

# Conditions for a Successful Federal Model in Cyprus: The Evaluation of the Annan Plan and Future Prospects

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## Abstract

*The purpose of this article is to explore the possible preconditions for successful conflict management and stable federalism for a reunited Cyprus. It deals with the federal system proposed in the latest UN constitutional proposal called the Annan Plan (2002–2004) with a view to suggesting viable alternatives to the ongoing negotiations since 2008. The analysis shows that the federal model envisaged in the Plan and in the ongoing negotiations would have been unlikely to be suitable for Cyprus, because the designed federal institutions have never addressed the social, economic, political and demographic characteristics of the society. A number of changes to the proposed models for the reunification of Cyprus are needed: the normative dimension of and the institutional aspect of asymmetric federalism are needed to be examined carefully.*

**Keywords:** federalism, ethnic conflict, Cyprus, the Annan Plan, normative theory, asymmetry, pluralism

## Introduction

The Cyprus conflict remains one of the most intractable issues the international community is faced with. Since 1968 the leaderships of the Turkish and Greek Cypriot communities have continued to negotiate under UN auspices in order to find a comprehensive solution to the Cyprus problem. Their one brief attempt to live under a power-sharing constitution (1960–1963) resulted in violent ethnic conflict, prompting a Greek inspired coup d'état, Turkish military intervention, forced population transfers and the *de facto* partition of Cyprus into hostile ethnic zones. In spite of the failed power-sharing experience every attempt since then to formulate a basis for resolving the conflict has continued to be based on consociational power-sharing with federal and confederal elements. The Annan Plan was an attempt to construct such a design.

This article discusses firstly, whether the federal model envisioned in the Annan Plan would have been an adequate framework to hold Cyprus together and secondly, what kind of lessons for the ongoing negotiations could be drawn from the failed federal model under the Plan. The evaluation of the Plan is important here, not merely because it was the product of the entire set of negotiations since the 1970s, but because it still reflects the ongoing negotiations today. The problems raised here in this assessment of the Plan have been present in the negotiation drafts since

2008, and, therefore the policy recommendations proposed in this article in respect of the Plan are still valid today. In this overview of these institutions designed in the Plan the main focus is whether they would have been likely to ameliorate or exacerbate regional and ethnic cleavages. The argument is that the conditions under which federalism diminishes ethnic conflict in Cyprus depend on the interaction between federal institutions, regional inequality and ethnic diversity in a society. It seems clear that institutional arrangements alone do not provide a convincing answer. For successful institutional design, there is a need for a deep knowledge of the societies the institutions are meant to govern. It is of paramount importance to assess Cyprus' ethnic composition and the level of wealth, and the way these are reflected in the institutions envisioned in the Plan. These two factors have been chosen because they can be expected to shape the likelihood of conflict in federal societies (Bakke and Wibbels, 2006). Additionally, political will based on a spirit of mutuality and reciprocity, the tradition of compromise, the need to protect diversity and developing mutual respect, a sense of shared rule and community, respect for constitutional norms and mutual benefits, a broad acceptance of the political culture and values of federalism (Burgess, 2007) are also necessary preconditions for the operation of federal institutions and, eventually, the maintenance of a federal system. These normative issues embedded in federalism give rise to the asymmetrical arrangements in highly asymmetric societies. Thus, for a successful federal model for Cyprus, both institutional and moral elements of asymmetric federalism need to be present. It is evident, however, that neither the Annan Plan nor the ongoing UN negotiations since 2008 seemed/seem to reflect or at least help to develop these important features.

Each section below deals with and explains the necessity of attaining not only the institutional but the moral dimension of asymmetric federalism for Cyprus. Asymmetric federalism is used by diverse societies for a wide variety of reasons and hence reflects specific 'values, beliefs and interests' (Burgess and Gress, 1999, p. 56). While classical liberalism imposes formal equality on all citizens, this does not take into account the very diverse consequences that equal treatment can have for different regions and different nations with respect to the implementation of government policies (Gagnon, 2010, p. 43). The quest for equal treatment should not prevent us from attaining equality at the level of results. Provincial equality, which is always insisted on by the Turkish Cypriot leadership, ignores the fact that provinces sometimes have special needs. On the other hand, the Greek Cypriot leadership needs to respect diversity by acceding to special treatment and special rights for the Turkish Cypriot constituent state. If a federal Cyprus manages to establish federal traditions based on community rights and agrees to share sovereignty, the maintenance of federalism would be secure. The tragic events of the past that have marked Cyprus require that we take multi-ethnic federalism seriously and as Gagnon states we should distance ourselves from standardising models that have too often been imposed on minority nations throughout history (Gagnon, 2010, p. 122).

## **Federalism and Conflict Management in Cyprus from the Theoretical Perspective**

Today, the question that confronts many states is how best to bring together and maintain multi-ethnic societies. Inter-ethnic and inter-communal tensions bring federalism to centre stage as a political device for conflict management. A growing body of literature has emphasised the merits of federalism as 'peace preserving' (Bakke and Wibbels, 2006, p. 2). The theoretical attractiveness of federalism stems from its combination of shared rule and self-rule (Elazar, 1987). As Kymlicka states 'federalism can provide meaningful self-government for a national minority, guaranteeing its ability to make decisions in certain areas without being outvoted by the larger society' (Kymlicka, 1998, p. 135). Democratic multi-national/ethnic federations are characterised by a propensity to reflect deep diversity and maintain stability even though significant tensions may exist. There is an ongoing debate addressing the inability not only of traditional democratic federalism but also liberal, democratic and social rights included in constitutions to regulate an egalitarian and equitable treatment of individuals with regard to a specific citizenship (Requejo and Nagel, 2011, p. 3). It is precisely from here that the need for asymmetric federalism emerges and this can be a propitious means of managing long-term political conflicts in federal countries. Most of the work on this area concentrates on institutional aspects of establishing asymmetry in federal systems (for further information see Watts, 2002; de Villiers, 1994). On the other hand, more recent research, particularly since the end of the 1990s<sup>1</sup> has re-evaluated the experience of asymmetric federal systems, both regarding their moral and normative aspects in relation to multi-national democracies, and regarding the institutional and functional aspects of federations in general. The concept of federal asymmetry has provoked renewed interest and this has occurred in countries that display considerable national and/or cultural differences in the composition of their population (i.e. Canada, Belgium and Spain). Where the people who defend national and linguistic arguments are minorities, these arguments strengthen the defence of asymmetry. Where such factors are strong, decentralisation processes include asymmetry (Requejo and Nagel, 2011, p. 268).

There has been little discussion of the values and ideologies inherent in asymmetrical federalism. While material and structural interests are essential to understanding the forces involved in developing constitutional policies, a significant part of political thought has to explore various theories about what is good or valid for multi-ethnic societies. Too often, this normative dimension has been accorded secondary importance (Gagnon, 2010). The long term political stability of democratic multi-national/multi-ethnic federal regimes can be ensured as long as the regime is consistent with the three general principles which also constitute normative explanations

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1 Including Agranoff, in Burgess and Gress (1999); Watts (2005), Stepan (2004); McRoberts (1997); Requejo (2001) and Norman (1994).

of asymmetrical federalism. The communitarian principle highlights the wealth of cultures, ensures historical continuity as well as greater fairness among communities (Gagnon, 2010). According to this principle, states should be organised to protect communities requiring an asymmetrical structure in a plural state. It clearly implies a policy of recognition and rejects blanket enforcement of the federal constitution on all member states of the federation.

Another normative explanation for the establishment of asymmetrical practices is the egalitarian principle. This is the expression of equality between peoples and requires special attention to be paid to liberty, equality, and justice so as to better identify the three-way relationship among groups, individuals and the state. According to the rules by which federal systems function, the voice of the national majority cannot be considered an efficient expression of the sovereignty of the people (Gagnon, 2001). This problem has largely been resolved by federalist theory, and specialists of federalism have rapidly come to accept the legitimacy of shared sovereignty in federations. That notion of symmetrical federalism is followed by the asymmetrical federalism in its conceptualisation of citizens' equality, inspired by the unitary model of the state according to which the law treats all in the same way. However, it also accepts that differences in jurisdictions and laws are completely appropriate for member states of a federation. Federalism is a means of taking the concept of equality beyond the restrictive interpretation of equal treatment and substituting a more subtle interpretation of equal opportunity or even overall equity among national communities. In this way, various positive measures for establishing greater equality among groups have been proposed as a means of eliminating traditional obstacles.

The democratic principle is intended to guarantee accountable government, more active political participation and greater awareness of citizenship. According to this principle, federalism maximises individuals' public participation, and exists purely for the well-being of democratic life in society. Asymmetric federalism is a credible way to provide the means to fully achieve a pluralist, democratic framework. From this perspective, under federalism, individuals are more interested in and better informed about issues that specifically concern their political community, region and locality. They are more likely to understand local problems and hold elected representatives accountable for their actions. The desire to protect freedom by guaranteeing local sovereignty is entirely related to the concept of political community and makes it possible to legitimise the establishment of asymmetrical federalism. The absence of neutrality resulting from the expression of rights and dominant rules in multi-national federal states once again shows the need to implement asymmetrical federalism. As Taylor states, the challenge facing multi-national states lies in the recognition of deep diversity (Taylor, 1993). In so far as the federal principle can be established as a dynamic yet flexible force conducive to creative innovation, and consequently distant from some of the standardising features of more traditional federations, it can be a powerful tool for accommodation in multi-national democratic societies (Kymlicka, 1995).

Asymmetrical federalism and the normative principles flowing from the democratic principle bring us to the issue of legitimacy. Legitimacy in a federal society like Cyprus would depend both

on the feeling of belonging and on respect for political preferences freely expressed by the people. Moreover, both communities must find a way formally to recognise and accommodate the needs of a 'distinct society', a political community that struggles for survival, not for privileged treatment.

A multi-ethnic federation has been proposed for Cyprus, but without making a systematic analysis of the conditions tenable to ensure federalism survives and without giving any weight to asymmetric arrangements or emphasis on its moral dimension. This article suggests that a multi-ethnic federation in Cyprus would need to be decentralised, consensual and asymmetric; this might not guarantee harmony but could help resolve or regulate national, ethnic, religious, or linguistic conflicts.

### **The Annan Plan and Pre-conditions for Successful Federalism**

At first glance, the chances for a successful federal solution to the Cyprus problem under the Annan Plan would seem to be slim, both in terms of conflict management and efficiency of the federation as a decision-making system. There are several significant issues mentioned below which should be taken into account in designing a federal model in the ongoing UN negotiations and, eventually, dealing with ethnic problems in Cyprus.

#### ***Inter-regional Inequalities versus Increased Decentralisation***

First, this article states that *when inter-regional inequality is high, increased decentralisation increases the likelihood of ethnic conflict in Cyprus*. If the governmental authorities in a federation are to co-ordinate with each other in practice as well as in law, it is essential that there should be available to each of them, under its own unfettered control, financial resources sufficient for the performance of the functions assigned to it under the constitution. In addition, the more the diversity is, the greater the powers that have been assigned to the constituent states (Watts, 2002, p. 450).

There is a close inter-relation of fiscal arrangements with the delivery of social services. According to Article 2 of the Plan, the constituent states would have had greater powers and the same competences for all matters that were not explicitly assigned to the federal government.<sup>2</sup> As in the Plan, in most federations, responsibility for delivering the main social services such as health, education, and social security has been in regional and local hands where government is closer to the particular needs and circumstances. Nonetheless, federal financial services will be necessary once the large and ever-increasing costs of such services come into place. This issue has/had been neglected by both communities in Cyprus. In most federations, the provision of social services has been an area of co-responsibility due to that problem. However, this is not suitable in Cyprus' case

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2 This is symmetric allocation of competences. See United Nations Secretary-General (2004) Available at [<http://www.cyprus-unplan.org>].

and at least for a while there is a need, due to the history of the problem, to give each level of government exclusive functions as in the Plan in order to separate them from each other.

It is true that the issue of inter-governmental controversy appears when both federal and state governments face financial constraints and the need to reduce deficits, and when the federal government makes an effort to reduce financial assistance and off-load responsibilities. This form of a federal system would affect the area of inter-governmental fiscal relationships, so this issue needs to be taken into account in order to prevent any fiscal problems in a federal Cyprus. Besides, it is no good allotting too many functions, especially to the economically poor Turkish Cypriot constituent state, and devising legal safeguards so that it would be strictly limited to the performance of its respective functions, unless, at the same time, adequate provision is made so that it can afford to do its job without appealing to the central government for financial assistance. This is an important detail due to the fact that the success of federal systems depends upon the balance between co-operation and competition in its inter-governmental relations too (Elazar, 1979, pp. 193–194). For example, inter-jurisdictional competition would function properly if financial resources for the performance of the functions were available to each of the governmental authorities, especially if they are exclusive as defined in the Annan Plan.

Economic inequalities have been one of the problematic areas in Cyprus (Thorp, 2009). The economy of northern Cyprus continues to be seriously hampered by its political isolation.<sup>3</sup> It seems that, under the Plan, the Turkish Cypriot constituent state would have greater fiscal needs and a harder time raising revenue to meet those needs mentioned above. Although central government would be responsible for addressing deep regional inequalities through inter-regional redistribution, this would depend on the willingness of the Greek Cypriot majority. In fiscally decentralised settings, sub-national governments tend to serve as important veto players at the national level (Bakke and Wibbels, 2006). This can become problematic in the establishment of extensive redistributive policies by the national government. It is plausible that the relatively wealthy Greek Cypriot constituent state would block legislation aimed at reallocating societal resources from wealthy to poor units.<sup>4</sup>

Disparities in wealth among constituent units, which make it difficult for citizens to receive comparable services, can have a harmful effect on solidarity within a federation. This is the reason why many federations have sought to find some form of financial equalisation (Saunders, 1995). In every federation there is a need for financial transfers to correct the imbalances between revenue and expenditures. This can improve the capacity of poorer units, such as the Turkish Cypriot state,

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3 Turkish Cypriots believe that economics may be related to existential matters, hence their fear of economic domination by the relatively capital rich Greek Cypriots. See Interpeace and 'Cyprus 2015' Initiative (2011). Available at [<http://www.interpeace.org/2011-08-08-15-19-20/latest-news/2011/87-solving-the-cyprus-problem-hopes-and-fears>], accessed on 10 October 2013.

4 For more theoretical information see Bakke and Wibbels (2006), p. 17.

to provide their citizens with at least a minimum level of services (Watts, 1994, p. 18). But, there is a distinct possibility that the affluent Greek Cypriot constituent unit may grow discontented with equalisation payments to the poorer Turkish Cypriot one. The study of fiscal federalism in the Annan Plan shows that the fiscal powers which have been assigned to the constituent states, do not generate sufficient income and do not suffice to cover states' expenditure. The discrepancy between constituent states' revenue and expenditure is primarily removed with subsidies from the federal government. For their expenditure, constituent states are, therefore, strongly dependent on the federal government. This provides the federal government with an important mechanism to control the constituent states and the outcome is not favourable for an autonomous exercise of the regional powers. The autonomy of the constituent states is determined by their degree of financial autonomy, but if they cannot afford it there will be no point in having it (Markides, 2008). In order to avoid that happening, redistributive asymmetrical financial inter-governmental transfers may be employed to make the fiscal capacities of the member states more symmetrical (Watts, 2002, p. 464). If not, as extensive literature on fiscal federalism has noted, where there has been a symmetrical, constitutional allocation of taxing powers and financial resources as in the Annan Plan, sharp variations in the wealth and fiscal capacities of member states have led to significant disparities in the services they are able to provide to their citizens and this is likely to contribute to the conflict. The following list of asymmetries which highlight some variability in the scope of provincial autonomy might be seen to bring political stability in Cyprus. The Turkish Cypriot constituent state might be given financial concessions: it might collect its own taxes. It would then be required to pay the central government for the services it received from the state. All the same, it might benefit from national projects improving infrastructure without contributing to the financing of them. It might contribute less and less to the central government budget, but still enjoy the same services. This is the case in Spain where a system of special agreements is in place for Navarre and the Basque Country (Requejo and Nagel, 2011, p. 85). It might be opted out of various programmes with compensation. It could be allowed to assume full responsibility in certain areas that were either partly or fully funded by the federal government as in Quebec (McRoberts, 1997). Tax points might be granted to the Turkish Cypriot constituent state as compensation for opting out in certain areas where national programmes were instituted as in Quebec (Lacovino, 2010, p. 84). It could be given a right to develop some of its own plans. Under these conditions, both leaderships would have to realise the importance of equity rather than the strict equality in division of powers that has been claimed by Turkish Cypriots in division of powers, and a communitarian principle rather than a procedural liberalism that has been insisted by Greek Cypriots in their multi-ethnic society. Equality between individuals and ethnic groups in a federation would have to be considered by the two communities in accordance with their specific needs and historical development and not so much, as the Turkish Cypriot leadership believes, on the basis of an identical, interchangeable relationship with other individuals or other member states. For example, the central government might be given some functions in turn for

more financial transfers to the Turkish Cypriot constituent unit. It is feasible that the asymmetric fiscal arrangements would play a role in achieving egalitarianism and equity that would eventually improve the operation of political institutions in federal Cyprus.

### *Asymmetric Arrangements*

Second, *a form of asymmetrical federalism may be introduced in order to deal with ethnic diversity in Cyprus*. Asymmetrical relations have been applied in some countries including Canada, Spain and Belgium, and they have been successful in terms of legitimacy and maintenance of the federal system. Between the two communities in Cyprus there are considerable *de facto* asymmetries in population, area and wealth which may easily endanger stability if they are not supported by proper institutional design. In the symmetrical federation discussed in the ongoing negotiations, and the one envisaged in the Plan with significant socio-economic as well as cultural and demographic differences, the institutions of any federal model for Cyprus might conceivably destabilise. It is the case that federations may discriminate among constituent units on grounds of population and among regions on the basis of economic conditions (McGarry, 2005). It becomes obvious that one of the aspects of the demographic structure of multi-ethnic polities seems critically important to federal stability (McRoberts, 1977). Where a single group enjoys a strong majority position, the political status of the remaining groups may be very unstable and this may become a source of dissension over the relative influence of a particular region in federal policy-making. Thus, it is not beyond the bounds of possibility that the symmetrical allocation of authority in the Plan might intensify ethnic conflict in deeply divided Cyprus. The United Cyprus Republic would comprise two separate 'entities', which would have equal authority and responsibilities, but also where one of them – the Turkish Cypriots – mostly desires independence. Watts states that '... there may be cases where constitutional asymmetry is the only way to resolve sharp differences when much greater impulses for non-centralisation exist in some regions than in others within a federal system' (Watts, 2001, p. 29). The large difference in size between the Greek Cypriot majority (~78%) and the Turkish Cypriot minority (~18%) appears to prevent mutual veto arrangements or general parity of representation in federal institutions too. When the balance of population numbers is so different, trying to equalise it, as seen in the Annan Plan, in such a way that the majority population are unhappy to accept a new arrangement, will immediately destroy the concept of federation (Denktas, 2007).

The issue of asymmetrical federalism arises, invariably, in nationally diverse states (McGarry, 2005). However, this is not the case in Cyprus. The Turkish Cypriot leadership is bargaining for complete, equal political rights with the Greek Cypriots (Denktas, 2007). Both leaderships need to learn more from the asymmetric federal system, otherwise Turkish Cypriot leaders will keep calling for either recognition of their nationhood or greater symmetry among the state's nations, whereas the Greek Cypriot leadership will only accept either a unitary system or a federalism based on majoritarian democracy. Asymmetry is important here because it ensures that the national



identity of minorities receives the same concern and respect as the majority nation' (Kymlicka, 2001, p. 105). Both communities would face obstacles because in an asymmetric society achieving a solution between groups requires that the members of different groups be accorded different rights. This accommodation of difference may impose restrictions on the members of the larger community; hence it is a burden (Kizilyürek, 2007). On the other hand, this should not be considered only as a set of extra-rights for a particular community, but also more importantly, as a process that aims to achieve a progressive political and social integration (Gianni, 2001, p. 236).

It remains possible that the number and degrees of asymmetry may matter – though how, exactly, is not clear. In an asymmetric federation, regions either differ in their powers of self-government (asymmetrical powers) but share power equally within the federal government (asymmetrical shares) or regions differ in their powers within the federal government but are treated identically in their powers of self-government. Another arrangement is that regions differ in their powers of self-government (asymmetrical powers) and share power unequally within the federal government (asymmetrical shares) (O'Leary, 2010, p. 85). A reunited federal Cyprus can only be successfully attained through a combination of asymmetrical powers and asymmetrical shares. The multiple component units might have different powers of self-government. The Turkish Cypriot state would have special rights and powers, and in compensation, the Greek Cypriots would enjoy some special powers within the federal government. In other words, it can be argued that any asymmetry in powers should be compensated for by an asymmetry in shares. Any asymmetry in the powers of regions automatically generates asymmetry in the federal legislature (O'Leary, 2010, p. 190).

The case for asymmetrical federalism would be that everyone wins and no-one loses (Whitaker, 1993, p. 108) while the reunited Cyprus would gain an effective national government not rejected by the Turkish Cypriot federated state. Yet, asymmetrical arrangements alone are not enough for the functioning of a federal system. Its moral dimension should also be available for consideration. Burgess notes that the difficulty which political scientists encounter is that they cannot quantify morality-based demand, while the case for asymmetry is often captured best by such appeals (Burgess, 2000). Respect for 'deep diversity', as the only logical 'fit' for the reconciliation of national pluralism and federalism – or remaining faithful to the perceived 'purposes' of federalism are possible necessary conditions for the successful management of ethnic conflict in Cyprus.

### *Allocation of Power*

The Greek Cypriot leadership holds a more centralised vision, whereas the decentralised or 'loose' federation is supported by the Turkish Cypriot leadership in order to keep as much power as possible within the two constituent states and ensure that their own entity is treated as an equal founder (International Crisis Group, 2009). Being fewer in numbers, Turkish Cypriots express concerns regarding political equality in the federal state and worry that Greek Cypriots will not

accept equitable power-sharing (Interpeace and 'Cyprus 2015' Initiative, 2011). By signing a very loose federal agreement, Greek Cypriots fear that this will allow the Turkish Cypriot constituent state to make itself as independent and self-sustaining as possible and secede from the federation. Regardless, in the case of post-conflict situations as well as features of the multi-national nature of federalism, it seems that it is probably better to limit federal competences as much as possible at the outset, advocating only limited co-operation and interaction if it is necessary. This was the case in the Plan. Following a period where trust is built, some constituent state competences can be reallocated to the federal state for a more efficient operation of the system (Papapetrou, 2007).

The third factor for a more viable federal model for deeply divided Cyprus is, *when concurrent powers allocated to the levels of governments are few and clearly indicated there is less likely to be frequent blocking of decision making*. In post-conflict states, the relations between different groups are very fragile. Exclusive competencies and jurisdictional division of labour are anticipated to keep conflict low (Belgium and Canada). Regarding the efficiency of the system, the nature and number of veto players/points come to affect the procedural efficiency of the legislative process. This will also be affected by the way the power is divided. When there is a functional division of power among different levels of governments, as seen in Germany and Switzerland (co-operative federalism), the two levels of government need constant co-ordination, collaboration, co-operation and consent. This gives rise to too many veto players and is, therefore, expected to increase situations of frequent deadlock. There is the prospect of this arrangement often creating a stalemate in those countries where *de facto* asymmetry is a potential problem and where certain pre-conditions, such as trust, cross cutting cleavages and prior elite accommodation are absent. If the ethnic identity were to be added to this arrangement it would be very hard for a federal government to make even simple decisions. In co-operative systems, it is likely that the clear distinction and division of power between federal and sub-units is blurred. The formal division of competences becomes less clear-cut. This situation seems less appropriate, at least initially, for post-conflict situations or deeply divided societies like Cyprus.

The dual federalism that is seen in Canada and Belgium would seem to be a better model for Cyprus; this is the proposal in, and strength of, the Plan. The risk of frequent deadlock is probably to be reduced through exclusive competences given to sub-units (Hooghe, 2003). Separating the differences seems to deal with antagonistic relations between the two communities too (Stroschein, 2003, p. 14). In dual federal systems, the important thing for the constituent states is to have sufficient resources to exercise their competences without the financial intervention of the central government. This factor is not considered in the structure of the Plan.

A clear separation of competences is introduced in the Plan, as in the constitution of Belgium, to deal with the bi-polar nature of the two communities. The social and political purpose of federalising Cyprus is not to bring long-divided communities into closer interaction with one another, but rather to separate them further by creating large areas of competency in which they would be politically autonomous. The Plan aimed at solving the problem of distrust through the

allocation of residual powers and many policy areas to both communities. The allocation of exclusive competences aims at minimising the number of zero sum negotiations between representatives from both sides (Stroschein, 2003). Greater autonomy given to constituent units may conceivably neutralise many potentially explosive ethnic conflicts at the federal level. But, in spite of that, it perpetuated separateness of both communities by setting up structures and institutions to represent Greek and Turkish Cypriot interests (ethnicity) instead of a unified Cypriot interest, so it was/is far from attempting to bring the two communities together. When the decentralisation process is over-emphasised at the expense of national solidarity as in the Plan, it becomes dangerous for the maintenance of federalism. This rule would at the same time eliminate the chances of developing cross-cutting cleavages which might help to mitigate ethnic conflict. Having said that, in order to avoid confrontation between two antagonistic groups, it is important to have a central government with minimal scope and to allow the domain of the national government to develop incrementally and slowly (Filippov, Ordeshook and Shvetsova, 2004). The Greek Cypriot leadership's insistence on keeping functions at the centre is not only against an accepted federal norm but also against the democratic principle of self-rule (for more theoretical information, see Majeed, 2006, p. 4).

The institutional design in the Plan was set up in a way that was destined to create gridlock because there would, for example, be probable division along ethnic lines rather than ideological ones. In these situations, there is a need to establish some institutions in order to defuse ethnic confrontation too, otherwise these societies are somewhat fated to divide further. So, what is required for the ongoing negotiations is to clearly define both the concurrent and exclusive powers in order to avoid future conflicts and to construct some mechanisms involving both communities in running the system together and thus promoting mutuality, reciprocity and inter-dependence which would eventually give rise to the development of common interest.<sup>5</sup> The joint interests shared by the two communities, and the mutual benefits that could result from a negotiated settlement, have not been sufficiently emphasised conceptually, practically or organisationally during the inter-communal dialogue (Michael, 2007, p. 590). For that purpose, Confidence Building Measures should be introduced as soon as possible so that both communities can find an acceptable solution (Ker-Lindsay, 2005). After Confidence Building Measures have been implemented, the political institutions of the new planned state in Cyprus need to design a system in which more competences would be gradually given to the federal level and in which more financial power would be given to each constituent unit and especially the Turkish Cypriot state.

Finding a way to share power is one of the major serious obstacles to a conclusive agreement capable of bringing the two sides together and satisfying the needs and aspirations of each.<sup>6</sup> The

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5 It is possible that the importance of ethnicity would diminish as soon as both communities begin to co-operate with one another and start sharing many competencies, thus developing trust and confidence (Talat, 2007).

6 In the Annan Plan the executive would be rotated by the Greek and Turkish Cypriot parliamentarians elected separately by their own communities.

Plan never developed an effective formula for power-sharing in terms of being capable of providing incentives to both sides (Rotberg, 2003). Although both leaderships so far have accepted a principle that the two communities would exercise their political rights through their separate political wills, the Greek Cypriot leadership has given great importance to direct elections through cross-voting unlike the system envisaged in the Plan. This may involve one of the methods of compelling candidates for parliament to canvas for votes from both communities instead of just one. As a condition of election, each candidate for parliament would have to seek support from both Turkish and Greek speakers.<sup>7</sup> This method gives bi-communal issues precedence over more narrow communal interests and helps diminish communalism, and eventually state-wide parties are likely to emerge and predominate in parliament.

This is an important development in terms of commitment to a sense of unity in both communities. Without it there would be a risk of developing a system, as in Belgium, where federalism has promoted great differentiation due to the system itself which encourages inter-regional comparison and provides only limited possibilities for the development of cross-cutting cleavages. The hope was that cross-voting would bring the two communities together and would serve as a confidence-building-measure (Cyprus 2015 Initiative, 2011). This should encourage mutual desire to work together for the common benefit, plus influence political parties to seriously take into account the interests and concerns of both communities. For the most part, cross-voting tends to favour moderate candidates who have appeal beyond their ethnic communities and therefore fosters coalitions across ethnic lines (Reilly, 2001). Instead of authorising one community only to elect a federal official whose decisions would later affect both Turkish Cypriots and Greek Cypriots, implementing a cross-voting system seems better and more legitimate in the eyes of Greek Cypriots (Cyprus 2015 Initiative, 2011).

### ***Number of Federating Units***

The current model for settlement as well as the one envisaged in the Plan is/was a: *'bi-zonal, bi-communal federation with political equality ... Federal Government with a single international personality, ... a Turkish Cypriot Constituent State and a Greek Cypriot Constituent State, which will be of equal status'*. All the same, with only two communities, it is foreseeable that the establishment of just two regions might well intensify the conflict, since the existence of two communities naturally leads to polarisation and intensification of this polarisation. The alternative of establishing more than two unit federations has never been addressed by either side or by the UN. Dividing the federation into multiple units, as is the case in Belgium and Canada can be a viable solution.<sup>8</sup> In bi-communal societies like Cyprus, in order to disperse polarisation, it is

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7 No-one could be elected without receiving a minimum number of votes from the other community or more votes from the other language constituency than his/her competitors.

8 The particular problems of dyadic federations have been generally recognised (Duchacek (1988), pp. 5–31; Watts

sensible to establish more than two units. The statistical record of two unit confederations and federations is wholly discouraging (O'Leary, 2010, p. 197). Moreover, the spatial distribution of ethnic groups is another aspect of the demographic structure of multi-ethnic polities important for stability in a federal system in Cyprus. The potential for secessionist movements will be much greater if a group is concentrated in a particular region and constitutes the overwhelming majority of the population of that region (McRoberts, 1977). In the model designed in the Annan Plan both aspects of demography would presage a high level of political instability. The demographic structure of Cypriot society would hardly seem feasible to provide extensive political accommodation of Turkish Cypriots and it is likely to offer the basis for attraction to a strategy of secession. So, what is important is to disperse the majority group which is Greek Cypriots and establish more than two constituent units in order to avoid concentration of the minority in one unit. It would be even more efficient if the name of ethnic communities of the constituent units were to be removed. These issues are important because, psychologically, bi-communalism itself may elevate levels of antagonism and distrust (Schmitt, 1991). It is not suggested that bi-communal societies inevitably produce political breakdown. Despite inflexibilities created through bi-communal social structure, political mechanisms such as decentralisation and a cross-voting electoral process may help two communities co-operating. Furthermore, relationships could evolve as a result of economic change in the Turkish Cypriot side and an implementation of Confidence Building Measures. But it is still an important issue to establish multi-unit federations for bi-communal societies in order to have a successful federal system.

So, fourthly it can be stated that *two unit federations with two ethnic groups are less likely to contribute to ethnic accommodation in Cyprus*. It has also been suggested that a condition important to the maintenance of a federation is that there be no one state, or two states, large enough to dominate the federation or threaten secession. To maintain federation, a sufficient number of federating units is necessary. A sufficient number minimises the possibility of an overwhelmingly dominant state. With multiple units there is less likelihood of a confrontation between the central government and all the units, and more room for bargaining and shifting coalitions of groups on different issues. Hence, federalism becomes less of a zero-sum game. Where there is a single dominant group, it may have little incentive to cede power and authority to smaller groups through federal institutions. Watts argues that those composed of only two units seem to generate sharp bi-polarising tendencies that often produce instability (Watts, 2007). Where there are substantial disparities in area and population among constituent units, these may also become sources of dissension over the relative influence of particular regions in federal policy-making. In addition to institutional arrangements and the character of a bi-national society, the two-unit

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(1999), pp. 113–114. In Canada and Belgium, with bi-national character, federation has been designed to consist of more than two constituent units. Cyprus represents most sharply the difficulties of trying to establish a bi-national federation. Michael Burgess (2007) on Cyprus draws attention to this issue.

federal system as proposed in the Annan Plan constitutes a particular problem (Tselepis, 2007). As Ronald Watts argues, two-unit federations generally have a tendency towards parity between the two units in all matters. This usually results in deadlock because of the lack of opportunity for shifting alliances and coalitions, which vary according to different issues, among the constituent units or their representatives; these processes are some of the ways in which issues are often resolved in multi-unit federations (Watts, 2007, p. 233).

In a two-unit federation every policy issue becomes a zero-sum game. Such bi-polarity leads to intractable negotiations between the two leaderships. It is plausible that this may be intensified where there is a lack of cross-cutting pressures in operation.<sup>9</sup> In the Cyprus case there are reinforcing rather than cross-cutting cleavages, and this is one of the important roots of the ethnic conflict. Despite four centuries of co-existence, the two communities remained separate, distinct, and self-contained ethnic groups divided along linguistic, religious, and cultural lines (Joseph, 1985, p. 33). A lack of cross-cutting ethnic, social, or political ties prevents the development of a common political culture and overarching loyalties among different groups in a society, and this is what happened among both communities in Cyprus. The federal institutions designed in the Plan conform to a strict ethnic proportionality rule on membership and voting, which aims to protect the political equality of the Turkish Cypriot community but which is anticipated to create inefficiency. What is required for the maintenance of a federal system is to establish cohesive mechanisms (i.e. political parties) which would likely give rise to a common nationality rather than engender division in many respects.

### ***The Nature of Federal Bargaining***

*Fifth, seriousness about the nature of the process of finding a solution is half way to the solution.* The skill and motivation of political leadership is essential. Political leaders are able to 'shape' a country's path. As we know from history, actors can and do break historical patterns despite the strong influence of long-term factors. Federal bargaining, the motives of political elites and agreement between elites, understanding what their bargaining is about, voluntary union, and ample qualities of political leadership to make a federal constitution work are crucial in maintaining federal systems. Success in the process of hard bargaining and negotiation that will define the substance of an agreement is expected to determine the workability of the designed system.

The last version of the Plan was shaped in a very short period of time and some issues, not agreed on by both sides, were completed by the Secretary General. This shows us that there is a high possibility that, if it were put into force, in the near future both sides would almost certainly

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9 The presence of these pressures through multiple associations can be a viable solution to ethnic disharmony in multi-ethnic societies, where group associations are not merely ethnic but pluralistic, that is, where they are voluntary, multiple and overlapping.

change provisions, and that could destroy the operation of the federal system. This is, of course, the fundamental problem of federal design – the institutions are subject to bargaining, re-negotiation and re-interpretation. If there is no institutionalised constraint in the bargaining process, many rules and institutions will be subject to negotiation and change. Political stability would be in danger when the institutional superstructure is not agreed upon. Both communities should believe that the gains from federation are fairly distributed. In the eyes of many Greek Cypriots, Turkish Cypriots gained increased autonomy and policy-making authority with the Annan Plan, whereas in the eyes of some Turkish Cypriots the plan reduced them to a minority position. Federation was hardly a compromise between both leaderships. Each party felt a sense of loss rather than a desire to make accommodations addressing mutual needs.

Typical of most minority groups, the Turkish Cypriots were inclined to focus on communal rather than common interests. This resulted in the pursuit of autonomy and self-determination which, in the often-stated preference for confederation or loose federation, embodied a position that exacerbated Greek Cypriots' suspicions about the extent of their commitment to a unified Cyprus. So, if the Plan had been accepted, the bargaining process would have failed to achieve a resolution that preserved the federation. Indeed, it was hardly a bargaining process since neither side took it seriously, nor was it agreed upon by either leader (Palley, 2007).

One of the important elements in a successful negotiation process is the motivation of political leadership to gradually reduce the level of conflict and bring it under effective control. The political leaders in Cyprus have, however, merely pursued their separate objectives and have consistently refused to compromise. What has been witnessed in many cases in Cyprus is that the parties negotiated in order to receive indirect benefits rather than to arrive at a compromise solution (Richmond, 1999). There is much discussion on peace settlement, but not much discussion on what peace entails and what the two parties view as constituting peace. What is needed in the Cyprus case is a framework which focuses on what the two communities can share rather than what sets them apart. Both parties need to adopt a picture of what it is they are negotiating for, which will guarantee peace, stability and prosperity for the future.

For Oliver Richmond, what is significant in a conflict situation in which mediation plays a role is the perception of what both parties desire from such a process. 'It must be asked what has motivated the two sides to negotiate in the forum of the UN and if this motivation has necessarily been directed at the search for a compromise' (Richmond, 1996, pp. 99–100). The views of the two sides have evolved into a perception that it was a relatively cost free method of continuing the struggle for concessions from the opposition while avoiding making the costly concessions entailed in a possible compromise solution. The characterisation of the peacemaking process in Cyprus has been prompted by a fear of losing, and yet also containing an element of fear as regards making concessions which appear to be accurate. Negotiating out of fear, but fearing to negotiate has led to a situation in which mediation and negotiation became part of the conflict environment, resulting in the failure of significant and protracted efforts to bring peace. As Durduran points out,

none of the UN proposals were designed to enable both communities to co-operate in order to govern the island. Real negotiations, a bargaining of give and take, never took place (Durduran, 2008). The negotiating process indicates that the conflict in Cyprus is not simply a conflict of substantive issues, such as territory, refugees, etc., but mostly a conflict of mistrust, fear and suspicion. Because of these factors, maintenance of peace between the two communities might not be achieved by institutional arrangements alone. The UN has been pushing the Cypriot parties to reach a compromise as quickly as possible. Come what may, imposing any proposal on both communities is likely to risk any future solution. Considering the existence of psychological barriers between the communities, it appears that a quick solution on Cyprus is neither possible nor advantageous. As Palley states, 'had there been genuine negotiations, as opposed to imposed arrangements dressed up as negotiations, more compromises would have been made by all concerned' (Palley, 2005, p. 145). According to Michael Burgess, what is clear is that if the federal idea is to have any relevance at all to the future of Cyprus, it must be deemed workable (Burgess, 2007). The domestic dimension of the Cyprus problem suggests that ultimately there must be some form of political will strong enough to overcome the deep-seated mistrust and hostility that still exists between the two communities. A new type of federal arrangement of an unprecedented kind might be forged from an essentially fragile political will that insists upon the 'separateness' of the distinct identities rather than upon their 'unity'.

## Conclusion

This article deals with normative and institutional concerns about the appropriateness and legitimacy of establishing asymmetrical federalism in Cyprus. It seems that application of plural federalism for Cyprus is destined to deal with ethnic conflicts due to the fact that political liberalism involves cultural limitations both in normative theory and in institutional practices of democracies, including federalism (Requejo, 2001, p. 110). A normative refinement of liberal democratic theory would view pluralism as a value worth protecting and not simply as a fact to be tolerated (Requejo, 2001, p. 112). The normative and institutional movement towards 'advanced democratic societies' implies, in the case of multi-national states, a superior accommodation of component national identities in the symbols and democratic institutions of the different political collectivities that individuals belong to. This suggests that a reformulation of federal agreements in multi-national societies is necessary because the 'pluralism' considered in classical theories of federalism was not even related to cultural pluralism (Requejo, 2001). That is why asymmetrical federalism has been developed to deal with cultural pluralism.

Most of the work in the study of federalism as a means of managing political conflict concentrates on institutional aspects of establishing asymmetry in democratic federal systems. Little discussion has taken place on the values and ideologies inherent in asymmetrical federalism. Its moral foundations are different from the more universal categories of liberal values and ideologies because they do not directly ask the question: 'what is good for a given society?' This



article explores some normative arguments which apply to the Cyprus case to uphold various images of asymmetrical federalism. Asymmetrical federalism is normative in that it embodies different conceptions of the good. Asymmetry can be justified here, firstly, because it provides better protection for the community in terms of language, culture, institutions and shared goals (the communitarian conception of the good). Imposition of national, uniform standards on culturally, religiously, and linguistically distinct provinces (Vipond, 1995, p. 102) may have a better chance to contribute to ethnic conflicts in Cyprus. Secondly, the notion of citizenship is further refined through support in favour of an equitable treatment (rather than equal treatment) between communities, and by extension between individuals. Equality does not necessarily imply sameness or symmetry, as the Turkish Cypriot leadership believes, and asymmetrical solutions can be found that answer to diverse needs while still maintaining a spirit of equality, thus creating stability in an otherwise unstable federation. Additionally, the Turkish Cypriot leadership supports a bi-zonal, bi-communal federal settlement which is bound up with the satisfaction of 'political equality'. The Plan established two units which are highly fragile and bi-polar and most likely to result in failure too. Thirdly, the need to secure the conditions of an enlarged democratic setting is, in all probability, to be best accomplished within well-circumscribed cultural communities. As a consequence, asymmetrical federalism can be perceived as providing the appropriate response for the full accomplishment of a plural democratic federal setting.

Aforementioned information suggests that a number of changes to the proposed models for the reunification of Cyprus are required. Firstly, the normative dimension of asymmetric federalism needs to be developed in Cyprus. Secondly, the institutional aspect of asymmetric federalism should be examined carefully. The legitimacy of the multi-ethnic polity in Cyprus would depend on the maintenance of certain pre-conditions derived from the following factors: weak central government and gradual expansion of national government authority; elite skills and motivation; cross-ethnic co-operation and co-ordination; effective regional autonomy; the existence of cross-cutting pressures to moderate political attitudes and facilitate compromise; sufficient numbers of federating units; asymmetrical arrangements; and a stable, institutionalised bargaining. Moreover, for a stable federal Cyprus the citizens of a federal state must have both 'the desire for national unity and the determination to maintain the independence of each man's separate state' (Dicey, 1950, pp. 142–143). Many Cypriots have experienced one or other of these two feelings but not both. Stability can be achieved if the two communities come to realise that the federal formula with its moral dimension as well as its institutional aspect is the only means for achieving unity. Until federalism is viewed by both communities as a political and economic expedient with almost no moral content, and is comprehended as an institutional arrangement that divides powers between national and local governments, there will be no attempt made to develop a common identity among all citizens which is essential for a stable federation. The successes and failures of federations in their delicate task of balancing 'unity' and 'diversity' could be explained by studying the contextual factors along with institutional arrangements. The extent

of centralisation can play a role in whether constituent units experience grievance that might drive the pursuit of secessionism (Anderson, 2010, p. 134). Centralisation of policy-making authority often replaces unanimity with a somewhat less inclusive decision rule. As a consequence, the costs of co-ordinating policy choices fall, but a new risk is created. The service levels and cost allocations of the central authority may make one or all participants worse off.<sup>10</sup> That is why the decentralised and divided model of federalism envisaged in the Annan Plan might have been the more plausible ideal to contribute to a successful federal system. Even so, it should have been supplemented by a more unified system in the central government by direct election of the executive and a cross-voting electoral system that has been on the table in the ongoing negotiations. There is a chance that a federal system may succeed when the autonomy, self-determination and powers allocated to the minority groups are counterbalanced by other forces – shared values, an integrative party system, a sense of mutual commitment and a responsive central government that binds the groups together. A problem may possibly occur if communal division does not quickly begin to wither on the vine; its entrenchment can only subject consociational arrangements to ever-greater centrifugal pressures, as in Belgium. What is necessary and lacking in the Annan Plan is a way to instil the sense that Cyprus is a multi-ethnic society which enables both communities to have a shared vision through cross-community arrangements. The design of central institutions should be constructed carefully in order to compensate for this. For example, it would be essential to encourage incentives for cross-ethnic co-operation through coalitions between different ethnic and political groups. Stability is most tenable in countries where country-wide parties dominate the political system. Cross-voting and direct election of the executive which are agreed by both communities in the ongoing negotiations can be seen as important and positive developments in terms of achieving unity in Cyprus.

Symmetric models like the one designed in the Plan make achieving real political accommodation difficult, when the pluralism of ethnic minorities constitutes a form of *de facto* asymmetry which requires that the recognition of multi-ethnicity be established using the same ‘entrance requirements’ of the constitutional system – requirements that additionally must regulate the ethnic self-government of the minorities. Since units vary greatly in wealth, a symmetrical system for allocating financial resources to the constituent units leads to extremely unequal results in terms of each unit’s wealth and fiscal capacities. For this reason, many federations practice asymmetric financial transfers in order to redistribute and equalise wealth among its constituent units (Burgess, 2006, p. 130). This issue is in need of further attention in ongoing negotiations. If symmetry is forced upon such a federation, national minorities, whose demands for recognition or autonomy are being ignored, may feel compelled to secede (Watts, 2005, p. 6). In the case of multi-national federations it has been argued that all of them, with the

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10 Even if constrained to policy areas in which mutual advantages from centralising policy-making authority exist. See Buchanan and Tullock (1962).

exception of Switzerland, are constitutionally asymmetrical and that allocating varying linguistic, cultural and even legal capabilities to different constituent units is a necessity to keep the polity unified (Stepan, 2004).

Surely, the appropriate conditions for successful federalism mentioned above are not absolute requirements, and the prospect for success in deeply divided Cyprus is possible. There is no point in simply saying that federalism cannot be established without them (as Denktas, 2007; Olgun, 2007; and Papadopoulos, 2005 believe); there are strong reasons for finding ways to succeed. Many of these conditions might be subject to change, whether through certain developments as in economics or through determined, effective leadership. For the time being, there is a basic need to build the conditions for a more confident use of federal structures and spirit rather than finding yet another inappropriate constitutional arrangement.

It can be concluded that a United Cyprus will function as a democracy if it combines pluralist federal and liberal consociational principles. Various consociational elements are likely to contribute to the relative harmony at the national level (Filippov, Ordeshook and Shvetsova, 2004, p. 266). A benign scenario cannot emerge from a highly centralised federal state desired by the Greek Cypriot leadership and a symmetrical federal system insisted on by the Turkish Cypriot leadership. There is a prerequisite to examine the notion of asymmetry and a loose federal system and see how they can better serve the purposes of modern federal Cyprus.

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