually accepted (in some guise) would, other things being equal, have a better chance of being sustainable than the 1960 agreements.

That individuals may voluntarily agree to co-operate under certain constitutional arrangements may depend on several factors.

The Degree of Certainty. Voluntariness may be inversely related to the *degree of certainty* faced by individuals over their own specific roles in the post-constitutional period. The smaller this degree of certainty – or the thicker the veil of uncertainty – the easier it may be to attain unanimous and voluntary agreement [Buchanan and Tullock, 1962]. The degree of uncertainty may be positively related to the generality and the durability of rules and to the lag between their approval and their implementation [Brennan and Buchanan, 1985]. As such, people are more likely to reach voluntary agreement over (and therefore comply with) rules, the greater the time which passes between their approval and subsequent implementation, the longer they are expected to be in effect and the more general, impartial or fair these are⁵.

By envisaging a federal Republic of Cyprus based on a consociational or power sharing system which identifies individuals as members of one or another ethnic community and subsequently attributes political rights to them on that basis, the 1992 UN Set of ideas (like the 1960 Constitution before them), minimise the level of uncertainty facing individuals over their own specific roles in the post-solution period. Individuals can

be absolutely certain that they will continue to be members of their ethnic group in the future and, more importantly, that they will enjoy certain political rights as a result. Consequently, one would predict that it would be relatively more difficult to reach unanimous and voluntary agreement in such a system, relative that is to one which rather than attribute political rights on the basis of ethnicity, it does so on the basis of some other more general and universal criteria such as citizenship.

Having said this, the possibility must also be admitted that people negotiating the structure of a consociational democracy and who are therefore relatively certain of their future positions may, nevertheless, take the moral action of stepping behind a Rawlsian veil of ignorance to ensure that their choices are impartial [Mueller, 1996]. Moreover, even in ethnically based power sharing systems, uncertainty may, arguably, be increased through the adoption of a constitution that leaves scope for a wide range of constitutional structures. Such flexibility may have facilitated the adoption of the Spanish Constitution by securing popular and political consensus [Brennan and Pardo, 1991]. On the other hand, under such a constitution citizens are playing a political-economic game without rules.

The Availability of Exit. Voluntariness may depend on the availability of an *exit option* at the time of negotiating an agreement or in other words, at the *constitutional stage*. Even in the absence of uncertainty about the relative positions of parties under different terms of co-operation, individuals may voluntarily enter into the agreement insofar as they *all* possess viable alternatives to the contract toward which they are negotiating [Lowenberg and Yu, 1992]. In this situation, no party would be able to coerce another to accept terms of co-operation which are less favourable than the best terms which may be obtained by striking co-operative agreements with others.

The question is whether both sides to the conflict in Cyprus have viable exit options. The fact that the Republic of Cyprus is internationally recognised and the “TRNC”

is not, would lead one to conclude that the Greek Cypriots do have an exit option while the Turkish Cypriots do not. This is especially so given the growing economic gap between the two sides to the conflict which is surely partly the result of the international status of each. However, this conclusion is not necessarily correct if the possibility is admitted that in the absence of a solution, the "TRNC" may, eventually, either obtain international recognition or even be annexed by Turkey. This must be seen against a background which includes the gradual alteration of the demographic and cultural variables in the North due to the Turkish Cypriot leadership's "turkification" policy (Turkish settlers, name changes and the like [Ioannides, 1991]) and the recognition that over the years and apart from Turkey, nine Islamic nations have either voted against, or abstained from, UN resolutions which give international recognition to the government of the Republic of Cyprus.

In this light it may be possible to say that, while in the short to medium term it is the Greek Cypriots and not the Turkish Cypriots who have a viable exit option, in the long run, the situation is reversed. If this is accepted then this implies a reduction in the degree of voluntariness with which Turkish Cypriots may enter into any agreement in the shorter-run and a like reduction, on the part of Greek Cypriots, in the longer-run.

Now, assume for the sake of argument, that the "TRNC" is granted international recognition prior to negotiating a solution to the Cyprus Problem with the aim of providing the Turkish Cypriots with a viable exit option at the constitutional stage and thus, in the event of an agreement being reached, increase the degree of voluntariness on their part and so positively effect the sustainability of the agreement. However, to the extent that Greek Cypriots consider the institution of an exit option through the international recognition of the "TRNC" to be unfair (basically because it would amount to the international recognition and hence legitimisation of the *post-bellum* situation), it must surely have a negative affect on the perceived fairness of any subsequent agreement and thus ultimately compromise its viability.

Incidentally, this provides another rational why the granting of an exit option to one of the parties in the *post-constitutional* stage (a possibility previously raised) may mitigate the viability of any solution. Such an exit option would be more likely to be perceived as fair by all parties in the case of confederal systems which are the fruit of component parts coming together voluntarily in the first place. Efforts towards confederation by the Turkish Cypriot leadership diverges from this since what they pretend to be their potential component state is the result of the forced and uncompensated expulsion of Greek Cypriots from the North. Including an exit option in the final agreements would probably be perceived as unfair by Greek Cypriots thereby potentially compromising their viability.

The Adoption of a "Package Deal". The possibility exists of the adoption of a complex network or "*package deal*" of compromises, side payments, compensations, bribes, exchanges and trade-offs, which aim to offset the predictable adverse distributional properties of the proposed changes [Brennan and Buchanan, 1985]. Even without uncertainty over future positions, the possibility of a package deal may lead to agreement [Mueller, 1991].

Having said this, the possibility should be admitted that some of the potential parties to the agreement may be unwilling to trade within the greater context of package deal with those who are favoured by the status quo distribution of entitlements, because they perceive this status quo distribution to be unjust [Brennan and Buchanan, 1985]. The Greek Cypriot community perceives the status quo distribution of entitlements to be unjust since it leaves 37 per cent of the island in the hands of 18 per cent of the population and it does so as a result of the non-compensated expulsion of individuals, fruit of the 1974 Turkish invasion. This suggests that a package deal which is based on the post-1974 status quo situation would not be voluntarily entered into by Greek Cypriots and as such would be relatively less viable.

The possibility of a non-voluntary change of this status quo (either through democratic channels or, because of uncertainty and ambiguity about the distribution of political property rights, through non-democratic, violent means), may lead the holders of these “unjust” entitlements to voluntarily agree to constitutional changes that involve fewer concessions from the other side [Brennan and Buchanan, 1985]. One question which therefore emerges is whether the Turkish Cypriot community as the holder of the “unjust entitlements”, would voluntarily agree to a package deal that involves fewer concessions by Greek Cypriots.

Arguably, this would depend on the ability of Greek Cypriots to force a non-voluntary change in the status quo, which in turn depends on the availability of either democratic or non-democratic channels to this effect. Non-democratic channels do not exist given the fact that the current military balance favours the Turkish Cypriots. Insofar as democratic channels are concerned these may be represented by the various international forums through which the resolution of the conflict is sought, mostly the UN and more recently the EU. The inability to reach an agreement under the auspices of the UN points to the ineffectiveness of this forum and would lead one to conclude that the Turkish Cypriot community is unlikely to agree to fewer concessions. To the extent that the EU proves to be a more effective forum, only time will tell⁶.

Ideological Conviction

One’s perception of the system’s fairness can also be affected by one’s ideological conviction [North, 1981]. (This is a two-way relationship in that one’s perceptions of fairness can then have a feedback effect on his/her ideological beliefs.) Indeed, ideologies may be designed to get people to conceive the system as just and successful counter-ideologies are those that convince people that the existing system is unjust and that a just system may emerge from one’s selfless participation in efforts to change the status quo. A

consensus over classical liberal ideas has exercised a positive influence on the sustainability of the U.S constitution. Thus, "The viability of the system from 1787 to today has been fundamentally influenced by the strength of the heritage of ideas which helped to define and limit choices." [North, 1987: 166].

Nationalist Ideologies and Perceptions of Fairness in Cyprus. Consider now the evolution of both nationalist ideologies and perceptions of justice in Cyprus through time, particularly since the post-1974 period. The national consciousness of the Turkish Cypriot minority grew in direct proportion to the rise of Greek Cypriot national consciousness [Markides, 1977]. This would be especially relevant for the pre-independence period where the struggle for enosis led to a nationalist reaction by Turkish Cypriots. The resultant ideological polarisation would have been aggravated by the British policy of recruiting Turkish Cypriots in the security forces as a countermeasure.

In the early 1960s, immediately after independence, the ideal of enosis was still riding high given the immediacy of the struggle and this, together with a feeling that the constitutional arrangements discriminated against the Greek Cypriot majority in favour of the Turkish Cypriot minority, contributed to the perceived illegitimacy of the 1960 constitution and thus efforts to amend it [Markides, 1977; Kizilyürek, 1993]. These efforts strengthened partitionist views among the Turkish Cypriot Community, which were greatly reinforced by the inter-ethnic violence during the 1960s leading to the consolidation of those Turkish Cypriots advocating partition [Attalides, 1976; Markides, 1977].

In the late 1960s, an increasingly higher standard of living in Cyprus compared to Greece and the rise of the junta in the latter, led to a fading of the ideal of enosis among the Greek Cypriot community and the adoption by many of the idea of an independent Republic [Ehrlich, 1974; Peristianis, 1995]⁷. Partition continued to be the dominant ideology in the Turkish Cypriot Community which was increasingly concentrated in ever-

more heavily armed enclaves under the control of virulent Turkish nationalists [Attalides, 1976; Markides, 1977].

In the post-invasion period and insofar as the Greek Cypriot Community is concerned, the feeling of betrayal by Greece – due to the role played by the Greek Junta in the period immediately prior to the 1974 invasion and the absence of military support from the newly installed democratic government in the face of further Turkish territorial advances, - led to the retreat of enosis [Stamatakis, 1991]. This was reinforced by the need to shore up the international recognition of the Republic of Cyprus and the desire to achieve rapprochement with the Turkish Cypriot community and so avoid the definitive partition of the island [Peristianis, 1995].

Over time however, a new form of hellenocentrism – one not based on the ideal of enosis – has been gaining ground among Greek Cypriots for several reasons including: the return of democracy in Greece and its accession to the EU; reduced expectations, that the problem will be justly resolved in accordance with international law (including international human rights law) through traditional international forums such as the UN and the corresponding increased perception of Greece as the main ally in the search for an acceptable solution; the successive secessionary measures adopted by the Turkish Cypriots; a perpetual feeling of insecurity generated by the continuing presence of Turkish troops in the North of the island and; the increased uncertainty facing individuals brought about by both rapid economic development and a decay of social ties and religious convictions [Peristianis, 1995].

Insofar as the Turkish Cypriot community is concerned, Turkish nationalism was, in some sense, ratified in the aftermath of the Turkish invasion by the increased feeling of security generated by the de facto partition of the island and the appropriation of 37 per cent of the island and its resources. However, economic stagnation has led, over time, to a decline in enthusiasm for partition and increasing integration to Turkey and the emergence

of more moderate views in favour of inter-communal integration of a mostly economic nature. This dynamic has been mitigated by the emigration of many Turkish Cypriots and the immigration over the years of Turkish settlers who, according to McDonald [1989] and Theophylactou [1995], may be more inclined to have turkocentric views⁸.

Implications for the Nature of the Solution. The realisation that ideology may affect the perceived fairness of an agreement and ultimately its viability has several implications for the nature of a 'just and viable' solution to the Cyprus Problem. In particular, it points to the need for substantial progress towards the achievement of a solution to the problem under UN auspices and in accordance with international law (which includes the adoption of measures for the return of all refugees to their home in safety, the abandonment by both Turkey and the Turkish Cypriot leadership of successive secessionary measures as well as a halt to the continuous settlement of Turkish settlers on the island), the gradual demilitarisation of the island and the institution of effective security guarantees.

We would also argue that the need exists for official recognition and apology - by the leadership of each community - of the wrongs committed against the other community in the past. Similarly, the need also emerges for a revision of school curriculum so that emphasis is put on common rather than divisive elements. Indeed this need is recognised in the Appendix attached to the 1992 UN Set of ideas (paragraph 8). Both these measures may help narrow the ideological polarisation between the two communities.

Because the parties have expressed their positions on the issues of the freedom of settlement and the right of property in relative detail, we will close here by focusing on these. The 1992 UN Set of ideas state that the freedom of movement, the freedom of settlement and the right of property will be safeguarded in the federal constitution (paragraph 48). People can either choose to hold on to their property rights or seek compensation for them (paragraphs 77-81). In principle then, there are no limits imposed

on the freedom of settlement or the enjoyment of one's property. A closer reading of the Set of ideas and even more so the later position taken by the Turkish Cypriot side however, reveals several severe limits ranging from the expropriation of the properties of displaced persons and their corresponding compensation at below current market values, to the imposition of a moratorium and an upper limit on the right of establishment of Greek Cypriots in the North so as to preserve the bicomunal and bizonal character of the federated state⁹ [UN, 1992a; UN, 1992b].

To the extent that the terms of a solution to the Cyprus Problem formally limit the freedom of settlement and right of property they may compromise the viability of co-operation. The non-voluntary nature of the terms of co-operation would tend to lead Greek Cypriots to perceive them to be unfair thus increasing the likelihood of non-compliance. Moreover, insofar as Greek Cypriots perceive them as such, their ideological conviction may be polarized which would again, over time, reinforce perceptions of their unfairness and thus ultimately further threaten their viability. This points to the need to reduce restrictions to access to property. Having said this, for any given degree of limited access one can also reduce the negative effect on viability by decreasing the area to come under Turkish Cypriot administration.

The Influence of Informal Rules

The viability of a co-operative agreement may also be seen to be affected by the continuing influence of *informal rules* or in other words because of the emergence of *path dependence*. For example, while the formal rules may be changed by a revolution, the informal norms which provide legitimacy to a set of rules change only gradually [North, 1994]. The legitimacy of the new rules in the post-revolutionary period may initially be small thereby increasing the cost of maintaining the post-revolutionary status quo but this

legitimacy increases as informal norms gradually adjust to the new formal rules and so the costs of maintaining the new order fall through time. The cost of maintaining and enforcing the prevailing institutional environment depends on the interaction of formal and informal rules [Pejovich, 1996]. These costs are reduced when both sets of rules are in tune and they increase when they are not¹⁰.

Implicit in the above argument is that the influence of informal rules on individual behaviour may be high when different formal rules are initially adopted but will fall over time. But this may not necessarily be the case. In particular, informal rules may compete with formal rules in the co-ordination of social action. Indeed, "because social action is co-ordinated also by a variety of informal norms or undescribed evolutionary processes that can coincide with more insidious things such as ethnicity, language, and race [constitutions] must be designed to compete with other things for the political-economic organisation of society." [Ordeshook, 1992: 148].

Two questions arise here. First whether it is important for the viability of the system that the formal rules which regulate co-operation should be designed to compete with informal ones and if so, second how formal rules should be designed so that they can be more competitive? The answer to the first question is, emphatically, yes, since, it is clear that insofar as informal rules regulating intra-ethnic relations promote ethnic identification, they may lead to sub-optimal outcomes. Ethnic identification may lead ethnic groups to co-ordinate their actions (either spontaneously or because of the actions of political representatives) to the detriment of other ethnic groups. This obviously represents a threat to inter-ethnic co-operation since it points to the existence of forces that may facilitate the co-ordination of defection and thus the break down of co-operation. The possibility that inter-ethnic co-operation may be undermined by the influence of informal rules points to the need for competitive formal rules for co-operation.

This still leaves the question of how formal rules which promote inter-ethnic co-operation can be designed to out-compete informal rules which promote the intra-ethnic kind. Informal constraints may survive despite large changes in the formal rules, because they resolve basic social, political or economic exchange problems among participants [North, 1990]. This points to the desirability of efficient and ethnically neutral enforcement of property rights something that, arguably, would be relatively easier when dealing with economic or market exchange.

In relation to this, paragraph 45 of the Set of ideas states that each federated state will have its own judiciary to deal with matters not attributed to the federal judiciary by the federal constitution. This means that the enforcement of property rights and civil law in general is left to the federated states and is reminiscent of the 1960 Constitution which set up the Republic of Cyprus and which entrusted civil cases (where all parties came from one ethnic group), to courts made up of judges from that group (Article 159). By doing so it arguably foregoes the possibility for ethnically neutral institutions to provide non-discriminatory protection of property rights across ethnic groups and thus undermine informal rules which may be inimical to inter-ethnic co-operation.

More generally, the viability of inter-ethnic co-operation will be enhanced to the extent that formal rules increase the cost of ethnocentric behaviour, reduce the attractiveness of ethnic politics as a source of income and decrease the likelihood of majority tyranny of ethnic minorities [Kyriacou, 1999]. Relevant institutional features here include: an effective competition policy in the market and a widening of the sphere of market choice relative to that of political choice¹¹; the avoidance of both a system of “structural redistribution” from wealthier ethnic groups to relatively poorer ones and “proportionality rules” which allocate public and even private resources on the basis of ethnicity; the setting up of efficient systems of social security, unemployment insurance and subsidised retraining (efficient, in the sense that they do not make ethnicity a basis for

entitlement); decentralised collective decision-making; institutional restrictions on the differential treatment of individuals on the basis of ethnicity.

How does the UN Set of ideas stand up against this? Paragraph 86 of the Set of ideas talks of a “major program of action [to be] established to correct the economic imbalance and ensure economic equilibrium between the two communities” and arguably forms the basis of a system of structural redistribution while paragraph 26 foresees that federal officials and civil servants will be appointed on a 70:30 Greek Cypriot to Turkish Cypriot ratio (again, reminiscent of the 1960 Constitution). As such, it would tend to make it in one’s interest to identify with his/her ethnic group and as such be inimical to inter-ethnic co-operation in the longer-run.

Decentralised decision-making and general institutional restrictions to differential treatment of individuals on the basis of ethnicity are both features of the federal bizonal and bicomunal Republic of Cyprus foreseen in the Set of ideas. While these institutional features may indeed avoid that tyranny of the Turkish Cypriot minority by the Greek Cypriot majority that may emerge in the normal course of the democratic process, we have argued elsewhere in favour of a functional federation where, moreover, people are not defined as members of this or that ethnic group as a basis of assigning political rights and obligations and where, in addition, a constitutionally enshrined “generality rule” generalises the legislative outcomes obtained by any one ethnic group to other groups [Kyriacou, 2000b].

The functional and not territorial nature of our proposal means that it can accommodate the voluntary return of all displaced persons to their homes, thereby increasing the perceived fairness of a solution, reducing ideological polarisation through time and ultimately further enhancing the viability of a future reunified Republic.

By assigning political rights and obligations on a more general basis such as citizenship, it would tend to both facilitate the emergence of voluntary inter-ethnic social

and political relationships and increase the degree of uncertainty facing individuals as to their post-constitutional positions thereby facilitating voluntary agreement at the constitutional stage.

Finally, by reducing the ability of any group of obtaining favourable treatment at the expense of another, a “generality rule” reduces the capacity of the majority to tyrannise the minority. Moreover, by shifting the focus away from redistributive politics, it would make it easier for politicians to act in accordance with an encompassing supra-ethnic interest. Compare this with the 1992 Set of ideas and the 1960 Constitution, where no such rule is contemplated and where moreover a communal basis for representation means that political representatives are exclusively elected from constituencies from their ethnic group. Under such a system, electoral competition is inherently biased towards inter-ethnic redistributive politics.

Judicial Enforcement and Legislative Maintenance

To the extent that the usefulness of reciprocity or exit to promote viability is limited, the perceived fairness of the terms of the co-operation falls (either because of a low degree of voluntariness in entering into the original agreement or an ideological schism among groups) and ethnicity-based informal rules continue to exert a competing influence on individual perceptions of legitimacy, then the sustainability of the co-operative solution may increasingly rely on a fourth factor namely, that of *judicial enforcement and legislative maintenance*.

Insofar as judicial enforcement is concerned, one way to determine whether a Court decision revises or amends the Constitution or simply interprets it is the extent to which judges are consensually selected and, in particular, to the extent that they are chosen by the agreement of the participants and are subject to on-going reaffirmation.

Thus, "If the participants were to disagree over the maintenance of the referee, this would mean that the referee was viewed as being an amender and not simply an enforcer of rules." [Wagner, 1993: 34].

This points to the need to appoint judges to the federal constitutional court of Cyprus after seeking the consent of both ethnic groups something which is in fact provided for in the 1992 UN Set of ideas which state that "The federal judiciary will consist of a supreme court composed of an equal number of Greek Cypriot and Turkish Cypriot judges appointed jointly by the president and vice-president with the consent of the upper house ... Its presidency will rotate between the senior Greek Cypriot and Turkish Cypriot members of the supreme court." (paragraph 43).

Having said this, it is interesting to note that a similar consensual process is envisaged by the 1960 Constitution whose article 133.1.(2) states that the judges of the Supreme Constitutional Court (one Greek Cypriot, one Turkish Cypriot and a neutral president) are to be appointed "jointly by the president and the vice-president of the Republic." The experience of this Court may shed further light on other desirable institutional features of the Court envisaged in the Set of ideas.

The Supreme Constitutional Court's decided to adopt the civil-law practice of issuing a single opinion rather than the common law practice of dissenting opinions since dissenting opinions would weaken the Court's ability to lessen friction [Ehrlich, 1974]. During the two and a half years of the functioning of the 1960 constitution, the Court acted as a moderating influence as indicated by the fact that it filed over one hundred cases many of which involved "significant issues between Greeks and Turks".

However, when the Council of Ministers – rather than establish separate Turkish Cypriot municipalities (foreseen in the constitution) - invoked a pre-independence statute and declared that the five main towns were "improvement areas" to be governed by special boards thereby giving the Turkish Cypriots little control of their own sectors of the

towns, the Turkish Communal Chamber applied to the Supreme Constitutional Court for a ruling that the Council's order was void and the Court upheld this but for the first time the Greek Cypriot judge dissented. And when - in response to the Greek Cypriot refusal to establish separate Turkish Cypriot municipalities - this Turkish Communal Chamber adopted its "own Municipal Law", the Court ruled (on the same day) that this was also unconstitutional, the Turkish Cypriot judge dissented.

The dissent of both the Greek Cypriot and Turkish Cypriot members of the Court on decisions which came out "against" the position of their group must have surely damaged the credibility of the court and as such undermined its ability to act as a moderating influence. One way to respond to this could be by increasing the number of judges sitting on the Court with a view towards raising the likelihood of the emergence of a moderate majority across ethnic lines¹². A federal constitutional court of, for example, 6 or 8 members would be consistent with that envisaged in paragraph 43 of the Set of ideas.

With respect to the legislative maintenance of constitutional order, a compound republic of countervailing constitutional guardians has been advocated [Wagner, 1993]. In particular this refers to a federal system where the executive, legislative and judicial branches are separated, with the legislature itself divided into different branches and with representatives elected to each chamber on a different basis and through a system of proportional representation and multi-member constituencies rather than plurality voting and single member constituencies [see also Lowenberg and Yu, 1992 ; Ordeshook, 1992].

The constitutional provisions contained in the 1992 UN Set of ideas, contains some features of a compound republic namely, a federal system with a separation of powers among the executive, a two house legislature and an independent judiciary. Beyond requiring that representatives be elected from members of their own ethnic group, the proposals are silent on the details of how constituencies may be arranged for election to each house. Last but not least, paragraph 9 of the Set of ideas requires that the federal

constitution can only be amended with the approval of both federated states. This gives each community a veto and provides a powerful tool in favour of the status quo situation established by any mutually accepted settlement of the Cyprus Problem.

Conclusions

Our aim in this paper was to undertake a coherent analysis of what a 'just and lasting solution' to the Cyprus Problem may consist of. We will conclude here by describing the nature of such a solution by way of the key elements of the conflict: namely, security guarantees, territorial adjustments, the freedom of movement and establishment and the right of property, a federal versus a confederal solution and finally, the desirable nature of the constitution of a multi-ethnic Cyprus.

Insofar as *security guarantees* are concerned, our analysis leads us to favour the demilitarisation of the island and the presence of an international force with a clear and credible mandate to deal decisively with violent peace-threatening behaviour by members of either community. Our analysis also suggests that, in the case of a bizonal federation being adopted, *territorial arrangements* should be less reflective of the *post-bellum* situation and more reflective of the proportion of each group in the total population. The need also emerges for the minimisation, as part of a final settlement, of restrictions to the *freedom of movement and establishment and to the right of property*. Our discussion points to the undesirability of both affording some measure of international recognition to the "TRNC" and establishing a *confederal* Cyprus. Moreover, we would caution against the institution of a succession option at the post-solution phase.

Finally, our analysis points to several *desirable features of the constitution* of a reunified Cyprus. The constitution should assign political rights on the basis of universal criteria (such as citizenship) rather than ethnicity. Ethnicity should not be made a basis for

entitlement. In relation to this, the constitution should avoid setting up both a system of “structural redistribution” from wealthier ethnic groups to poorer ones and proportionality rules which allocate public service jobs on an ethnic basis. This said, the general institutional context established by the constitution must include effective checks on the majority’s capacity to tyrannise the minority in the normal course of democratic politics. To achieve this we have advocated the adoption of a functional federation combined with a constitutionally enshrined “generality” rule. The case has also been made for the ethnically neutral provision of property right protection and, more generally, for the consensual and on-going affirmation of judges in the federal constitutional court composed of an equal number of Greek and Turkish Cypriot members (6 or 8 in total). Finally, the agreement of both communities should be required to amend the constitution.

References

- Attalides, M. (1976): ‘Relations between Greek and Turkish Cypriots in perspective’, *International symposium on political geography proceedings*, Nicosia: Cyprus Geographical Association, pp.53-71.
- Brennan, G. and Buchanan, J. (1985): *The reason of rules. Constitutional Political Economy*, Cambridge University Press.
- Brennan, G. and Pardo, J.C. (1991): ‘A reading of the Spanish constitution’, *Constitutional Political Economy* 2(1), pp.53-79.
- Buchanan, J. (1975): *The limits of liberty. Between anarchy and leviathan*, Chicago: Chicago University Press.
- Buchanan, J.(1990): ‘The Domain of Constitutional Economics’, *Constitutional Political Economy* 1(1), pp.1-18.
- Buchanan, J. and Tullock, G. (1962): *The calculus of consent. Logical foundations in constitutional democracy*, Ann Arbor: University of Michigan Press.
- Ehrlich, T. (1974): *Cyprus 1958-67*, International crises and the role of law series, London: Oxford University Press.
- EIU - Economist Intelligence Unit. (1999): *Cyprus*, EIU Country Profile.
- Ertekün, N. (1984): *The Cyprus dispute and the birth of the Turkish Republic of Northern Cyprus*, Nicosia: Rustem and Brother, 2nd edition.

- Friedman, M. (1962): *Capitalism and Freedom*, Chicago University Press.
- Güven-Lisaniler, F. and Warner, J. (1998). 'Cyprus – bridge or bunker? The Cyprus Problem and prospects for its resolution', *Perceptions*, March-May, pp.86-103.
- Hardin, R. (1995): *One for all. The logic of group conflict*, Princeton, New Jersey: Princeton University Press.
- Hirschman, A. (1970): *Exit, voice and loyalty. Responses to decline in firms, organizations and states*, Cambridge Massachusetts: Harvard University Press.
- Ioannides, C. (1991): *In Turkey's image: The transformation of occupied Cyprus into a Turkish province*, Caratzas Aristide D.: New York.
- Kizilyürek, N. (1993): *Cyprus. Beyond the nation*, Nicosia: the author. (in Greek and Turkish)
- Kyle, K. (1997): *Cyprus: In Search of Peace*, London: Minority Rights Group International.
- Kyriacou, A. (1998). 'A comment of Müller's "Unveiling of the veil of uncertainty"', *Constitutional Political Economy* 9(4), pp.335-338.
- Kyriacou, A. (1999): 'The Constitutional Political Economy of a Reunified Cyprus', Ph.D. thesis, Universitat Autònoma de Barcelona.
- Kyriacou, A. (2000a): 'A viable solution to the Cyprus Problem in the context of European Union accession', *The Cyprus Review* 12(1), pp.1-25.
- Kyriacou, A. (2000b): 'An ethnically based federal and bicameral system: The case of Cyprus', *International Review of Law and Economics* 20 (2), pp. 251-268.
- Loizos, P. (1995): 'Understanding 1974. Understanding 1994', in N. Peristianis and G. Tsaggaras (eds.), *Anatomy of a metamorphosis. Cyprus after 1974*, Nicosia: Intercollege Press, pp.105-122. (in Greek).
- Lowenberg, A. and Yu, B. (1992): 'Efficient constitutional formation and maintenance. The role of "exit"', *Constitutional Political Economy* 3(1), pp.51-72.
- Markides, K. (1977): *The rise and fall of the Cyprus Republic*, New Haven and London: Yale University Press.
- McDonald, R. (1989): 'The problem of Cyprus', *Adelphi Paper* 234, The International Institute of Strategic Studies.
- Meadwell, H. (1993): 'Transitions to Independence and Ethnic Mobilization', in W. Booth, P. James and H. Meadwell (eds.), *Politics and Rationality*, Cambridge University Press, pp.191-213.
- Mueller, D. (1991): 'Constitutional rights', *Journal of Law, Economics, and Organization* 7(2), pp.313-333.
- Mueller, D. (1996): *Constitutional democracy*, New York and Oxford: Oxford University Press.
- Necatigil, Z. (1982): *Cyprus conflict: A lawyer's view*, Nicosia: Rustem and Brother.
- Niskanen, W. (1990): 'Conditions affecting the survival of constitutional rules', *Constitutional Political Economy* 1(2), pp.53-62.
- North, D. (1981): *Structure and change in economic history*, New York, London: W. W. Norton and Company.

- North, D. (1987): 'Rent-seeking and the New Institutional Economics', in C. Rowley (ed.), *Democracy and Public Choice. Essays in Honour of Gordon Tullock*, Oxford, New York: Basil Blackwell, pp.163-167.
- North, D. (1990): *Institutions, institutional change and economic performance*, North Cambridge: Cambridge University Press.
- North, D. (1994): 'Economic performance through time', *American Economic Review* 84(3), pp.359-368.
- Olson, M. (1984): 'Comment', in R. McKenzie (ed.), *Constitutional Economics. Containing the economic power of government*, Lexington, Massachusetts: Lexington Books, pp.89-94.
- Ordeshook, P. (1992): 'Constitutional stability', *Constitutional Political Economy* 3, pp.137-175.
- Papasotiriou, C. (1998): 'Regional and International Conditions for a Viable Solution to the Cyprus Problem', *The Cyprus Review* 10(1), pp.11-18.
- Pejovich, S. (1996): 'Law, tradition and liberalism in practice: Quo vadis Eastern Europe', *Economia delle Scelte Pubbliche* 1, pp.3-13.
- Peristianis, N. (1995): 'Left-right, helenocentrism-cypriocentrism.' in N. Peristianis and G. Tsaggaras (eds.), *Anatomy of a metamorphosis. Cyprus after 1974*, Nicosia: Intercollege Press, pp.123-156. (in Greek).
- Stamatakis, N. (1991): 'History and nationalism: The cultural reconstruction of modern Greek Cypriot identity', *The Cyprus Review* 3(1), pp.59-86.
- Stavriniadis, S. (1999): 'Double Standards, Ethics and Democratic Principles in Foreign Policy: The European Union and the Cyprus Problem', *Mediterranean Politics* 4(1), pp.95-112.
- Sunstein, C. (1991): 'Constitutionalism and secession', *University of Chicago Law Review* 58, pp.633-670.
- Theophylactou, D. (1995): *Security, identity and nation building: Cyprus and the EU in comparative perspective*, Aldershot: Avebury.
- Tornaritis, C. (1969): *Constitutional and legal problems in the Republic of Cyprus*, Nicosia: the author.
- Tullock, G. (1985): 'Adam Smith and the prisoner's dilemma', *Quarterly Journal of Economics* 100, pp.1073-1081.
- United Nations. (1992a): 'Report of the Secretary-General on his mission of good offices in Cyprus', *Security Council, s/24472*, August, English Version.
- United Nations. (1992b): 'Summary of the current positions of the two sides in relation to the Set of ideas s/24472', November, English Version.
- Wagner, R. (1993): 'Parchment, guns and constitutional order', *The Shaftesbury Papers* 3, Aldershot: Edward Elgar.
- Xydis, S. (1973): *Cyprus: Reluctant Republic*, The Hague: Mouton.

Notes

¹ For a historical review of the Cyprus Problem see, for example, McDonald (1989), Kyle (1997) and EIU (1999).

² Implicit in our discussion here is an equivalence between the two person and two-community setting. This is based on the potential co-ordinating effects of ethnic identification (especially in the context of mobilising efforts by politicians), coupled with the idea that the prospects of survival can be improved by pre-emptively suppressing other ethnic groups. This may increase the possibility that the non co-operative behaviour of some members may lead to a break down of co-operation between groups [Hardin, 1995]. Given this possibility, individual members of a group may refrain from non co-operative behaviour in the knowledge that it may lead to reciprocal behaviour by that ethnic group it is directed against.

³ See Xydis [1973], for an authoritative account of the events leading up to the 1960 Accords.

⁴ It has been argued that the 1960 Agreements were in fact ratified by Greek Cypriots since that candidate who stood - in the first presidential elections - on a platform of opposition to the Agreements was soundly beaten [Necatigil, 1982; Ertekün, 1984]. However, much of the legitimacy accorded to the Greek Cypriot president of the Republic by his election in December 1959 to the post, "was based on the assumption that in reality he had never given up the struggle for union with Greece and that the acceptance of independence was nothing more than a tactical move that would eventually lead toward the incorporation of Cyprus within the Greek nation." [Markides, 1977: 26].

⁵ This is especially so if the individual is assumed to have a natural bias towards the avoidance of worse case prospects [Kyriacou, 1998].

⁶ I have examined this issue in Kyriacou [2000a]. For a more damning position of the EU's policy to date see Stavrinidis [1999].

⁷ This fits nicely with the assertion that "however powerful [ideology] may be as an initiating force in overcoming the free-rider problem and creating revolutionary cadres ... it tends to fade over time when it runs counter to the behavioural sources of individual wealth maximizing ...". [North, 1990: 132ff).

⁸ In this respect, it has been estimated that 30,379 Turkish Cypriots have emigrated over the period 1974-1987, while 50,271 Turkish settlers may have immigrated during the period 1974-1989 [Ioannides, 1991]. In the spirit of Hirschman [1970], the *exit* over time of Turkish Cypriots unsatisfied with the status quo, and the entry of Turkish settlers who would arguably be more *loyal* to it, may reduce the possibility that the *voice* option will be taken up widely and effectively and, ultimately, the chances of a change in the status quo situation in the "TRNC".

⁹ The European Court of Human Rights has found Turkey responsible for the continuing violation of a Greek Cypriot's right to enjoy her property peacefully and said that Turkey exercises effective overall control in the occupied part of the island [Case of Loizidou v. Turkey, 40/1993/435/514]. However, a reading of the judgement shows that this right of property may be violated in the public

interest. Paragraph 48 points to Article 1 of protocol 1 of the European Convention of Human Rights that states, "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law." This points to the possibility that a settlement may violate property rights in the public interest.

¹⁰ This reasoning is consistent with the assertion that the longer a constitution has been enforced the greater the tradition and respect behind it and therefore the more likely that it will be followed [Olson, 1984].

¹¹ This stems from the idea that, on the one hand, ethnocentric behaviour limits one's range of choice and in the presence of competition may lead to one being priced out of the market [Friedman, 1962] and on the other, that the more opportunities available in the market the less one will resort to ethnic politics as a source of income [Hardin, 1995: 168].

¹² I am indebted to Roger Congleton of the Center for the Study of Public Choice at George Mason University for this idea.